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Senate

The Senate met at 9:30 a.m. and was called to order by the President pro tempore (Mr. STEVENS).

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Almighty God, who with Your grace can use misfortune or prosperity to bless us, thank You for Your loving purposes that crown our years with goodness.

Thank You, also, for disasters averted and advancements made.

Help us to see, with faith's eyes, each blessing that comes disguised as adversity and every temptation that hides beneath the mask of prosperity.

Let Your love reach others through us, as we seek to be Your ambassadors in a hurting world.

Bless our Senators. May they grow to fear, honor, love and serve You in all ways. Be their protector and teach them Your paths. May their plans prosper as they stay within the circle of Your will.

Help each of us to choose between faith and fear, courage and cynicism, integrity and dishonesty, that we would choose the better way.

We pray this in Your loving Name.

Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, this morning the Senate will conduct a period of morning business for up to 1 hour, with the first 30 minutes under the control of the minority leader or his designee and the second 30 minutes under the control of the majority leader or his designee.

Following morning business, the Senate will resume consideration of S. 1072, the highway bill. It is my expectation that following the final remarks of several Senators, Chairman INHOFE will move to table the Warner amendment on seatbelts. Therefore, Senators should expect the first vote to occur prior to noon today.

As a reminder, two cloture motions were filed yesterday in relation to the highway bill. Those cloture votes are scheduled to occur tomorrow. I also remind all Senators that under cloture rules, all first-degree amendments must be filed by 1 p.m. today.

If cloture is invoked on the substitute to the highway bill on Thursday, we will remain on that until disposed of. Members may have germane and timely filed amendments considered but the Senate will act on this measure this week. Members may use some postcloture debate. However, we will remain and complete action on this measure before the weekend.

ECONOMIC GOOD NEWS

Mr. FRIST. Mr. President, I will take a moment to comment on the economic good news that does continue to roll in. After weeks of positive indicators, the latest economic reports show that the economy is steadily expanding. Specifically, new jobs are coming online and unemployment continues to fall. According to the latest payroll survey, 112,000 new jobs were created in January, the largest monthly increase since December of the year 2000. Fully 366,000 new jobs were added over the last 5 months.

The national unemployment rate continues to decline. In general, the unemployment rate reached a level of 5.6 percent. That is the fastest 7-month decline in over a decade. In fact, unemployment is now lower than it was, on average, during the 1970s, during the 1980s, or the 1990s. It is still too high and we will continue to work aggressively to lower that unemployment rate. However, with the fastest 7-month decline in a decade, the trends are moving in the right direction.

The Council of Economic Advisers has other good news. On Monday, the Council released the latest economic report of the President. They anticipate the economy will create millions of new payroll jobs by the end of the year. They also emphasize that America is on a path to higher sustained output for years to come.

A survey released in January by the U.S. Institute for Supply Management found, for December, new orders booked by industry increased at their best rate in 50 years. The bottom line is the economy is growing, America is moving in the right direction. Contrary to its critics, President Bush's tax cuts are working.

By passing the tax cuts, we were able to reduce the unemployment rate by nearly 1 extra percentage point. We have increased the number of jobs available by as much as 2 million. And we have increased real GDP by as much as 3 percent. But there is still much to be done.

As we consider these positive numbers, we must also work to enact policies that help every American who needs a job to find a job. We must use the tools at our disposal to create the conditions which lead to job growth. That is one reason passing this highway bill is so crucial.

Every $1 billion we invest in transportation infrastructure generates more than $2 billion in economic activity. It also creates an additional 47,500 new jobs. Our roads, our ports, and our railroads are vital to America's economic success. Indeed, it is estimated that the highway bill will add a whopping 2 million jobs to the economy.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

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That is 2 million reasons to pass this bill this week.

Today and Thursday, Federal Reserve Chairman Alan Greenspan is scheduled to deliver his monetary report to the Congress. Chairman Greenspan has expressed confidence that the economy will continue to grow and to grow more jobs. While he does his important work at the Fed, we must continue to do our work in this Chamber to bolster the economy and help create jobs. Lowering health costs, reducing the downward drag of frivolous lawsuits, ensuring affordable energy, cutting redtape, and opening new markets, all of these progrowth policies will help keep America moving forward.

I yield the floor.

RECOGNITION OF THE MINORITY LEADER

The PRESIDENT pro tempore. The Democratic leader is recognized.

EXPORTING U.S. JOBS

Mr. DASCHLE. Mr. President, 2 days ago President Bush sent to Congress his annual report on the State of America's economy. Contained in that report is a statement that was quite remarkable. After presiding over the loss of 2.6 million jobs, after claiming for 3 years that stopping the job hemorrhage was one of their top priorities, the Bush administration now says that exporting American jobs to China and India and other low-wage nations is good for the American economy.

I read that, and I must have read it two or three times thinking there had to be a catch, thinking there had to be some caveat, there had to be some condition. But there is no condition. The statement from the report could not be more clear. This administration believes that exporting jobs to China and India and other low-wage nations is good for America's economy. They seem to want to turn a jobless recovery into a hopeless recovery.

The President's report is proof that there are those in this administration who simply do not understand what is happening to this economy and how deeply concerned people are about their economic future.

People who think shipping American jobs overseas is good for the economy need to talk to people such as Myra Bronstein. She is not a statistic. She is not an abstract concept on computer models.

Sometimes we focus so much on corporate stock earnings or the Dow Jones Industrial Average, we lose sight of the challenges that real Americans are actually facing. Myra Bronstein knows all about outsourcing. She has a degree in electronic engineering and 15 years of experience in the information technology industry.

Four years ago, she left a good job with AT&T in New Jersey to take a new job with a software development company called Watchmark Corporation in Bellevue, WA. She was one of about 20 software testers at Watchmark.

One Friday last April, Myra came to work. She and other software testers were called into a meeting. They were told that they were being replaced by workers in India, that their jobs would be gone as they finished training their replacements, and that if they refused to train the new workers they would be ineligible for severance pay, unemployment insurance, or health insurance through COBRA.

Then they were told that the new workers were flying in over the weekend and would be there on Monday. Most of her coworkers just had to train one new person. Because Myra Bronstein was working on the highest priority projects, she actually had to train two replacements. The whole while she was trying frantically to figure out where she was going to find a new job in the midst of the ''dot-com'' bust and a jobless recovery.

Myra Bronstein is not alone. According to a new national survey that is just being released today, nearly one in four information technology workers said his or her company has offshored jobs. Incredibly, almost one in five reported they themselves had lost a job after training a foreign worker. Ninety-three percent—nearly all—expressed concerns about the impact of offshoring jobs on the IT industry and how it would impact their communities, the economy, and this country. One-third of the workers surveyed said the trend toward outsourcing and offshoring jobs is contributing to layoffs. And more than half said it was pushing down wages and benefits.

When textile manufacturing jobs started to move offshore in the 1980s, workers in those industries were told that the change was good for America's economy. They were told that all they had to do was to learn some new skills, train for some ''new economy,'' and they could get better paying jobs in the technology and service industries.

Workers held up their end of the deal. They got the training. Many did get jobs in the computer and IT industries, in health care and financial services, and other so-called new industries. Now these new jobs are being shipped overseas.

We are offshoring America's future. We are exporting some of our Nation's most promising research and development jobs. These are the jobs that support middle-class families. They are the jobs that enable people to own their own homes and put their kids through college.

Sixty-eight percent of IT workers have a college degree or higher. Half have annual salaries between $75,000 and $125,000. Their jobs are being offshored to people who will earn less than $10,000.

This is not just happening in Seattle or Silicon Valley. It is happening in Sioux Falls and St. Louis and cities and towns all across America. Now the Bush administration tells us that exporting American jobs is actually good for the economy.

Shipping good jobs overseas may boost the quarterly earnings of some companies. It may make some CEOs look smart and make some quick profit for some investors. But how can it be good for the economy to export America's best jobs? How can it be good for the economy to offshore the jobs that support middle-class families and sustain strong communities? How can exporting jobs create opportunities for Americans?

It is not just the jobs that get outsourced. When American companies ship jobs offshore, they also send tax returns, medical records, credit card numbers, financial statements, and all kinds of other sensitive and confidential consumer information.

America has lost 2.6 million jobs on this administration's watch. That is more jobs than the last 11 administrations put together. Nine million Americans are now out of work. Long-term unemployment is at a 20-year high.

Eighty-thousand workers are exhausting their unemployment benefits every week because Republican leaders refuse to support extending the Federal emergency unemployment benefits.

The Economic Policy Institute recently found that in 48 States jobs are shifting from higher paying to lower paying industries.

In his State of the Union Message, President Bush said he understood, finally, that we have a jobs problem in America. He promised his administration would do more to help people find and train for jobs of the future.

A few days later, a professor from the University of Texas wrote an op-ed in the Washington Post about what she said was a model job training program in Austin. Many of the students at the center do not have the advantages that Myra Bronstein and many other IT workers have. They do not have graduate degrees. What they do have is a fierce desire to make a better life for themselves and their children. Many of them have two jobs. They catch a bus to their classes, where they learn about computer programming and spreadsheets and other supposedly marketable skills.

The professor wrote that one woman who showed her proudly how she ''uses MapQuest.com to get directions to the houses that she cleans on her hands and knees, 7 days a week, 12 hours a day, for a pittance,'' was just lucky to have a job at all.

She wrote:

> Before they learned these skills, the trainees thought that it was their lack of computer skills that prevented them from getting good information-age jobs. They thought something was wrong with them. Now they know something is wrong with our job market.

There is something wrong with the job market, and the Bush administration's cavalier endorsement of shipping American jobs overseas can only make

matters worse. The administration owes the American people an explanation and an apology. More than that, they owe this Nation a plan that will actually create jobs, not export them to China, to India, or other low-wage countries but to create jobs here.

I ask the President to renounce this report from his economic advisers and assure all Americans that the Federal Government will not be taking steps to export these jobs overseas.

Mr. President, I ask unanimous consent that my leader time not be taken from the morning business allocated to the Democratic side.

The PRESIDENT pro tempore. Without objection, it is so ordered.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, the leadership time, so much as remains for the majority leader, will be reserved.

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, the Senate will proceed to a period for the transaction of morning business for up to 60 minutes, with the first 30 minutes under the control of the Democratic leader or his designee, and the final 30 minutes under the control of the majority leader or his designee.

The Democratic leader.

ORDER OF BUSINESS

Mr. DASCHLE. Mr. President, I would be happy to yield to the Senator from Illinois for a question.

Mr. DURBIN. Mr. President, I would like to ask the leader a question under leader time, not under morning business.

The PRESIDENT pro tempore. The leader's time has expired.

Mr. DASCHLE. I inform the Senator from Illinois, through the Chair, that we still have a half hour of morning business time allocated. We can use that time. I will take such time as may be required to respond to the Senator's question.

Mr. DURBIN. I will make my question very brief.

ECONOMIC POLICY

Mr. DURBIN. I commend the leader for his statement this morning and ask him the following: If the Bush administration is now telling us that tax cuts for the wealthy are good for America, if they are now telling us that outsourcing jobs from the United States to other countries is good for America, and they are now cutting overtime pay for American workers and refusing to give unemployed workers in our country the benefits they need to keep their families together, I would like to ask the Senator from South Dakota and our leader on the Democratic side if he believes this is the right economic policy to move America forward out of this recession and into prosperity?

Mr. DASCHLE. Mr. President, I would simply say that if you judge how good an economy is by the number of jobs created, this policy has been a failure. If you judge economic policy by the kind of fiscal position we now hold—we have a $600 billion deficit and a $3.5 trillion debt; a $9 trillion swing as a result of the tax cuts—this policy is a failure. If you judge by how one pays and rewards work rather than wealth, by this administration's position on overtime, this position and policy is a failure.

I think as we debate the economic circumstances we face in this country these failures ought to be front and center because they are the focus of every American family today.

Ms. STABENOW. Will the leader yield for a question as well?

Mr. DASCHLE. I am happy to yield to the Senator from Michigan.

Ms. STABENOW. Mr. President, on behalf of the men and women of Michigan I thank the Democratic leader for his comments this morning. We read headlines every single day of jobs being lost to other countries, outsourcing, plants that are leaving. It is clear to me we have an administration more focused on wealth than valuing work, as the distinguished Senator from Illinois indicated, with a whole series of policies that do not reward work.

I wonder if the leader might comment on the fact this is a race to the bottom. What they are saying to Americans is they should work for $2.50 an hour or $1 an hour or instead of being a computer programmer here, earning $50,000 a year, if you earn $15,000 a year, maybe we won't outsource your job. Isn't this a way to eliminate the middle class? How do they, in fact, purchase the cars and the refrigerators and computers and have the quality of life they want, send their children to college, be able to afford a quality of life as Americans, if this is a race to the bottom?

Would the leader agree this is now a race to the bottom and a threat to the middle class and their way of life?

Mr. DASCHLE. Mr. President, I respond to the Senator from Michigan by saying she has characterized this situation very accurately. It is a race to the bottom.

I had a conversation not long ago with a worker at a grocery store chain who was commenting that they are currently in negotiations with this particular chain. He noted over the last 30 years, as negotiations have been evolving, at every juncture, all through the 30 years, the question was: How can we make improvements; how can we improve wages; how can we improve benefits; how can we continue to stay abreast of the current fiscal and financial challenges every family faces? That was the goal, to advance the benefits, the wages, to take into account the dramatic changes in their own circumstances.

He said for the first time in 30 years, their only goal this time is to hold on to what they have so the company doesn't take away benefits, the company doesn't take away wages.

He said: Those on the other side are arguing, we are going to take away some of your wages and some of your benefits because that is what is happening with the competition. In order to be competitive, we have to reduce your wages and reduce your benefits.

I will not accept that for this country. We can't possibly accept the fact we have to move backward. If we are a progressive society, we have to recognize these families have to continue to move forward with regard to their benefits and wages or, you are absolutely right, we will have a race to the bottom, a disparity between those at the top, who get the tax cuts the Senator from Illinois referenced, and those at the bottom, who get not only no tax cuts but now are losing their jobs, benefits and wages, and their overtime. What is that going to do to this country? We are going to have the biggest chasm in all of our history soon between those at the top and those at the bottom. That is unacceptable.

I thank the Senator for her question.

The PRESIDENT pro tempore. The Senator from Nevada.

Mr. REID. Would the Chair announce how much time is left for morning business on this side?

The PRESIDENT pro tempore. Twenty-four minutes 37 seconds.

Mr. REID. Mr. President, the distinguished majority leader announced today the tax cuts were working. My question to him and everyone within the sound of my voice would be: Working for whom? As has been indicated, we have staggering deficits. We have a staggering debt that was not there when this man took the office of President a little more than 3 years ago.

I have been reading a book the last couple days, ''The Price of Loyalty,'' by Ron Suskind and Paul O'Neill. In that book, quite clearly, Paul O'Neill was extremely concerned about the deficits and brought it up at a Cabinet meeting. He was cut off very quickly by Vice President CHENEY, saying: President Reagan proved that tax cuts are good and that deficits don't matter.

I believe deficits do matter. I believe we have a situation developing that is going to cause untold misery and harm, as indicated by the budget we have been given today. We will talk about that during the next few weeks as the budget negotiations and debate go forward.

I am happy to yield 10 minutes to the Senator from Iowa.

The PRESIDENT pro tempore. The Senator from Iowa is recognized for 10 minutes.

Mr. HARKIN. Mr. President, I thank the assistant majority leader for yielding me 10 minutes in morning business. I rise to follow up on what the Democratic leader was talking about in

terms of the statement of the chairman of the President's economic advisers saying: Outsourcing of jobs in this country is a good thing.

I read the followup comments by White House spokeswoman Claire Buchan, who said: The President's view is that American workers are the best workers in the world and he is committed to free and fair trade. He is committed to a level playing field.

That all sounds very nice, but is it level when you have a worker in China making 61 cents an hour and a worker in America making $12 or $13, $14 an hour? What kind of a level playing field is that? As the leader said, this is a race to the bottom.

You can always find someone someplace who is lower down on the totem pole, who is more hungry, more destitute, willing to work for less than you. If that is what we are looking for, we might as well go back to slavery.

If you want to talk about efficiency, that is what they are saying: When a good or service is produced more cheaply abroad, it makes more sense to import it than to provide it domestically. That has to do with efficiency, they said.

Efficiency? Is that what we as human beings are now looked upon, as a machine, how efficient a machine we are or is there more to life than that.

When I hear words like that, I say people have some sterile view of economics that counts people as just so many cogs in a wheel or so many units we can depreciate, use up and throw out on the trash heap after a while. It disturbs me greatly, the positions of these people in making such statements.

I recognize free trade or fair trade is good for everyone as long as it does not lower people's standard of living but tends to raise people up to ours. That is what we ought to be involved in—not lowering our standard of living to others but trying to help them raise theirs.

Couple that with this dance of the administration that outsourcing jobs, shipping jobs overseas is good, somehow good for our country, with the budget we have now in front of us and what it spells is a disaster for this country and especially for our young people.

We have had the first recovery from a recession in modern time. There are still about 3 million jobs lost out there. This budget continues on that way. We have tax cuts for the wealthy. It does not create jobs. We have this proposal to eliminate overtime pay Senator DURBIN brought up. Now we are going to create jobs in India and China and places such as that by outsourcing all of our jobs.

Then you look at the budget, and the budget we have will continue deficits as far as the eye can see. It will increase deficits. What that means is we are now going to be paying a debt tax. As this administration increases the national debt, they increase the share of the Federal budget that goes to pay the interest on the debt. So every dollar we spend on interest is a dollar we are not spending on education or construction or health care, rebuilding our economy. This is the hidden tax in Mr. Bush's budget. He says he wants tax cuts, mostly for the wealthy. He wants to make them permanent. That will cost us another $1 trillion. But what about the hidden tax, the debt tax that is going to be put upon our workers and our children to pay the huge interest charges on this national debt that is running up?

Right now interest payments are about $4,367 a year for a family of four.

By 2010, because of these huge budget deficits, this debt tax rises to more than $8,000 for a family of four. That is just the interest every year. That means every family of four in America will be paying about $8,000 a year in additional taxes just to pay the interest on the national debt. Again, this is a formula for utter disaster.

The baby boomers are on the verge of retirement—1946 being the first year of the baby boomers. They will retire basically at 65, so that brings us to the year 2011. When they start retiring, we will be in the hole with huge budget deficits. President Clinton set us on the right track to reach 2010 with zero national debt, in great fiscal shape to begin to finance the baby boomers' retirement and their health care. That inheritance from President Clinton, being on the right track and erasing the total national debt, has been squandered—squandered by tax cuts for the wealthy, squandered by the outsourcing of jobs to other countries, and destroying jobs in America. So we are going to reach 2010 with a crushing debt burden, higher interest rates, a weaker economy, and the baby boomers just retiring.

We know we are mortgaging our future, stealing from the next generation. Why? So that the wealthiest can have a tax cut of $155,000 a year. This is not wise and it is not fair. The consequences are going to hit us right now, not just in the year 2001. Just look at the budget. It shortchanges No Child Left Behind by $7 billion. The budget cuts funding for local police by $1.7 billion. It cuts funding for firefighters by $800 million.

There you have the essence of the Bush economic plan: huge tax cuts for the rich, skyrocketing deficits and debt, cuts in programs that serve children and working Americans, and outsourcing of our jobs to other countries, thus reducing the overall income of middle-class Americans.

It is time for the Senate to come together and demand a change of course, demand fiscal sanity, fiscal integrity, and a change in our economic program. I believe this is the single biggest test we face in the year ahead. Quite frankly, I believe President Bush is out of control in demanding even more tax cuts. The House of Representatives basically will do whatever the White House says. So I say to my colleagues it is up to us.

Quite frankly, if the Senate doesn't step in and provide some adult supervision in Washington, then nobody will, and we will, in fact, march down this path of huge deficits, bigger and bigger deficits, higher debt, more interest payments on the debt, and the increasing outsourcing of our jobs to other countries. It is time to stop this downward spiral. I believe only we in the Senate can do it.

Mr. REID. Mr. President, I yield 10 minutes to the Senator from Illinois, Mr. DURBIN.

The PRESIDENT pro tempore. The Senator from Illinois is recognized.

PROTECTING THE TROOPS

Mr. DURBIN. Mr. President, last night a group of Senators went out for dinner at Walter Reed Hospital with the soldiers who have returned from Iraq and Afghanistan, many of whom are undergoing important medical treatment and rebuilding their lives and strength to return to their families, and some to return to service to our country. These are our best. These men and women with whom we had the good fortune to eat dinner last night are really some of the finest people you could ever meet. They have given more to this country than any of us will ever give, and they have done it with a sense of loyalty and a sense of patriotism that all of us admire.

As I talked to these soldiers and asked them about their experience, I asked them about their injuries: What happened when you were in Iraq?

The story that comes back more often than not is that these soldiers—many of them—were in Humvee vehicles, which is our modern jeep, traveling in Baghdad and other cities and localities in Iraq, when their vehicle was struck by a rocket-propelled grenade or a homemade bomb that was detonated. Many of them were seriously injured. One brave soldier from South Dakota lost his right arm. The Army captain in the next Humvee was killed, and he believes he was lucky to escape alive. I asked him what Congress could do to help.

He said: We are getting good medical treatment, and our families are being treated fine. But can you do something about those Humvees? The Humvee doesn't have armor plating on the sides, armored doors to protect us and other soldiers.

You think to yourself, of the billions of dollars we have spent in Iraq, we don't have armored doors on the Humvees so that these soldiers can come home safely?

I asked the Secretary of the Army: What is this problem? He came back to me and reported that there are 8,400 Humvees in Iraq that don't have armored doors. The soldiers, last night, said they would improvise. They would get sheets of steel and cut them and place them on the sides of the Humvees

so they are not vulnerable in these areas.

We should do better. I said to the Secretary of the Army: Isn't this a priority? He said: It is our highest priority to build the 8,400 doors for these Humvees. He told me that many will be made in my State at the Rock Island Arsenal. I visited the Rock Island Arsenal and saw the first sets of doors come off for the Humvees, and the workers were so proud. They knew they had done something significant.

I said to the commander at the arsenal: How long will it take us now? We need 8,400 sets and we are also doing them at Anniston. He said: We are going to get these doors built in one year.

One year? In World War II, we were building bombers in 72 hours and ships in 30 and 60 days, and we need 1 year to make the armor-plated doors to protect the Humvees so that fewer of our men and women in uniform will have to go to Walter Reed Hospital for prosthetic devices and medical treatment.

I said: Why is it taking one year? He said: Because there is only one steel-fabricating plant left in America, and it is in Pennsylvania. It makes the steel that we can convert into the armor plating for these doors. We are using everything they produce as fast as they produce it.

So when the issue comes up about loss of manufacturing jobs, and loss of American jobs, and loss of our industrial base, it is more than a cold discussion of statistics; it is a discussion about the reality of our economy and the reality we face. Whether you live in North Carolina, where we have lost textile jobs, or you live in Illinois, where we have lost steel jobs, the fact is, as we lose these jobs, we lose our capacity. When it comes to something as basic as steel, that capacity plays out so that our soldiers in Iraq today are more vulnerable to enemy attack because we cannot produce the steel in America.

So we asked the administration: What should we do about all these jobs going overseas? What should we do about the loss of the industrial base? Is this a challenge we need to face and deal with?

Our answer came back this week in a report from the White House. This is a headline from the Los Angeles Times of yesterday: ''Bush Supports Shift of Jobs Overseas.''

It goes on to say:

> The loss of work to other countries, while painful in the short term, will enrich the economy eventually, his report to Congress says.

Like many colleagues, I read this headline and I said: It cannot be true; clearly, this is a mistake. I cannot believe the Bush administration would say that shifting jobs overseas is good for America.

Then we looked at other newspapers around the country, not just the L.A. Times. In the Seattle Times, the same report was analyzed. Their headline reads: ''Bush report: Sending Jobs Overseas Helps U.S.'' The Pittsburgh Post-Gazette: ''Bush Economic Report Praises 'Outsourcing' Jobs.'' The Orlando Sentinel: ''Bush Says Sending Jobs Abroad Can Be Beneficial.''

Yes, as we read the report, that is exactly what was said.

Mr. N. Gregory Mankiw, chairman of President Bush's Council of Economic Advisers, said:

> Outsourcing is just a new way of doing international trade. More things are tradable than were tradable in the past. And that's a good thing.

Is that a good thing, President Bush and Mr. Mankiw? Would you like to go to Walter Reed Hospital and explain to the soldiers who have been victimized by the loss of steel production in America that this is a good thing? It is not a good thing.

I am one who supports trade. I believe globalization is as inevitable as gravity, but I also understand we need economic leadership from the top, from the White House and the President on down that says we will enforce trade agreements; we will build America's economic base; we will not surrender American jobs willingly.

This report from the Bush administration says that they not only surrender these jobs willingly, they do it with applause. What a good thing it must be that the President's report says to Congress that we have lost so many jobs overseas—jobs to China, jobs to India, and it continues.

In technology, there was a time when we were king; Silicon Valley ruled, and they should—all the ingenuity and creativity that came up with these dramatic advances in technology. What is happening today? A large and growing number of computer-related jobs are already leaving America.

IBM, for example, announced in December it is going to transfer 4,730 programming jobs from the United States to India, China, and other countries. Insurance giant Aetna likewise decided early in the year to begin sending 20 percent of its application outsourcing work to India.

From the viewpoint of President Bush and his economic advisers, this is great news: IBM is sending jobs to India and China; Aetna is going to outsource 20 percent of its jobs to India. From their point of view, from the statement they sent to Congress, we should applaud this: what a great development, that all of the programmers and electrical engineers who work for these companies will now be out of work and someone overseas will take their jobs for a fraction of the pay they were receiving.

That is not good news in my home. It is not good news in Illinois. And I don't think it is good news for most working families across America.

The President yesterday appeared in a plant in Missouri and said: Our tax cuts for the wealthy are working; they really turned this economy around. I am sorry to say to the President that he has the dubious distinction at this point in his Presidency of having lost more jobs as a President of the United States than any President since Herbert Hoover in the Great Depression.

This President has watched these jobs leave, and for a time you would think it troubled him and for a time you would think he was trying to bring these jobs back to the United States or protect the jobs we have. But the report to Congress this week says it is part of a designed plan—a plan by the Bush administration that happens to believe in their wrongheaded way that tax cuts for the wealthiest people in America are good for our future; that happens to believe outsourcing jobs to India and China somehow is positive for America; and that happens to believe Americans who are out of work don't deserve unemployment benefits and those who are working shouldn't be paid for overtime.

That is the economic policy of the Bush administration, and that is why we have elections in America. American families who have seen these jobs go overseas are going to reject this wrongheaded Bush economic policy.

The PRESIDING OFFICER (Mrs. DOLE). The Senator's time has expired.

Mr. DURBIN. Madam President, I think we are going to find soon the American people will respond in resounding terms to this report to Congress.

I yield the floor.

Mr. REID. Madam President, how much time is remaining?

The PRESIDING OFFICER. Four minutes seventeen seconds.

Mr. REID. Madam President, before my friend from Illinois leaves the floor, I would like to propound a question to him. I say to my friend from Illinois, the majority leader was on the floor today, and I think the Senator from Illinois heard me remark earlier that he said the tax cuts are working. I have thought about that since I spoke 20 minutes ago, and I think he is probably right, they are working for the elite of this country, people who are in the upper income brackets.

Does the Senator from Illinois know of anyone else who is receiving a benefit from the tax cuts?

Mr. DURBIN. Madam President, I say to the Senator from Nevada, yes, I will tell the Senator who will benefit from the tax cut: the countries that are loaning money to America to finance the debt that these tax cuts have created. Specifically Japan, which is loaning over $500 billion to the United States to pay for our debt, and China. China, in loaning money to the United States, is earning interest. So the Japanese and the Chinese benefit from the President's tax cuts and economic policy because they are earning interest on this massive debt, a deficit larger than any President has ever created in the history of the United States of America. The winners, as I see it, would be the overseas investors, as well as the wealthiest people in our country. They are the winners.

Mr. REID. Madam President, has my friend reviewed the text of the book, ''The Price of Loyalty''?

Mr. DURBIN. I read this book.

Mr. REID. The Senator does recall in that book where Vice President CHENEY, when Paul O'Neill said we should take a look at these deficits that are building up, and does the Senator recall—this is almost a direct quote—Vice President CHENEY interrupting the meeting and saying: President Reagan proved deficits don't matter?

Can the Senator from Illinois comment on that statement, ''deficits don't matter''?

Mr. DURBIN. I remember it. In addition to some other comments in the book, it was the most graphic illustration that this administration is insensitive to the deficits and debt they are creating.

I also recall in that same book Paul O'Neill, then-Secretary of the Treasury, was recommending to the Bush administration to put triggers in the tax cuts so that if the surplus disappeared, then the tax cuts would not continue and drag us even deeper into debt. That was rejected by Larry Lindsey, the former head of the Council of Economic Advisers, the predecessor to the man who came up with this delightful equation that says losing jobs overseas is good for America.

What we have had is a wonderful parade of economic extremists in the White House who advised this administration into the current mess with our budget and with our economy.

Mr. REID. Is that the same Larry Lindsey who was fired because he said the war in Iraq would cost more than $100 billion?

Mr. DURBIN. That is right, he misspoke and, as a result, he was returned to the private sector. Now we see his predecessor, Mr. Mankiw, who now has misspoken, but we have his report. President Bush sent his report to Congress and he said outsourcing American jobs is good for America. I am sure we are going to hear a correction before the Sun goes down in Washington today.

The PRESIDING OFFICER. The Senator from Texas.

ORDER OF BUSINESS

Mrs. HUTCHISON. Madam President, has the Democratic side used all their time in morning business?

The PRESIDING OFFICER. They have 20 seconds remaining.

Mr. REID. We will be happy to donate that to the Senator from Texas.

Mrs. HUTCHISON. How generous. I thank the assistant Democratic leader very much.

Madam President, how much time do we have? Was it 30 minutes on the other side, or did they have some other time?

The PRESIDING OFFICER. There are 30 minutes remaining on the majority side.

Mrs. HUTCHISON. Thirty minutes and twenty seconds, Madam President.

The PRESIDING OFFICER. Correct.

Mrs. HUTCHISON. Madam President, I will ask the distinguished Senator from Colorado to allocate our time. There will be another speaker coming, but I would like to yield to the Senator from Colorado this 30 minutes 20 seconds.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ALLARD. I thank the Chair.

THE ECONOMY

Mr. ALLARD. Madam President, I wish to talk about the economy. We can sure tell this is an election year. The false rhetoric that is going on about the economy is amazing. The fact is, the economy is recovering and our tax cuts have made a significant difference in the fact our economy is recovering.

I heard the previous speaker on the floor talk about the jobs we are losing, but this President and this Republican Congress inherited an economy that was going in the dumps when he went into office.

It was headed downhill. The stock market had been down for 9 months and the recession was just beginning when he was taking his oath of office, so one cannot blame this President for what has happened in the economy. We need to look back at what happened during the Clinton administration. We had one of the highest tax increases in the history of this country. Everybody who follows the economy knows it takes a while for tax policy to take effect. What has happened under the Bush Presidency, with a Republican Congress, is we put some tax cuts in place to get the economy recovered. It has worked. Now it did not start working immediately, but after a year or two we began to see the results. We are seeing the results today.

The Members of the Senate who come to this floor and say we ought to raise taxes, that will do nothing more than destroy the economic recovery process we see taking place right now.

I have a report from the Joint Economic Committee. The chairman of that committee happens to be Senator BENNETT. It is made up equally of Members of each party from the Senate. There are five Republicans and five Democrats on the Joint Economic Committee. They have published a rather promising report. It is time we take a look at what they say about the economy. There should not be any doubt that the economy is recovering and a lot of it has been done due to the tax cuts. We should not allow a tax increase to occur that would destroy this economic growth.

They report the economy is strong and there is sustainable growth going on. The recovery continues at a strong pace. Payrolls increased by over 112,000 jobs in January as activity in the manufacturing and services industries accelerated. Last year closed with the economy growing at a 4 percent annual rate and productivity growing at a 2.7 percent annual rate, well above the long-run averages. Despite all of this, inflation remains benign. It is not growing, allowing the Federal Reserve to maintain short-term interest rates at historical lows. Recent tax relief continues to benefit consumers and businesses. Forecasters see continued robust growth, low inflation, and accelerated job gains throughout this year. That is pretty good news.

The payroll employment increase of 112,000 jobs in January was the largest monthly gain since the year 2000. The unemployment rate fell to 5.6 percent. I remember when I took economics in college in the 1960s. Five percent was considered full employment. We were spoiled a little bit and it was definitely an aberration, as a lot of economists described it, when we got down to 4 percent, but 5 percent is still considered a full employment figure. The unemployment rate fell to 5.6 percent in January, well below its recent peak of 6.3 percent last June. Five straight months of job gains have now added 366,000 jobs to U.S. payrolls.

5.6 percent is good news. The economy grew at a robust 4 percent annual rate in the fourth quarter of 2003. Forecasters see continued growth of around 4 percent throughout this year. Productivity—this is output per hour of labor—grew at a 2.7 percent pace in the fourth quarter, above historical averages. I continue to believe the workers in this country are the best educated, the best motivated, and nowhere in the world is their productivity exceeded. They are the ultimate. I think we should be proud of that and recognize it is all that individual effort that makes a difference and what keeps this economic engine growing.

The Federal Reserve has kept short-term interest rates unchanged at 1 percent, which is good for individuals who want to buy homes, for example. The administration worked with me to pass legislation called the American Dream Down Payment Act to get people into homes. I see now they are reporting that home ownership is at an historic high. It has never been higher in the history of this country than what we are seeing today as far as homeownership. That legislation, working with the administration, is the type of effort that is making the difference.

The household survey, used to calculate the unemployment rate, showed employment gains of almost 500,000 in January. The gap between the household and the payroll measures of employment continues to widen, confirming initial labor market improvements and continuing jobless claims for unemployment insurance benefits are trending downward.

I like to rely on the household survey because I think the household survey tells us something the payroll survey does not. What it tells me is a lot of our Americans are saying, look, now is the time for me to start my own business. When they start their own business they start out small so that means

they start out of their home, they contract to do their labor. Then as demand grows for their service they begin to expand out from there. The household survey reflects that.

We have seen tremendous growth in the household survey. The payroll wage survey misses that particular parameter. That has been good news for some time, and the Joint Economic Committee has shown evidence this continues to grow. This is the small business sector of this country. It is the small business sector where one sees economic growth happen because this is where new ideas develop. This is where small companies have an opportunity to grow into larger companies like we have seen many of our high-tech companies do.

Last night I had dinner with a number of executives from high-tech companies, and they are bullish on our economy. They think things are doing pretty well. They told us, well, maybe there have been a few jobs that have gone overseas, but nearly all of our jobs are growing in America. This is where our job growth is happening.

Again, this is a political year and a lot of this false negative rhetoric is not telling the full story, and that is what I want to get across this morning. The economy is recovering and that is due to our tax cuts. Gross domestic product and productivity have grown at a very strong and sustainable rate. Real gross domestic product, often referred to as the GDP, grew at a solid 4 percent annual rate in the fourth quarter, following the third quarter's remarkable 8.2 percent rate. Amazing, the third quarter of last year had a 8.2 percent growth rate.

In the second half of 2003, the economy grew at the fastest 6-month pace in almost 20 years. Over 2003, as a whole, gross domestic product grew at a robust average of 4.3 percent. By way of comparison, the economy grew at an average of 3.7 percent during the expansion of the 1990s. Even when we had unprecedented economic growth in the 1990s, it was only 3.7 percent. We saw a much higher growth rate last year. Productivity also advanced, growing at a 2.7 percent annual rate in the fourth quarter, and in excess of 4 percent for the second consecutive year, well above historical averages.

Forecasters believe the gross domestic growth will be sustained at around 4 percent throughout this year. That is all good news. Our tax cuts are working.

Let's look at business activity. Business activity continues to strengthen. Increases in average weekly hours of work and moderation of job losses in manufacturing indicate rising activity. Confirming this trend, the Institute for Supply Management manufacturing index has risen since May to its highest value since 1983. The ISM services index has also been rising and, in January, was the highest in its history. Index value over 50 means the relevant sector is expanding. Current values of well above 60 indicate vigorous expansion in manufacturing and service.

The economy is recovering and our cutting taxes is making the difference. Consumer confidence and spending grew. The University of Michigan's consumer sentiment index rose in January to its highest value since 2000. The Confidence Board's index rose to the highest in 18 months.

After tax income also continues to grow, boosted by tax cuts. Most Americans, after filing their taxes, are going to get more money back from the Government than they have in previous years. Improved sentiment and incomes have boosted consumer spending, which grew at a 2.6-percent annual pace in the fourth quarter after hearty spending in the third quarter. After tax incomes will improve further as taxpayers receive higher refunds.

What does it look like as far as the Fed? They are holding monetary policy steady. It is unchanged. This means they kept short-term interest rates at the five-decade low of 1 percent but changed their policy statement to set up flexibility to raise rates if they see signs of inflation. So they are prepared to act if we start to move into an inflationary cycle. Many measures of inflation are at their lowest since the 1960s, a key reason the Fed has accommodated strong growth without raising rates.

I continue to point to the housing market where we had huge amounts of growth in home ownership because interest rates are low. All of a sudden, individuals who could not make a downpayment on a home found that, by gosh, with the interest rates down, it is easier for them to come up with the payment. It means their monthly payment will be less because interest rates are lower. Home ownership is good for the economy. It creates jobs.

The housing market remains robust. Remarkably strong home sales have boosted the home ownership rate to a new high, and that new high is 68.5 percent. Many signs point to more strength in housing in the near term. Mortgage applications have increased again on a renewed dip in mortgage rates.

Housing starts rose in December to the highest rate in about 20 years and permits for home construction were up for the fourth quarter. This is all good news. The economy is recovering. It has been due to those tax cuts that we implemented earlier in the President's term.

Ministers from major industrial countries met last weekend to discuss currency issues, including the dollar's recent decline and China's dollar peg. The dollar fell 10 percent against Japan's yen and 17 percent against the euro last year, making U.S. exports less costly in world markets and imports more costly. Ministers again called for flexible, ''orderly'' exchange rates.

This is all good news. I recall at the first of last year and in 2002 manufacturers were coming to me and complaining about their inability to compete in the international markets because the value of the dollar was so much higher than what it had been historically. Those of you who are listening understand, when the value of the dollar is low, it means the cost of your goods and services are much higher and it is harder for you to be competitive against the yen or euro, for example. Now that is changing. The value of the dollar has dropped down so this means our manufactured goods are going to be able to compete overseas against those products that are already provided.

I feel good about what we can look forward to. I am disappointed that we have to resort to all this negative rhetoric because we are in a campaign. I have shared with my colleagues here, and the American people, some real facts about what is happening in the economy. I don't think anybody, when they look at these facts, can disagree that our economy is in a state of recovery. Obviously, you can take the facts and pull them over two decades and you can distort them and try to make the President look bad as far as the economy is concerned.

But the fact is, President Bush has had a strong growth policy for the economy, and it is working. It included cutting taxes and holding the growth in interest rates down, working with the Fed. Economic indicators have shown positive growth and the economy is going to continue to do that.

I cannot understand why the opposition party has decided they are going to make the economy their issue. It is a losing issue because the economy is recovering. The American people are beginning to realize that. My State, for example, is a diverse State. We don't like to put all our eggs in one basket, so we have manufacturing, we have tourism, in the State of Colorado we have agriculture, we have natural resources, high technology, telecommunications and research and development. We realize things need to be done to encourage that, something we need to encourage throughout the country, to make sure we stay competitive. And that is educations. The company executives I met with last night said, yes, education is important. We need to be sure that we have our workforce, our citizens, well educated.

The President has pushed to improve education. No Child Left Behind is certainly a sincere effort to try to improve our educational system. I happen to think it is going to work.

We are improving our educational system. The economic figures are looking good. We should all be positive about the outlook, as far as America is concerned.

I am proud to be American. I am proud of my small business roots. I had an opportunity to start a business from scratch as a veterinarian and I worked hard to see that grow. It gave me an opportunity to contribute to my community as a small businessman, and to

provide an opportunity for my children to get an education. They got their education. Now they are raising their families. I want to see my grandchildren have the same future that I have enjoyed, and my children have enjoyed.

I think what the President is doing to hold down taxes creates lots of opportunity for young people to get their own business started. That is the strength of America, our small business sector. That is where innovation starts and that is where growth begins.

Madam President, I am curious to know how much time we have left on this side.

The PRESIDING OFFICER. The Senator has 11 minutes 56 seconds.

Mr. ALLARD. I want to talk a little bit more about the housing issue. As our economy was going through an unprecedented decline, we saw housing stay up. That was the one part of our economy that actually sustained us.

It was a pleasure for me to be able to work with the President on the American Dream Downpayment Act, to allow for young people in all areas of the country to begin to be able to make that downpayment on that first home.

In studying what was happening in the last several years, even though we had dropped interest rates and it was easier to qualify for loans, there were a lot of people who should have but did not own their own homes. Historically the barrier was that downpayment. So the American Dream Downpayment Act provides a way for families who run up to this barrier, where they look at their rental rates they are paying that are exactly the same as what their mortgage payment would be, this provides them an opportunity to get past this downpayment barrier in order to own a home.

It is working. It is going to work. As it moves forward—it is just getting started—it is going to do even more to create home ownership.

I am proud of this President. I am proud of his economic policies. I am proud to be able to work with him in a partnership in cutting taxes and encouraging the economy to grow.

As a small businessman, I know how that works. If anything affects a job, or growth, it is when taxes get too high and rules and regulations take over your business. As a small businessman, I have had to suffer through down economies. I have had to lay people off because our small business was not doing very well because of a down economy. It is not fun.

But we always recovered and after we recovered we were more productive and we were more efficient and we generally provided a better service. I think that has happened in this country. I think a lot of companies have taken the downturn and streamlined their operations, improved their services.

The bottom line is that we are going to have more jobs in this country. Our economy is going to continue to grow. The bottom line is the consumers in this country are going to be better served.

This President has done the right thing for America. It is unfortunate that, in an election year such as this, the political rhetoric gets so negative because it really does not reflect what has been going on. To repeat, unemployment rates have dropped to 5.6 percent. The gross domestic product is growing at phenomenal rates. Job growth is happening. It is occurring today.

Other countries have looked at what we have done in America to create jobs, and they are updating.

Competition is going to be tough in the international market, and we need to be prepared to compete. Trade restrictions is not the way to do it. We historically have been able to compete throughout the international community without trade restrictions. In fact, the trade agreements we pass actually make it possible for the United States to cut down the trade tariffs that are applied against American products.

One of the things that gets thrown out here is the trade deficit. The trade deficit has been the worst in this country during the Depression and during the recession we had at the end of the Carter years in the 1970s. When our economy goes down, trade deficits get better. When our economy goes up, trade deficits change because consumers are buying more goods. When you have them buying more goods, it creates more jobs. I don't see where the trade issue is one that really reflects what is happening in the economy.

I shared these issues with you this morning because that is really what is happening in the economy. Employment is rising, unemployment rates continue to fall, gross domestic product and productivity continue to grow strong and at a sustainable rate, business activity continues to strengthen, consumer confidence and spending grows, the Fed is holding interests rates at a steady 1 percent, and the housing market looks really good. It has been good for a while and continues to look good. When you compare the dollar to the yen or to the euro, its value is going down, which is good for exports. It is good for business. It means we will be able to move our products overseas. I think it looks good.

I am proud of this President. He has the right solution, and it is working.

I yield the floor.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, morning business is closed.

SAFE, ACCOUNTABLE, FLEXIBLE, AND EFFICIENT TRANSPORTATION EQUITY ACT OF 2003

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 1072, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1072) to authorize funds for Federal-aid highways, highway safety programs and transit programs, and for other purposes.

Pending:

Inhofe amendment No. 2285, in the nature of a substitute.

Warner modified amendment No. 2286 (to amendment No. 2285), to provide a highway safety improvement program that includes incentives to States to enact primary safety belt laws.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. ALLEN. Madam President, I commend the Senator from Colorado, Mr. ALLARD, for his remarks on the economy. I want to get into the pending amendment. At that point, I hope the managers will allow me to continue and talk about this seatbelt amendment.

I commend my colleague from Colorado, Senator ALLARD, for his comments. Tax cuts are working because individuals, families, and small businesses have greater freedom. They are investing. More jobs are being created, and there is more economic activity which makes our country more competitive.

Our tax laws and regulatory policies—and any policy we have in this country—needs to ensure that there is more investment and more jobs in America. We ought not ruin opportunities for businesses to provide their employees with broad-based stock options. The People's Republic of China has technology companies that promote themselves because they have stock options for their employees. I hope in America we would not deny that opportunity. Internet taxes matter. We need not be imposing higher taxes on access to the Internet, particularly broadband. Energy is important. We need to have energy sufficiency and reliance, domestic production of natural gas or clean coal or oil, as well as advancements in new technology. And this highway bill is a part of that, it is also for infrastructure, jobs, and the movement of people to and from work with less congestion. I hope we will get to it.

In the midst of this, we have an amendment. I have a tremendous amount of admiration and respect for my colleague, the senior Senator from Virginia, Mr. WARNER. His service to Virginia and to our Nation makes him a true American hero, in my view, and a great patriot. It is an honor to serve and partner with him.

However, I am compelled to voice my opposition to an amendment that Senator HILLARY CLINTON and he have proposed to the underlying highway bill. The amendment that is before us, while certainly well-intentioned, should not, in my view, be the purview of this body or the Federal Government. The proponents argue that it is a good idea to wear seatbelts. In most cases, that is

true. But there is really no assertion nor persuasive reason that has been proffered for Federal jurisdiction in this case. This certainly is not interstate commerce. Without a Federal interest, I think this cause or this claim or this idea ought to be dismissed in the Senate and remanded to the place where this ought to be adjudicated; that is, in the State legislatures because this is clearly a State interest.

Beyond the lack of Federal jurisdiction, I have long detested nannyism that emanates from the Federal Government. I believe legislating common sense is an ill-fated course that will result in countless mandates and directives imposed upon the American people.

No one in this body or around the country will argue that wearing a seatbelt is not a good idea. I wear them. I make sure my kids are buckled up. Of course, there are laws that have to do with children, but we are dealing with adults with this amendment.

The point is whether or not the Federal Government or any government ought to be legislating or coercing sensible behavior. There will be all sorts of ideas where people will say: Gosh, it is in government's interest—not just seatbelts but, gosh, you should not be drinking hot coffee, you should not be talking on the cell phone, and you should not be changing the radio station or trying to find your Alan Jackson CD while driving. You should not be eating a hamburger while driving. You ought not be looking at your Blackberry and replying while driving.

If there are going to be laws in this area—which I do not advocate—it ought to be at the State level.

Any of these examples I cited, obviously, endanger not only the driver but others.

I thank my colleague from Missouri, Senator BOND, for his great leadership on the highway bill, and also his support for the principles I will continue to espouse to my colleagues on this mandatory seatbelt dictate amendment.

I don't think this body wishes to dictate mandates on a lot of things because they make good sense. Let's look at law enforcement. I am sure there are some in law enforcement officers who like this idea of primary enforcement rather than secondary enforcement. In my view, law enforcement has a lot of important things to do, especially on safety of the highways.

For example, there is a driver on the road without his or her seatbelt on but otherwise driving the speed limit in their lane safely, not impaired by drugs or alcohol; meanwhile, law enforcement stops them, pulls them over, and it takes 20 to 30 minutes for them to cite someone who undoubtedly will be miffed by such pestering. At the same time, down the same stretch of highway there could be a drug-impaired or alcohol-impaired driver weaving down the road undetected because the sheriff's deputy or the State trooper or the police officer is bothering someone who is otherwise driving safely.

This amendment clearly tramples on the rights, the prerogatives, and the jurisdiction that have long been the purview of the people in the States. I don't believe mandates such as this initiative should come from any level of government. I was not for it as a State legislator or a Governor of the Commonwealth of Virginia. However, if governments are to be making a decision on this, it ought to be the State governments, not the U.S. Congress.

The logical regression is that somebody could make an argument that people riding motorcycles are safer wearing helmets than not having helmets. There are many States that do not have helmet laws. It is the right of the people of South Dakota, or whatever State it may be, to have such helmet laws. The logic, of course, would be that the Federal Government could say all motorcycle riders have to wear helmets.

In my view, our State legislatures provide a much closer representation of the views, the beliefs, and the will of the people in their respective constituencies, in their respective States all across our country. I am a firm believer that the laws of a particular State do reflect the principles and the views of its constituents and how they want to be governed.

I hope my colleagues realize that many States do not have primary seatbelt laws. In fact, 30 States do not. While New York and New Jersey have primary enforcement, as do Maryland, Delaware, and California, there are 30 States, from Maine to Virginia, to South Carolina, to Florida, to Missouri, to Nevada, Idaho, Arizona, and Alaska, that do not. If such seatbelt laws are desired, the citizens in these States will elect representatives and State legislators who share this belief and who want to pass such a petty law.

A minority of the States currently have the primary enforcement of seatbelt laws. I am sure it has been considered by State legislatures. It has been considered in Virginia for many years and debated as to the benefits of primary seatbelt statutes. Never, though, has it been agreed to be the law of the Commonwealth of Virginia. In fact, just last week the Virginia House of Delegates Transportation Committee tabled a measure that would have established a primary seatbelt law.

Again, I am often puzzled by the scant Federal nexus on this issue. Is it that State roads go through other States? For the Federal Government to usurp State authority on an issue that does not concern the safety of the public but only the individual in my view is Federal meddling at its worst, especially when coupled with repressive extortion.

When these issues are decided by State legislatures, all sorts of interesting things come up. There is naturally the libertarian streak, which my good friend, the senior Senator from Virginia, and I will discuss from time to time. That is an issue. But, interestingly, some other issues will come up. Last year in the debate in the Virginia General Assembly and the House of Delegates, Delegate Ken Melvin of Portsmouth, VA, voiced his opposition to a primary seatbelt law, stating: I know what happens when you are stopped by police, as a black man in this country and in Virginia, in particular. He explained how his son was harassed and pulled over numerous times for no apparent reason.

So we end up with concerns of driving and persecution of people on account of their race. That is something to be decided in a State legislature. I am not sure if every State has it. I am sure most places in Virginia do not have this problem. Nevertheless, that is the discussion that was held on the floor of Mr. Jefferson's capitol in the Commonwealth of Virginia.

The Virginia Legislature and the legislatures of other States, from Alaska to Florida and South Carolina, can discuss the impact of this on the people of their States rather than have the Congress hold hostage desperately needed funds for highways to make them comply with the one-size-fits-all edict and agenda.

Proponents will say this initiative provides States with supposed options. The reality is, by withholding highway funding, it is a de facto mandate. I do not believe in blackmailing the people of the 30 States, or any State with primary seatbelt laws for funding that their citizens have paid into the Federal highway trust fund.

I have watched this debate very closely on the reauthorization. We have heard the vast majority of Senators, thank goodness, laud the potential of this measure to create thousands of jobs in their States and obviously alleviating aggravating congestion in metropolitan and suburban areas of our country. If that is the case, why should we, as a Federal Government, withhold any portion of this funding, given its great prospects for jobs and also its ability to improve the quality of life? Our Commonwealth of Virginia would lose tens of millions of dollars until enacting a primary seatbelt law or convincing the federal government ninety percent of Virginians are wearing seatbelts.

Given the congestion in Hampton Roads, northern Virginia, and the number of Virginians seeking employment, I cannot support a measure that would reduce the amount of benefits available to Virginia.

I commend my friend and partner, Senator WARNER, on what he has been able to do over many years in getting Virginia's share of Federal dollars up from 79 cents to 80 cents to 90 cents and, in this measure, up to 95 cents. But Virginia is already paying in more than we get back. In addition, punishing the people of Virginia by withholding until they are coerced in the

legislature into passing a primary enforcement of a seatbelt bill, to me, is wrong.

I know what they will have to do; they will have to pass it, just as they had to pass in all the States raising the beer drinking age and the .08 blood alcohol content maximum. The latter did not have an impact in Virginia because as Governor I advocated .08 and we enacted into law.

States need the funds for roads and transit. It is contrary to the best interests of Virginia to force primary seatbelt mandates in exchange for funds. We ought to be making the most funding available for highways rather than returning less of Virginia gasoline taxes to them until they pass such an officious measure as this.

There are more effective ways to convince Americans to wear seatbelts when driving or traveling in an automobile or pickup truck. But meddling into every aspect of our citizens' lives, usurping the authority of the people through their legislatures, holding hostage infrastructure funds that are so needed, to me, is not the appropriate method to realize these salutary goals.

As I said, I have a great deal of respect for Senator WARNER. I know he cares passionately about this issue, but I don't believe this is in the best interests of the Commonwealth of Virginia or 49 other States. In my view, it continues a dangerous precedent that allows the Federal Government to further encroach on an issue traditionally determined by the States by withholding these infrastructure funds. This is simply not an issue for the Senate. It is not an issue for Congress to decide. It is clearly properly reserved to the people in the States.

I hope my colleagues will join me in opposing this amendment, tabling it, however it comes before the Senate. I certainly do not want to play the role of ''father knows best'' or senatorial nanny to coerce or reverse the decisions clearly made by my State's legislature or, for that matter, 29 other States.

Let there be no mistake. I strongly support greater seatbelt usage. I believe it can save lives on our roads and highways. But I do not support that usage coming as a result of a dictate and blackmail from ''Federales'' here in Washington, DC.

Let's not meddle with the laps of drivers driving safely down the road as adults. Let's trust free people to make these decisions and their State legislatures as to what they think the laws and enforcement ought to be, whether it is helmet laws or whether it is seatbelt laws. Let's also pass this otherwise beneficial bill that will help reduce congestion and help create jobs in our country.

Mr. WARNER. Mr. President, will the distinguished Senator, my dear friend, yield for some questions?

Mr. ALLEN. I would be happy to.

Mr. WARNER. I think as the two of us are here on the Senate floor, I am reminded that when Ben Franklin emerged from the Constitutional Convention, a reporter asked him: Well, what have the delegates to the convention rendered America? He said: A republic, if you can keep it. And this is the very essence of the Republic, if we can keep it, because here we are, two of the best of friends, proud to represent the Commonwealth of Virginia, and 90 percent of the time we are aligned. Yet our system allows the two of us to debate opposite positions on a piece of legislation I offered. I think that is magnificent, not only for our State but for the country.

Mr. ALLEN. If I may, I would much rather be debating this issue with your colleague on this, the junior Senator from New York. It would be much more enjoyable than with someone who is such a great partner. I yield back.

Mr. WARNER. I believe there would be somewhat greater notoriety, but I think some of the folks down in Virginia would be rather amused that here we are, the two elected Senators, having an honest and forthright debate, and in a friendly spirit.

But I picked up on one or two of your words. I know you love that word, Congress being the ''nanny.'' But, first, I ask my junior Senator, have I ever been a nanny toward you?

Mr. ALLEN. Of course not.

Mr. WARNER. Fine.

Mr. ALLEN. I wouldn't allow it, and you wouldn't either.

Mr. WARNER. So be it. Let's put that to one side.

Mr. ALLEN. I would say for the record, Mr. President, no, the senior Senator from Virginia has given me guidance but never in a sense of being an officious nanny whatsoever.

Mr. WARNER. Nor will I ever because I have tremendous respect for the Senator. We come to the Senate with different career backgrounds: You, a very distinguished State legislator, then Governor, and now U.S. Senator. How well I know that. I campaigned as a U.S. Senator when you were a State legislator, when you were running for the governorship, and then for the Senate. I am privileged and delighted that the Senator is here.

But you used one word I have to ask you to reconsider: This will establish a dangerous precedent. I ask my good friend—Virginia has the .08 drinking law, which has been very effective. It has saved lives. That is the purpose of this legislation, to save lives. To me, a little less concrete, a little less asphalt, and we may save a life, and we may save thrusting expenses on the local communities—whether it is the small community of Hopewell, VA, or the large community of Richmond. When an accident happens, they are the ones who bear the cost of sending out the police, the rescue squads—fortunately, Virginians volunteer in many instances—to attend to the wounded, the sick, and, indeed, the dying as a consequence of the accident.

That is costly, and it is clearly documented that we save lives with the increase in the use of seatbelts. The Secretary of Transportation, on behalf of the President, wrote this body a letter, addressed to the distinguished chairman, Mr. INHOFE, which is in the RECORD. It explicitly says the increase in the use of seatbelts saves lives. I do not think throughout this debate—I have been here throughout this debate—not one single Member of the Senate has taken the floor and addressed this legislation that it does not save lives. That is a given.

So let's go back to the .08 law. Is that not a direct precedent for this piece of legislation? This legislation is drawn, sentence by sentence, comparable to the .08 law. That was my objective.

Mr. ALLEN. I say to my colleague, the senior Senator from Virginia, it is similar in some respects.

Let me make a few points. Talking about cost—local rescue squads, volunteer fire departments, and so forth, having to work accidents—well, it is not as if the State legislatures do not care about these costs because, after all, if it is State police or if it is local supervisors or whoever it may be, they all care about that as well. And that is the proper forum for this because I think the people in the States do care just as much if not more and are much more in tune with what they would like to do in their laws than the Federal Government.

The difference on .08—I did allude to it, and it is a good, probative question—the .08 blood-alcohol level for drunk driving, or driving while under the influence of alcohol, is something that I advocated when you were alongside of me campaigning for Governor in 1993. There was opposition to that. But I thought, as well as you do, that at .08 most people are going to be impaired and, therefore, a danger, in that case to themselves, but what I cared most about was the danger to others.

In the case of somebody's lap, whether they are wearing a seatbelt or not, if it is a danger, it is only a slight increase in danger to themselves. It is not a danger to others on the road. Whereas, for somebody who is a drunk driver, clearly it is going to be a danger to themselves, but what might they do to an innocent pedestrian, somebody else driving on the road? So even .08, while we had it—and so the dictate and the extortion, whatever term you want to use on .08, it did not matter to Virginia because we had already passed that law, imagine that, without the wisdom of Washington. We actually did that. The point is, in this case, unlike a drunk driver, not wearing a seatbelt is not a danger to others, while a drunk driver is. And that is a distinction I would make.

But in either case, just personally—this is just philosophical to me, and maybe it is because of my experience serving in the State legislature and as Governor—I think the people in the States are perfectly capable of making these judgments themselves. And to restrict or take away funds unless you

follow the dictates of the Federal Government in something that while desirable is not really the proper jurisdiction of the Federal Government, to me, is just wrong.

Mr. WARNER. Mr. President, I say to the Senator, I full well know, having had the privilege of working with you throughout much of our public service careers, your strong feeling about States rights. And I have mine also. But I have to tell the Senator, the facts do not bear out the assumption that that individual driving without the seatbelt is of minimal danger to an innocent person, be it a pedestrian or one in another car, for this reason: It is very clear that if an accident occurs with an individual driving under the restraint of a seatbelt, he or she has, in that split fraction of a second, better control over the car than one who is totally jostled out of the driver's position and loses the ability to operate the controls of the car because of the absence of a restraint to keep that individual in the position of the driver.

Now, the record is replete with those facts. Secondly, yes, you think the people of Virginia—and we love them dearly and they will be on your side, not on mine; they will be on your side—should make the decision. But, tragically, for children, 6 out of 10 die who do not have the seatbelt put on them.

By the driver putting on his or her seatbelt, there is more of an inclination, then, to do the same with the other passengers in the car. The death on our highways today cuts into the young people, the younger generation coming along behind us far more deeply than our age group. The main category of deaths in this country, on the highways, is between the ages of about 17 and 30. There is the preponderance of deaths.

How well you know and I know when we were that age, you know: The laws be damned; we can handle anything.

That is the magnificence of youth, the exuberance, to meet the challenges, whatever they are, and ''don't tell me.'' I always admire that flag of New Hampshire that says: Don't tread on me. But now and then we have to tread ever so lightly upon our citizens to induce them to take those fundamental steps, not only to protect themselves but to protect that innocent victim on the streets or in another vehicle.

This formula is drawn up, yes, that some funds are withheld if the State does not go ahead. We only lost by one vote in the Virginia General Assembly on two occasions to get this very piece of legislation. You acknowledge that fact.

Mr. ALLEN. It has failed for many years.

Mr. WARNER. One vote. All I am saying to you is, if you just require the State, all right, if you don't do it, you will have to give up a little asphalt, a little more concrete, but in return we are saving lives, not only the lives of the young people in that car but the innocent victims, the passengers of another vehicle, or the pedestrian. For a very few cubic yards of concrete and asphalt, we may well save a life.

Mr. INHOFE. Mr. President, may I make a parliamentary inquiry.

The PRESIDING OFFICER (Mr. GRAHAM of South Carolina). The Senator from Oklahoma.

Mr. INHOFE. Which of the two distinguished Senators from Virginia has the floor?

The PRESIDING OFFICER. The junior Senator.

Mr. WARNER. I can answer that, the distinguished junior Senator has the floor.

The PRESIDING OFFICER. The distinguished junior Senator.

Mr. INHOFE. I thank the Chair.

Mr. ALLEN. Mr. President, I imagine the manager of this measure, the chairman, Senator INHOFE, may want to speak on this. I will just say I very much enjoyed listening to the arguments of my esteemed senior colleague from Virginia, Senator WARNER. I was just thinking, this is the sort of argument that ought to be made in Mr. JEFFERSON's capital. If you look at all the rest of the States, folks care about kids. There are laws requiring children under certain weights and ages to be in car seats and they do have to be buckled up.

Here you have the States of Maine, New Hampshire, Vermont, according to the Advocates for Highway and Auto Safety, Massachusetts, Rhode Island, Pennsylvania, West Virginia, Virginia, Ohio, Kentucky, Tennessee, South Carolina, Florida, Mississippi, Arkansas, Missouri, Wisconsin, Minnesota that don't have primary enforcement of seatbelt laws, they probably have secondary enforcement laws like Virginia. Additionally, North and South Dakota, Nebraska, Kansas, Colorado, Wyoming, Montana, Idaho, Nevada, Utah, Arizona, and Alaska.

Those folks, if they want to pass these laws, I guarantee, none of them have anyone as articulate and persuasive and passionate and caring about this issue and America than John Warner. I am not suggesting the Senator join a State legislature. But those folks can come to these conclusions. They can look at their statistics. They also could make these decisions.

In addition to that, to say States that are sending Federal gas tax money up to Washington are going to get less back unless they comply with an issue that is their purview, I think is wrong. It is an honest disagreement, a difference in philosophy. I very much respect and appreciate Senator WARNER's true and sincere beliefs. I still respect him and always will. This will probably be a close vote. It is just to me a place we should not be dictating a course to the States in matters that are rightfully their prerogative.

Mr. WARNER. Will the Senator yield for one further point?

Mr. ALLEN. I surely will.

Mr. WARNER. He enumerated a number of States that still do not have it. If you go back, as I have done, and studied the .08 law, it was vigorously resisted here on the floor of the Senate repeatedly for the very same reasons you have given. But once it was passed and it became mandatory, suddenly the States joined up. There are now 49 States that have the .08 law as a direct consequence of the Congress having given the impetus for those additional States that were hanging out, all of which you just enumerated; in this instance they joined.

Lastly, I think it is also important in the debate to mention your own personal experience of an individual who was concerned that it would begin to have cars pulled over by virtue of race. But one of the most interesting individuals who attended a press conference the day before yesterday was a black legislator from Arkansas who is chairman of the National Conference of Black State Legislators. He brought with him that organization's endorsement of this bill. So I do believe there is some legitimate difference within one minority with respect to the question of how this law will be felt.

Five States had 21 minimum drinking age, when President Reagan, your idol and mine, signed that into law. So I am just telling you, .08 is an example of how Congress finally acted, and then all the States, save one—I won't mention the one; somebody can do their homework; it is rather curious which State it is—have accepted the .08 law.

I say to my good friend, we have had a marvelous debate. I have enjoyed it. My respect for him as a consequence of the debate has increased, my dear friend.

Mrs. CLINTON. Will the distinguished Senator from Virginia yield for a question?

Mr. WARNER. Yes.

Mr. ALLEN. What is the question?

The PRESIDING OFFICER. The Senator from New York is asking the Senator to yield for a question.

Mr. ALLEN. I will yield, but before I do, I want to make a statement. After that I would be happy to answer a question.

This is the fundamental difference. On .08, as Governor, as a candidate, I thought it was a great idea. The reason all the States have the .08 but for one is because you are withholding or the Federal Government is saying we are going to withhold some of your highway funds for it. It is blackmail. It is extortion, raising the beer-drinking age in Virginia because of that. Ronald Reagan is my hero. He is the one who motivated me to get into organized politics. I think he was wrong to do that. I think for people who are 18, the States can make these decisions. They can enter into binding contracts. They can vote for President, vote for Members here, and they can also theoretically be drafted to fight and potentially die for their country. I think the people of the States can make those decisions.

On this issue, in particular, the .08, I am with you, I am for it. I think that

should be done at the State level. The mandatory seatbelt law and primary enforcement is something that when I held Mr. Jefferson's seat in the House of Delegates I voted against. So if I have voted against it and was opposed to this nannyism when I was in the State legislature, I know the air is more rarified up here, but I still have some of those senses. I certainly do not want to do something in the Senate I would not want to do as a legislator and, moreover, tell the folks in other States to do it.

With that, I yield to the junior Senator from New York.

Mr. WARNER. If I could just make one reply to my colleague and then we will yield the floor. This bill is carefully crafted, that, yes, there is a withholding of those yards of concrete and asphalt, but once the State complies, what has been withheld by way of funds comes back to them to go right into the mainstream of their funding, not unlike .08.

Mr. ALLEN. Understood. I yield to the Senator from New York.

Mrs. CLINTON. With respect to this legislation that I am a proud cosponsor of, along with the key sponsor and advocate, the senior Senator from Virginia, I ask unanimous consent that Senator CORZINE be added as a cosponsor as well.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. CLINTON. With respect to the debate that has been occurring, I understand the concerns raised by the Senator from Virginia, but under this amendment States would have the option of either enacting a primary seatbelt law or bringing their seatbelt usage rates up to 90 percent without such a law. Therefore, it is an option provided today. Would the Senator from Virginia agree that the lack of seatbelt usage causes up to 30,000 people a year to die in automobile accidents that occur on our highways and byways in this country?

Mr. ALLEN. Mr. President, I say to the junior Senator from New York—her question was do I agree that not wearing seatbelts causes 30,000 deaths? No. Not wearing them doesn't cause death; death is caused when somebody is drunk or impaired by drugs, not paying attention, or speeding, or taking a turn too quickly. The sole fact of not wearing a seatbelt is not the proximate cause of the death. Whereas, if you look at the statistics, impaired driving is clearly the No. 1 cause of fatalities, and not just of drivers but also those who are not.

Having said that, I do think it is a good idea to wear seatbelts. I have no objection to it. I think airbags are a great invention. There were those in previous years wanting to dictate to the manufacturers to put airbags on their cars. People realized that airbags could save lives. Whether somebody is wearing a seatbelt or not, of course, the maximum safety is the airbag. Car manufacturers are using that accessory as a selling point rather than a Government dictate. But not wearing a seatbelt does not proximately cause death.

Mrs. CLINTON. Mr. President, I clearly have a fundamental disagreement with the views of the junior Senator from Virginia. I hope our colleagues will look at the facts. The facts are that failure to enforce seatbelt laws, to make it absolutely clear that there are penalties associated with not wearing seatbelts, causes deaths from accidents that would otherwise not cause fatalities.

This amendment will help us encourage States to adopt stricter seatbelt laws. We give them an option. I hope our colleagues will join with us in voting for this very important safety measure.

I thank the Senator for yielding the floor.

Mr. ALLEN. Mr. President, I do yield the floor.

AMENDMENT NO. 2311

(Purpose: To express the sense of the Senate concerning the outsourcing of American jobs)

Mrs. CLINTON. Mr. President, I also rise today to offer an amendment that is a sense of the Senate on an issue I spoke briefly about on the floor yesterday. I know the majority leader and several others touched on it this morning. It is regarding the issue of jobs and the administration's economic policies.

This sense-of-the-Senate amendment is on an issue that is of critical importance to New Yorkers and all Americans, the loss of jobs in our country. We have lost 2.2 million jobs since the beginning of this administration. This sense of the Senate is not about cutting or raising taxes; it is about protecting the jobs that Americans have today, because these 2.2 million people are not statistics; they are factory workers, office workers, laborers, engineers, radiologists—people holding down jobs in every sector of the economy throughout our Nation.

Why are they losing jobs? Because this administration has failed to provide the leadership or put forth an economic plan that inspires confidence in our markets and inspires investments by our companies in the United States.

So where are these dollars and investments going? They are going overseas, where companies don't have the same environment and labor standards, and where they don't have to pay the wages that are necessary to support a middle-class lifestyle in America.

Now, these lost jobs are a tremendous concern to those of us in this Chamber. I hear about it everywhere I travel in New York. You would think if there could be a consensus on anything in this Nation, it would be on how we keep jobs in America, how we prevent jobs from being outsourced, sent overseas. But apparently there is no consensus. That is what is troubling me.

According to the Los Angeles Times yesterday, ''Bush Supports Shift of Jobs Overseas.'' I did a double take. I could not believe that was the headline. The L.A. Times wasn't the only newspaper surprise. The Seattle Times headline read: ''Bush Report: Sending Jobs Overseas Helps U.S.'' The Pittsburgh Post-Gazette reported: ''Bush Economic Report Praises 'Outsourcing' Jobs.'' The Orlando Sentinel said: ''Bush Says Sending Jobs Abroad Can be Beneficial?''

Where did this come from? It came right from the White House. According to Gregory Mankiw, the President's chair of the Council of Economic Advisers:

> Outsourcing is just a new way of doing international trade. More things are tradable than were tradable in the past. And that's a good thing.

I know the Presiding Officer shares my concern about lost jobs. He sees it in his State, as I see it in my State. I don't think losing American jobs is a good thing. The folks at the other end of Pennsylvania Avenue apparently do. Maybe that is because they have no real strategy of creating jobs in America. Maybe that is why in this budget they have sent up they are gutting investments in workforce training and dislocated worker help, and they are not pushing for stricter standards in trade agreements on labor and the environment. They are really coming forward with no plan to help control health care costs or pension costs facing American companies.

The only economic policy they have is to cut taxes, cut taxes, cut taxes. The more, the merrier. Give those CEOs and wealthy folks at the top even more money to take jobs and move them out of our country.

It is all starting to make sense. The administration thinks moving jobs overseas is a good thing. This is part and parcel of a set of economic policies that are out of touch with the needs of America's working people.

I now send this amendment to the desk. I hope this Congress will take up this issue as quickly as possible, because we need to send a clear message to Americans of all political persuasions, in all regions of our country, that we care about jobs. If the administration doesn't have a strategy, then this Congress will have a strategy. I ask for immediate consideration of this amendment, and I ask that Senator BINGAMAN be added as a cosponsor.

I yield the floor.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

> The Senator from New York [Mrs. CLINTON], for herself and Mr. BINGAMAN, proposes an amendment numbered 2311.

Mrs. CLINTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> At the appropriate place, insert the following:

SEC. ____. SENSE OF THE SENATE CONCERNING THE OUTSOURCING OF AMERICAN JOBS.

(a) FINDINGS.—The Senate finds that—

(1) the President's Chairman of the Council of Economic Advisors recently described the outsourcing of American jobs overseas ''as a good thing'' and said, ''outsourcing is just a new way of doing international trade'';

(2) the President's economic policies have either failed to address or exacerbated the loss of manufacturing jobs that our country has experienced over the last 3 years;

(3) American families are facing an economy with the fewest jobs created since the Great Depression;

(4) 2,900,000 private sector jobs have been lost since January 2001, including 2,800,000 manufacturing jobs;

(5) on several occasions the Senate has supported reforming our tax laws to eliminate policies that make it cheaper to move jobs overseas; and

(6) job creation is essential to the economic stability of the United States and the Administration should pursue policies that serve as an engine for economic growth, higher wage jobs, and increased productivity.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the Senate should—

(1) oppose any efforts to encourage the outsourcing of American jobs overseas; and

(2) adopt legislation providing for a manufacturing tax incentive to encourage job creation in the United States and oppose efforts to make it cheaper to send jobs overseas.

Mr. BOND. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. INHOFE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2286

Mr. WARNER. Mr. President, yesterday I had an opportunity to offer the amendment which is now pending before the Senate and to engage in debate with my colleagues on the important issue of increasing the use of seatbelts in this country.

At the request of my colleague, the manager of the bill, Chairman INHOFE, my amendment was modified last night to give States a full 2 years before it takes effect.

I wish to take a few moments to summarize this amendment and be sure that my colleagues understand precisely what this amendment is and what it is not.

To the point, this amendment is not a mandatory seatbelt law.

This amendment sets as our national policy that States are to reach a 90-percent seatbelt use rate by 2006—a full 2 years from now.

States can meet this goal in two ways. First, they can meet this goal by any means or programs they devise. They can implement new programs or modify their existing occupant protection programs. Funding is also provided to assist States with implementing or expanding their existing programs. This language is identical to the provisions recommended in the administration's bill, but it is not included in the bill before us.

States can also meet the requirements of the amendment by enacting a primary seatbelt law.

This 90-percent belt use rate is not a number that I have invented. It is the figure recommended in the President's highway reauthorization bill.

Wearing seatbelts is a critical public health and safety issue. For the first time in a decade, highway deaths are on the rise. In 2002, nearly 43,000 persons were killed on our highways and over half of these deaths involved people who were not wearing their seatbelt.

If for no other reason to support this amendment, we must protect our Nation's youth. Today, automobile crashes are the leading cause of death for Americans age 2 to 34.

These tragic statistics are reversible if we take action today.

That is why over 130 organizations are endorsing this amendment. The support includes major national organizations such as the American Medical Association, law enforcement officials, major insurance companies, the Alliance of Automobile Manufacturers, Mothers Against Drunk Driving, and the list goes on.

These are the people who deal every day with the wasteful and avoidable deaths on our highways. They are on the front lines in responding to a crash. They are in our hospitals providing care to those who have sustained serious injuries because a seatbelt was not worn. They are the ones who see ever-increasing insurance costs for all Americans because seatbelts are not used. They are the ones who know that safety devices in our cars—such as air bags and enhanced bumpers—are less effective when seatbelts are not worn.

My colleagues who do not support this amendment have read letters of concern from State groups and others. That is no surprise. At every turn in our Federal transportation policy for the past 15 years these same groups have opposed every public safety initiative. They opposed raising the minimum drinking age to 21, they opposed the zero tolerance for minors alcohol program, and they opposed the .08 BAC drunk driving level.

My only interest is to ensure that this critically important legislation contains some meaningful protections for drivers and passengers.

In TEA–21, there was a 40-percent increase in construction funding, which I proudly supported, to make our roads safer. Yet, traffic deaths are increasing. In SAFETEA, there is a $65 billion increase for highway construction, yet inadequate protections for our drivers. No engineering features of our roads will protect against reckless driving behavior. That is what causes a majority of our accidents.

Unbelted drivers, speed, and alcohol remain the three biggest safety problems on our roads—not unsafe roads. We are taking meaningful steps to get tough on those who irresponsibly use alcohol and drive. Now it is time to do what we know works to address the other major problem—unbelted drivers.

For the benefit of my colleagues, let me summarize the amendment. States are to achieve a 90 percent belt use rate by 2006—2 years from now—or have a primary seatbelt law enacted.

If a State does not meet either of these two provisions, 5 percent of one category of their construction funds are transferred to their highway safety programs. The purpose of this transfer is to provide States with additional funding to dedicate to their own programs to encourage drivers and passengers to wear their seatbelts.

If by 2008—4 years from now—a State has not met the 90 percent belt use rate or has not enacted a primary seatbelt law, 2 percent of a portion of their construction funds are withheld. For each of the following years, 4 percent of a portion of their funds are withheld.

States will receive any funding that is withheld when they reach the 90 percent belt use rate, or enact a primary safety belt law. This is the same provision that is law today for the .08 BAC drunk driving standard. Since it was enacted in 2001, 47 States now comply.

There is a solution to the tragic deaths that are occurring on our highways every day. This amendment is the beginning. Let's do what we know works to save lives on our highways.

Let's not pass the buck by believing that it is the responsibility of others to take action. It is our responsibility. I urge my colleagues not to support the motion to table.

Mr. INHOFE. Mr. President, as always, the Senator from Virginia was very courteous yesterday to modify his amendment to give States more time to comply with the requirements of his amendment. I sincerely appreciate his willingness to do so. Unfortunately, my underlying concern with imposing sanctions still requires that I oppose the amendment.

Two days ago, the U.S. Department of Transportation released a statement on sanctions and withholding Federal funds from States which do not have a primary seatbelt law. The statement reads as follows, and I quote:

> The Bush Administration's continuing efforts to increase local enforcement and education have boosted safety belt use to the highest level in U.S. history. The Administration opposes sanctions and withholding state funds, both of which would jeopardize important state-level safety programs and infrastructure maintenance programs already in place.
>
> The Administration is working hard to help pass primary safety belt laws throughout the country, and we're seeing results. Twenty states and the District of Columbia already have primary laws. And many other states, including Florida, South Carolina, Ohio, Arizona and Virginia are currently considering primary laws—with our help, not with mandates.
>
> The Administration calls on Senator Warner to join us in helping Virginia state legislators understand the need for a primary safety belt use law.

As I said yesterday, I support the use of seatbelts, and I would suggest that instead of threatening the states with a stick the better approach would be to

induce them to achieve better performance in this area with some kind of incentive. Title IV, Surface Transportation Safety, of the pending substitute, contains an incentive grant program. As proposed by the Commerce Committee, this $100 million per year incentive grant provision would go a long way to achieving the goals that I believe my colleague from Virginia is trying to accomplish in his amendment.

Offering incentive grants to States that pass a primary seatbelt law or increase their seatbelt use rate is a much better approach to this problem than combination of mandates and penalties. History has also shown that so far, no State has been able to achieve the benchmark level of a 90 percent seatbelt use rate without enacting a primary law. Ultimately we all know that the decision to pass a primary law is up to each state individually. Although neither a sanction, nor an incentive approach is guaranteed to prod every State to produce results, the incentive method is the much better option. In a bill where money is tight, I am grateful that the Commerce Committee saw fit to apply some of those limited funds to this purpose. With that in mind, I question what the benefit would be of having both an incentive and a penalty, where just an incentive would do.

Currently, only 20 of the 50 States meet the requirements laid out in the mandate offered by the good senator from Virginia. I can't get over the fact that 30 States would be immediately thrust into noncompliance and subject to a possible cut in Federal funding under this plan.

As I have said before, my home State of Oklahoma is already in compliance with the requirements proposed in this new sanction, but I fundamentally oppose any imposition of new sections. As much as I personally agree with using seatbelts, I have to recognize that the only proper place for this decision to be made is in each State legislature, not in Washington, DC.

Mr. President, I move to table the Warner amendment No. 2286, as modified, and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion to table amendment No. 2286, as modified. The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS) and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote ''nay.''

The PRESIDING OFFICER (Ms. MURKOWSKI). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 57, nays 41, as follows:

[Rollcall Vote No. 9 Leg.]

YEAS—57

Alexander	Daschle	Leahy
Allard	Domenici	Lott
Allen	Dorgan	Lugar
Baucus	Ensign	McConnell
Bennett	Enzi	Miller
Bond	Feingold	Murkowski
Brownback	Graham (FL)	Nelson (NE)
Bunning	Graham (SC)	Nickles
Burns	Grassley	Reid
Byrd	Gregg	Roberts
Campbell	Hagel	Rockefeller
Chambliss	Harkin	Santorum
Cochran	Hatch	Snowe
Coleman	Hutchison	Specter
Collins	Inhofe	Stevens
Conrad	Jeffords	Sununu
Cornyn	Johnson	Talent
Craig	Kohl	Thomas
Crapo	Kyl	Voinovich

NAYS—41

Akaka	Dole	Mikulski
Bayh	Durbin	Murray
Biden	Feinstein	Nelson (FL)
Bingaman	Fitzgerald	Pryor
Boxer	Frist	Reed
Breaux	Hollings	Sarbanes
Cantwell	Inouye	Schumer
Carper	Kennedy	Sessions
Chafee	Landrieu	Shelby
Clinton	Lautenberg	Smith
Corzine	Levin	Stabenow
Dayton	Lieberman	Warner
DeWine	Lincoln	Wyden
Dodd	McCain	

NOT VOTING—2

Edwards	Kerry

The motion was agreed to.

The PRESIDING OFFICER. The Senator from Tennessee.

CHANGE OF VOTE

Mr. ALEXANDER. Mr. President, on rollcall vote 9, I voted nay. I intended to vote yea. Therefore, I ask unanimous consent that I be permitted to change my vote since it will not affect the outcome.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The foregoing tally has been changed to reflect the above order.)

Mr. BOND. Madam President, I move to reconsider the vote.

Mr. REID. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. (Ms. MURKOWSKI). The Senator from Missouri.

Mr. BOND. Madam President, I rise to discuss a second-degree amendment that I intend to offer. It deals with a very important problem in the national interest—assuring that rental and leasing car operations can be performed in all 50 States.

Right now there are several States which have something called unlimited bicarious liability. Under this, if a leasing company leases a car or a vehicle to a person who appears to be a reasonable and responsible driver who meets all of the requirements, and that person goes out and has a horrendous accident, in a few States the victims and the personal injury lawyers are enabled to sue the leasing company which had no control over the car or truck or van and had no evidence of negligence or shortcomings in their procedures in leasing that vehicle. There have been hundreds of millions of dollars of judgments.

We have seen in a small number of States liability being imposed on rental and leasing companies without fault. It has cost car and truck renting and leasing companies more than $100 million annually. The problem is these costs don't just come out of the pockets of those in that State; they are paid nationally.

When any of us go to rent or lease a car, we are paying far more than we otherwise would because they have had to cover the costs of outrageously high judgments imposed by a few States which allow this bicarious liability language and bicarious notion to apply.

In other words, if you are in New York, for example, and you have leased a car, if you go out and hit somebody, it doesn't matter whether the leasing company is at fault. The leasing company is the one that is sued. If there is $100 million judgment against that company, guess who pays for it. Not the people who lease the car in New York but all of us as consumers who may go out to lease a car in all of the 50 States.

Therefore, the amendment I am proposing says provided there is no negligence or criminal wrongdoing on the part of the owner of a motor vehicle, no such owner engaged in the trade or business of renting or leasing motor vehicles may be held liable under State law for harm caused by a person to himself or herself, another person, or to property which results or arises from that person's use, operation, or possession of a rented or leased motor vehicle by reason of being the owner of such motor vehicle.

In other words, if the owner of the vehicle hasn't done anything wrong—there has been no negligence, no criminal wrongdoing—but the person who leases that car goes out and has a horrendous wreck, the person who has leased the car is the one who ought to be held responsible.

We should not have to finance jackpot judgments against leasing companies that pass those costs on to all of us across the Nation whenever we go to lease or rent a car or a van. Consumers nationwide are being hurt by these higher rates—not just consumers in the bicarious liability States.

These laws apply where the accident occurs. It does not matter whether the car or truck was rented or leased. Since companies cannot prevent their vehicles from being driven to a bicarious liability State, they cannot prevent their exposure to these laws, and they have to raise their rates for all of us accordingly.

In addition, we have also seen that these higher costs drive many small companies out of business. Actually, a small company trying to engage in the business of renting or leasing may find itself caught in one of these bicarious liability States and wind up with a judgment that puts them out of business. This is a death knell for small

businesses in the leasing and rental business. That is why we have to do something about it.

Accident victims in bicarious liability States would not be left out in the cold. They would be compensated according to the same standard used by the vast majority of States which do not have bicarious liability laws.

More importantly, accident victims in the same bicarious liability State would no longer be treated differently based solely on whether a vehicle involved was rented or leased instead of individually owned. In other words, if you are hit by a negligent driver in any State, file suit against that driver and collect a judgment against that driver logically to be paid by the insurance company of that driver, or if it is self-insured then that driver would have to pay out of his pocket.

That same standard still applies. What we are saying is you can't reach out and bring in somebody who had nothing to do with the accident and was not at fault. When we do that, we are going to provide relief for small businesses. We are going to provide relief to the people who lease cars and rent cars and vans across the Nation.

This provision would not allow a company to escape liability if they were at fault or negligent in an accident in any way.

I ask that it be supported by my colleagues.

AMENDMENT NO. 2327 TO AMENDMENT NO. 2311

Mr. BOND. Madam President, I send the amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Missouri [Mr. BOND] proposes an amendment numbered 2327 to amendment No. 2311.

Mr. BOND. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To limit liability with respect to the owners of rented or leased motor vehicles)

In lieu of the language proposed to be inserted, insert the following:

SEC. 1409. RENTED OR LEASED MOTOR VEHICLES.

(a) IN GENERAL.—Subchapter I of chapter 301 of title 49, United States Code, is amended by adding at the end the following:

"§ 30106. Rented or leased motor vehicle safety and responsibility

''(a) IN GENERAL.—Provided that there is no negligence or criminal wrongdoing on the part of the owner of a motor vehicle, no such owner engaged in the trade or business of renting or leasing motor vehicles may be held liable under State law for harm caused by a person to himself or herself, another person, or to property, which results or arises from that person's use, operation, or possession of a rented or leased motor vehicle, by reason of being the owner of such motor vehicle.

''(b) CONSTRUCTION.—Subsection (a) shall not apply if such owner does not maintain the required limits of financial responsibility for such vehicle, as required by State law in the State in which the vehicle is registered.

''(c) APPLICABILITY AND EFFECTIVE DATE.—Notwithstanding any other provision of law, this section shall apply with respect to any action commenced on or after the date of enactment of this section without regard to whether the harm that is the subject of the action or the conduct that caused the harm occurred before such date of enactment.

''(d) DEFINITIONS.—In this section:

''(1) MOTOR VEHICLE.—The term 'motor vehicle' shall have the meaning given the term under section 13102(14) of this title.

''(2) OWNER.—The term 'owner' means a person who is—

''(A) a record or beneficial owner, lessor, or lessee of a motor vehicle;

''(B) entitled to the use and possession of a motor vehicle subject to a security interest in another person; or

''(C) a lessor, lessee, or bailee of a motor vehicle, in the trade or business of renting or leasing motor vehicles, having the use or possession of such motor vehicle, under a lease, bailment, or otherwise.

''(3) PERSON.—The term 'person' means any individual, corporation, company, limited liability company, trust, association, firm, partnership, society, joint stock company, or any other entity.

''(4) STATE.—The term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, any other territory or possession of the United States, or any political subdivision of any such State, commonwealth, territory, or possession.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 301 of title 49, United States Code, is amended by inserting after the item relating to section 30105 the following:

''30106. Rented or leased motor vehicle safety and responsibility.''.

The PRESIDING OFFICER. The Senator from Washington.

Ms. CANTWELL. Madam President, I rise today to talk about the 2.4 million jobs that have been lost in this country. As we discuss investment in infrastructure, we need to keep in mind that investment in human infrastructure is just as appropriate. There are families out there who are continuing to struggle to put food on the table, make sure they can take care of their mortgage payment, and make sure they can take care of individual hospital and insurance needs. I ask my colleagues to put themselves in the position of working men and women who have lost their jobs and now have no means to take care of their family needs.

We have been before this body dozens of times now in the last several months asking for an extension of unemployment benefits because the economy has not truly recovered—certainly has not recovered from the 2.4 million jobs that have been lost. Yet dozens of times my colleagues on the other side of the aisle have objected. They have objected to this extension because they say we are in fine economic shape.

I will bet you that families trying to figure out how they meet those mortgage payments would disagree with the kind of shape my colleagues think the economy is in.

In fact, in December, 90,000 people per week started exhausting their unemployment benefits and had no Federal program to pick them up. That is ½ million people who have gone without aid since the program stopped accepting new applicants. Put yourself in that position and understand that if unemployment benefits are not extended—and the economy grows at a very slow pace—by the end of the year, 2 million people will be cut off from this program. For people without a paycheck or an unemployment check, that means their families will continue to be forced to make very tough decisions.

A recent poll showed that over one-half of the unemployed adults found they had to postpone medical treatment or cut back on food. One in four has had to actually move out of their house because of the cuts in unemployment extension programs. More than one-third have had trouble paying gas or electric bills. I am sure in my State the number would be more than one-third, given our high energy rates. My amendment reinstates the Federal Insurance Unemployment Benefit Program and provides 13 additional weeks of benefits to all States, carrying us through June.

My colleagues ask, Why should we do this? The economy is recovering. If we look at the facts and figures and compared them to the last time we had a recession, this point where we are in our economy is still very disappointing. Last Friday, economists came out, for example, with a report on our job growth and said it was ''well below market expectations,'' and confirmed that jobs in the markets in the United States are still weak. While the economy created about 110,000 jobs last month—and that is a step in the right direction—it is a pretty small step in the direction we need to go.

My State of Washington, obviously, has faced a lot of downturn because of Boeing, because of high tech, and because many workers throughout the State have been laid off as subsidiaries to those large corporations and interests.

I hear colleagues on the other side of the aisle saying once the economy starts to recover, that is when we need to cut off unemployment benefits because people can still find jobs. The point is during the 1990s, we had an extension of unemployment benefits to take care of the downturn we were facing in the economy, both started by the first Bush administration and then by the Clinton administration, to help take care of unemployment problems.

During that time period in the early 1990s recession, we were offering unemployment benefits for a 27-month period of time. During that 27-month period of time, we actually saw an increase in 2.9 million jobs. The program worked well as the economy continued to rebound and add more jobs. In the 1990s, under two administrations, a Republican and a Democrat, we said, let's extend unemployment benefits for 27 months. The net result was 2.9 million

jobs were created and we curtailed the benefit program.

We have had this recession and downturn and we have only been going for 22 months of this program. We have only been giving people who have been affected by this downturn in our economy 22 months of unemployment extension. During that same period we have actually seen a net loss of 2.4 million jobs.

My colleagues on the other side of the aisle say when the economy picks up, we should curtail this program. What they should really ask is how many jobs have we created during this time period, and are Americans finding jobs? If they are not finding jobs, how can we cut them off from unemployment benefits that are actually a stimulus to the economy in helping to pay the mortgage payments, covering health insurance, keeping families in their home, and not deterring us from economic growth? Every dollar spent on unemployment insurance generates an additional $2 into local economies.

Let's look at it a little differently during this time period of unemployment benefits. The line on this chart during 2002 continues to go down into the red. This is where we are thinking about cutting off unemployment benefits. Yet we have had no job growth. Juxtaposed to what we did in the 1990s, we continued to increase the unemployment benefits as the economy grew and we did a better match of keeping Americans with some paycheck or unemployment check, thereby keeping our economy at a more steady rate.

I say to my colleagues on the other side of the aisle, it is time to stop denying working Americans who have lost their jobs, through no fault of their own, from some sort of help and assistance when they can actually find no jobs.

I will point out a few of my constituents who have written to me. One from Camano Island said he cashed out every dime of his 401 saving plan, with significant penalties, and does not know how he will make his mortgage payment, does not know what he is going to do, as the benefits are expiring. Another constituent from Everett, WA, in the manufacturing area, applied for over 200 jobs and received 4 interviews in the last year. They are trying to find opportunities but they do not exist. Another technology worker from Seattle has 25 years' experience and has been laid off since 2001 and is unable to find a job. Another worker from Seattle was working at a print company and over 500 people were laid off in 2 years as their company was sold overseas to a multinational company. In his individual situation he has tried to cover both the health insurance for himself and his wife. Unfortunately, he had some very severe health problems and had to get a kidney from his wife and ended up with some severe health problems and he does not know how he will address those problems in the future because of these benefits being curtailed and his inability to cover health insurance.

Many people in my State ask what we are going to do about these unemployment benefits and whether we are going to remember the working men and women in our State who have continued to deal with this issue.

There are many constituents who ask, what will it take to get the other side of the aisle to own up to the responsibility that there are not jobs being created at a fast enough pace to put Americans back to work. Our past bipartisan efforts by two administrations, a Republican and a Democratic, did far better in addressing this issue than we are doing today.

I ask my colleagues to support a temporary emergency employment compensation program through June. It is the only responsible thing to do, to recognize that men and women of this country would rather have a job than an unemployment check. Without a check and without opportunities for jobs, we are doing neither them nor our economy any service. We need to do the responsible thing and put them back to work. That is why I am asking my colleagues to do the fair thing and expand this program through June with 13 weeks going to each State. Until then, we will not have the necessary tools to help Americans. Let's help them with the unemployment benefits and put them back to work.

I ask unanimous consent we lay aside the pending amendment and consider this amendment.

The PRESIDING OFFICER. Is there objection to laying aside the pending amendment?

Mr. INHOFE. Reserving the right to object, could you repeat this unanimous consent request?

Ms. CANTWELL. I move the pending amendment be set aside and that this amendment be considered.

Mr. INHOFE. I object.

The PRESIDING OFFICER. The objection is heard.

Ms. CANTWELL. Madam President, let me be clear to my colleagues what just happened in the Senate. That is, that for about the dozenth time now, the Senate is not going to consider unemployment benefit extensions. We are not going to consider whether working men and women in this country who have been unemployed, through no fault of their own, but a general downturn in the economy, many who have been impacted by September 11, many who have been impacted by the recession hit by many companies that have been impacted by September 11, are not going to get our help in the extension of this program, that if these same men and women happened to have been unemployed in the 1990s, their plight would have been different. They would have gotten help from the administration. They would have gotten help from my colleagues on the other side of the aisle.

So what we have done today is continue to say to unemployed Americans, while the economy is just barely beginning to produce jobs, we expect you now to move out of your house, deal with not being able to cover health insurance, not being able to meet your family obligations, while we continue to struggle to find jobs in this country.

I think it is irresponsible. I think my colleagues should make sure we have a vote on this amendment. We will continue, on this side of the aisle, to offer this amendment until we get a vote on it.

I yield the floor.

Mr. INHOFE. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Madam President, most of us who had an opportunity to get home to our own States and perhaps travel around the country recently have found a number of concerns of working families. It is pretty uniform. I certainly have found it so in my travels in the State of New Hampshire and Iowa, out in the Southwest, Midwest, over recent weeks.

One of the enduring issues, I find, that is uniform across the country is the state of our economy. It is reflected in a variety of different ways. It might be reflected in one family which finds that increased college tuition is putting an extreme burden on a family budget. Maybe another family has the high cost of prescription drugs that is putting an extraordinary burden on those under Medicare and Social Security and the savings of other members of the family. It may be those who have lost jobs and have gotten back in the job market and actually found a job, but they are concerned because their incomes are generally 23, 24, 25-percent less with the new job than the old job.

By and large, the state of our economy is an ongoing concern, and it doesn't have to be this way. We have seen when we have had strong Presidential leadership—and the most recent case was with President Clinton where we had extraordinary economic growth, price stability, virtually free from inflation, and we had the creation of 22 million jobs. I don't think an administration can continuously say that jobs are going to be better, that we are having a military conflict, we inherited a recession, and there is nothing more we can do. I reject that, and I think most economists do, and many political leaders do as well.

We have to look at what we can do in a very temporary way in the Senate. One of the mechanisms that we can provide is to extend the unemployment compensation for men and women who have paid into that fund over the years, and now we are seeing that Republicans are blocking having even a

temporary extension of unemployment compensation funds, even though the fund itself is in surplus of some $17 billion. That is being rejected.

As a matter of fact, we are seeing parliamentary gymnastics being used on the floor of the Senate to even prohibit a vote in the Senate to get accountability by Members of the Senate on this issue. Those on the other side say: No way; we are going to use the parliamentary gymnastics so you will not even get a vote, Senator CANTWELL, on your unemployment issue, and, no, Senator CLINTON, on one of the glaring economic policy issues of this administration, and that is shipping jobs overseas. Can you imagine that? The administration's spokesperson said shipping jobs overseas is to the advantage of the American economy.

Why don't we debate that on the Senate floor and find out who on the other side wants to defend shipping jobs overseas? You cannot travel around this country and go to any community and not hear workers' fear about outsourcing and shipping jobs overseas. You cannot do it. Here, the Senator from New York wants to get a debate and discussion about what we ought to do about that. Members of this body have ideas on what we ought to be doing and they want to express their views. But, no, they are cut off. No. No, you cannot do it. We are going to use the rules of the Senate to prohibit that kind of discussion and debate and prohibit some kind of resolution, some accountability by Members. Maybe there are those who want to do it.

I think the American people would have more respect for us if we vote up or down on that resolution. But, no, our Republican friends say, no, we don't want to—I say this—embarrass our Members by having to take a tough vote on it. I don't blame them. But it is poor solace to those workers when they find out at last what the economic policies of this administration are and they value sending the jobs overseas. That is what we are going to attempt.

Madam President, I want to review what the job situation has been over the period of these recent years and measure where we are with what was actually predicted by President Bush and the Bush administration. I think by looking at this at least we can begin to understand why the Senator from Washington, Ms. CANTWELL, wanted to have an extension of the unemployment compensation. Ninety thousand workers a week are losing their unemployment compensation.

I don't know how they get by. You are going to see that real wages have gone down. Most families are having a tough time, and they live from paycheck to paycheck. They are paying the mortgage, putting food on the table, and clothing their children, perhaps putting something aside for higher education. How are they going to deal with the fact that when they lose jobs, through no fault of their own, they are going to be denied a helping hand to deal with the cyclical factors that impacted our economy?

Look at what this chart shows. This says: ''Every year, job growth falls short of the Bush promises.'' This goes back to the year 2001. The difference between what this administration promised in 2001 and where we are today is represented by 5.2 million jobs. Do you understand that? The promise in 2002 was that we would have 5.2 million jobs more than we have today. We missed the prediction by 5 million jobs. Now, in 2003, the President makes a different judgment about where we are going to be in 2003. He is only off by 2.5 million jobs for 2003. This line represents what was predicted by the Bush administration in 2002. This line here is what they predicted in 2003, and this orange line is the reality.

Let's look at it in another way. This chart shows a purple line, what was actually predicted by the Bush administration for 2002 promise. These are the number of new jobs predicted. We heard the other day about the administration predicting new jobs. All you have to do is look at their predictions over time and you can see how much value we ought to give those predictions. Here it is: 2001 is the purple line, and 2002 is the green line, 2003 is the blue line, all going up there. The actual jobs are represented by the red line, showing that we have lost 2.5 million jobs. Those are the facts.

As a result of the fact that we have lost those 2.5 million jobs, let's just look at what has happened in terms of the average wages for the jobs that we have retained in the United States. The jobs gained do not pay as much as the jobs lost, this chart says. This is the average wage—the national average for 2001, which was $44,570. Today, it is $30,410. That is a reduction of 21 percent for average wages for workers in this country.

Not only have we seen the loss of jobs, but even for the jobs that have been retained, we have seen the income going down, headed south. Not only is this the reality of what is happening in the job market, but also our Republican friends want to eliminate any opportunity for these families to gain additional funds with overtime. That is what is happening out there across this country.

Now we hear, well, we have had a recession, but we have come out of the recession and everything is going to be OK. Everything is just going to be hunky-dory in terms of the labor market area and wages for American workers.

Look at this chart. If you compare what happened in the 1990s, up through 1998, and to the year 2000, in the fourth quarter of each of the recessions that took place during that period of time, you will find in the last quarter of the recession during that period of 8 to 10 years, the job was paying $18.30 an hour. The old jobs were paying $16.31 an hour. Now in this last recovery that this administration says is so great, look at this: The average job was paying $16.92 an hour, and the new jobs are paying $15.65 an hour. The new jobs are paying a good deal less. It says just what the other chart says.

So not only are we not reaching the job goals, they missed it by 5 million. Even the jobs that are being created, the pay is 20, 25 percent less.

Let's look at what has happened in terms of the number of those who are long-term unemployed. Look at this chart. Compared to what it was in January 2000, when we had 680,000 people unemployed, it was 1.9 million people in January of 2004. These are the long-term unemployed. These are the men and women who have been looking for jobs, trying to get jobs. This doesn't even measure the number of people who have become so discouraged, they are not even looking any longer.

We have an enormous number of people who are looking for jobs. This chart is probably more reflective of the problem. From 1973 to 2003, the average number of unemployed in January: 151,000. That is through good times and recessions. Today it is 375,000. These figures are from the Center for Budget and Policy Priorities. It is 375,000, more than double the average. That is why we are asking: Why can't we reach out to these workers? These are hard-working Americans who paid into the fund over a long period and are entitled to those payments.

The fund is $17 billion in surplus. The proposal of Senator CANTWELL would cost $7 billion. We have 90,000 workers a week who are losing out on this amount. Look at the contrast between this administration and the previous administration on unemployment compensation to workers. Let's look at the difference.

In the early 1990s, when we were facing a recession, coming into 1990, 1991, and early 1992, we had an increase in unemployment. The previous administration, the Clinton administration, kept the extension on unemployment compensation until we had grown 2.9 million jobs. Then they terminated it, as they should; we were in a period of very significant expansion.

Look at where we are now. We have lost 2.4 million jobs, and we have terminated unemployment compensation.

Do you see the contrast between the two administrations and how they reached out to working families? Nonetheless, we are denied the opportunity to even consider an amendment that was going to be offered by the Senator from Washington to permit some 6 months and have the temporary workers.

This is what is happening as a result: We have a decline in purchasing power for workers; we have an administration that is against overtime, an administration that is against extending unemployment compensation, against any kind of increase in the minimum wage.

There are 7 million Americans who would benefit from an increase in the

minimum wage, and this is what has happened:

More than half of the unemployed adults have had to postpone medical treatment—that is 57 percent—or cut back on spending for food. That is happening in America. They had to postpone important medical treatment or cut back on food. One in four has had to move to other housing. We are talking about workers who have worked hard, played by the rules, struggled for their families, and this is our answer to them: Let's do a parliamentary trick so you can't have a vote on extending unemployment compensation. That is the answer of the other side. We are not even going to give you a vote on the issue.

This is what is happening to fellow Americans: 38 percent have lost telephone service; 22 percent are worried they will lose their money; more than a third have trouble paying gas or electric bills. These are real problems. The list goes on.

What is the impact? We have been talking about dollars and cents, but we haven't talked about the quality of life of these workers and what they go through: 77 percent of unemployed Americans say the level of stress in their family has increased. That is understandable. We don't think about it. I don't know how you put a dollar figure on that.

Two-thirds of those with children have cut back on spending on their children. This is an issue not only for workers, it is an issue for their children as well. It is a children's issue. It is a family issue. We heard a great deal on the other side about family issues, family values. We have one right here on unemployment compensation. This is a children's issue, a family issue.

Twenty-six percent say another family member had to start a job or increase hours; 23 percent had to interrupt their education. That is nice, isn't it? The children of these workers had to drop out of school because a member of their family—their father or mother—has been laid off and cannot get the resources to go to school.

We hear a good deal from the other side: Senator KENNEDY, you don't just understand. We have a recovery. It is on the way. It is taking place today. You just don't understand it. These problems will all be resolved. Right? Wrong.

Look at this chart. The Bush economy corporate profits ballooned compared to workers' wages. Look in the early 1990s—this chart is 1993—when we were recovering. When we had the recovery, workers' wages represented 60 percent of the economic expansion during this time. The percent that went to corporate profits was 39.74 percent; 60 percent for wages, 39 percent for corporate profits.

We all heard at the time of the President's State of the Union Address those descriptions about how the economy was doing so well, profits were up, expanding the American economy. Look at today's recovery: 87 percent in profits, 13 percent in wages.

I don't know how many other indicators we need to understand what is happening to workers in America. They are hurting, and hurting badly. Many of them need the kind of help that unemployment compensation provides.

At other times, with different administrations, with a Democratic administration, we were prepared, particularly when the fund was in surplus and particularly when these workers have paid into the fund—we were willing to extend that unemployment compensation. There have been 11 times in the last few weeks that Members of this body on this side of the aisle have requested we have an extension of unemployment compensation. The House of Representatives voted for it, including 39 Republicans. But this Republican leadership says: No, no way; fill up the tree; get all kinds of procedural blocks to make sure we don't even bring it up and we don't have a vote.

American workers ought to understand this point. That is against the background of the leading economic advisers explaining to the President of the United States that we are better off if we ship more jobs overseas. And this institution, that should be debating national policy, is being shut down by those who don't want to hear the debate and don't want accountability. That is a great mistake. It is a mistake, most of all, for our workers and their families, it is a mistake for our economy, and it is a mistake for our country.

I join with others who will say these issues are not going away. You may be able to get a little block here and a little block there, but we are going to bring these issues up time and again.

We have that responsibility to these workers and their families, and they should recognize that we are not going to retreat; we are not going to step back. We are going to do everything that is necessary to make sure we are going to get the economic justice these workers deserve.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. TALENT). Without objection, it is so ordered.

INDEPENDENT COMMISSION TO INVESTIGATE IRAQ INTELLIGENCE

Mr. REID. Mr. President, I was relieved that the President decided he was going to appoint an independent panel to review what took place in our going to Iraq, but after he made the decision to do that and appointed the panel, it was obvious it was just a hoax. This panel is laughable—if it were not so serious. All one needs to do to understand how this panel is not serious is to look at who is the cochair of this panel. One of the most partisan people in all America is a man by the name of Judge Silberman. Judge Silberman is a person who proudly wears the label of a partisan, even though he hides it as often as he can from the public.

As I said, I was glad President Bush realized we needed a commission to investigate what went wrong, although I would have preferred that Congress appoint members to ensure its independence. If this commission is going to do its job, it must be free of political influence. It must be above even the appearance of partisan bias. Throw those things out the window because there is not only the appearance of partisan bias, there is political and partisan bias because the cochair of this commission is a man by the name of Laurence Silberman.

He is a long-time political operative in the far right of the Republican Party. He has served in a number of different capacities over the years. He has been involved in many partisan matters over the years. To show how well reasoned and thinking people feel about this man, I quote a professor of law at American University by the name of Herman Schwartz:

> He [Laurence Silberman] is fiercely partisan, pugnacious and very political. He is an odd choice for a panel that is supposed to be above suspicion on a matter that is very important and potentially very partisan. Picking Silberman verges on the brazen. It is a thumb in the eye to those who were looking for a real investigation.

That is who we have as cochair of this independent commission, a man who is politically partisan and the appointment is brazen. As I indicated, he is a long-time political operative, far right of the Republican Party. He served in many capacities. He was an aide in the Reagan-Bush campaign. One of his assignments then was to serve as liaison to the Islamic regime in Iran where Americans were being held hostage. There is some question as to whether a deal was made that the crisis would not end until after the election. One can read lots of information about that, but as soon as the election was over and the hostages were released, it is interesting to note that Laurence Silberman was appointed by the President to the Court of Appeals in Washington, DC.

It speaks volumes to indicate that one of his early decisions came in the case of LTC Oliver North, a principal figure in the Iran-contra affair, which involved the release of Iranian hostages. There is the documentation of many meetings of Silberman with the people in the White House, including Colonel North, prior to this all taking place. Even though North and Admiral Poindexter were convicted of lying to Congress, their convictions were voided in 1990 by Judge Silberman.

It is also interesting to note that another one of the appointees there on that court, who joined with Silberman in overruling the North and Poindexter

convictions, Mr. Sentelle, who became a judge, was largely responsible for the 1994 decision to remove Whitewater prosecutor Robert Fiske and replace him with the more partisan Kenneth Starr as an independent investigator. We know that investigation cost $60 million or $80 million and accomplished nothing.

Silberman worked as an attorney in the Justice Department. He took the No. 2 job under President Ford when Rumsfeld and Cheney had top jobs in the White House of President Ford. I repeat, in the fall of 1980 when Ronald Reagan was running to unseat President Carter—and this is from the L.A. Times, a direct quote:

> . . . Silberman and two other Reagan advisors met secretly with a man who claimed to have ties to the government in Iran, which is holding 52 American hostages. The brief meeting later led to unproven allegations that Reagan's aides sought to delay the release of the hostages until after the November election.

Well, it is interesting to note that he had not done enough, it appears. In 1987, when Reagan was under investigation by an independent counsel, Silberman did away with the Independent Counsel Act, saying it was unconstitutional. Of course that one was followed up on by the Supreme Court, which overwhelmingly reversed him just a month later. But Silberman had the last word. His opinion, joined by fellow Reagan appointee David Sentelle, voided North's conviction and also spared Reagan's National Security Adviser, John Poindexter.

During the Clinton years, Silberman was one of President Clinton's most aggressive tormentors. In 1998, he was part of a Federal appellate panel that rejected the administration's claim of executive privilege to block the Secret Service from testifying about Clinton's relationship with former White House worker Monica Lewinsky. Silberman's opinion, to say the least, was very political. He ripped the Attorney General for acting in the personal interest of President Clinton and questioned whether the President, by allowing aides to criticize independent counsel Kenneth Starr, was ''declaring war on the United States.'' Not very judicious, I would think.

There was a book that was a best seller called ''Blinded by the Right,'' written by David Brock. It is a very interesting book. It talks about how this young man, who was a student at one of the universities of California, decided to join with the far right, and he made it through even working for the Washington Times. In his book, he explains how that was an interesting experience and how unfair they were in almost everything they wrote. But David Brock, during his tenure as a spokesperson for the right, and writing all these very damaging, misleading articles and even books, said in the book, ''Blinded by the Right,'' that his adviser, the person who directed him where to go, what to say, and even went through books and articles he had written to proofread them to see if he could be more hard-hitting than Brock was, this is the man who is going to be the cochairman of the independent commission. The term ''independent commission,'' used along with Laurence Silberman, is like many of the things in George Orwell's book, ''1984.'' Many of the things are just the opposite. Laurence Silberman cannot be independent. The commission cannot be independent as long as he is there.

As Brock indicated, he wrote articles about President Clinton, an article on Travelgate, which was charges by Arkansas State Troopers about the former Governor Clinton and extramarital sex. Silberman was, and I quote, ''his faithful advisor.''

''The judge,'' according to the LA Times, Brock said, ''encouraged him to be aggressive, and even on one occasion, suggested a specific tip involving the President's sex life to pursue.''

When David Brock, at the direction of many in the right wing, wrote critically about the late Senator Paul Simon, he sent an advance copy to Judge Silberman's home. Brock wrote that Silberman was ''ecstatic about the case he made against Simon. . . .''

During this period of time, Brock said he was introduced to leading conservatives who met regularly in the judge's home even with him and his wife. They were friends and close companions of Vice President CHENEY and his wife.

Mr. President, people have a right to be as partisan as they choose but not if you are a judge. Judges not only have to do away with what is wrong, but with what appears to be wrong. Just with the little bit I set forth here, doesn't it seem wrong that this man, Laurence Silberman, is the cochairman of a bipartisan, independent commission when it has been acknowledged by most everyone that this is one of the most partisan people in our community? An American University law school professor says:

> He is fiercely partisan, pugnacious and very political. . . . He is an odd choice for a panel that is supposed to be above suspicion on a matter that is very important and potentially very partisan. Picking Silberman verges on the brazen.

I agree with that, the ''brazen.'' Let's see if that means what I think it means, ''brazen.'' I have a little dictionary here. Let's see what it says.

> Brazen: Boldness.

Yes, he is pretty bold.

For the President to pick this man to be cochairman of this commission is, as Professor Schwartz says, ''brazen.'' I continue the quote.

> It's a thumb in the eye to those who were looking for a real investigation.

This is no real investigation. This is going to be Judge Silberman, in an aggressive way, making sure that nothing gets out of hand. He is there to protect the President, not to get fair information. He is there to protect him.

Sitting judges are not supposed to do what Silberman does. But he has a lifetime appointment and the canons of judicial ethics mean nothing to him. He is bold, he is brazen in what he does. He does not hide his partisanship. But, in spite of that this administration, knowing everything there is to know about this man, selects him to be the cochair of this independent commission.

Brock says, in his book: ''Larry''—that is Laurence Silberman—''would often preface his remarks to me with the wry demurrer that judges shouldn't get involved in politics. 'That would be improper,' he'd say—and then he'd go ahead . . .'' and give this information that was partisan and, even, according to Silberman, would be improper. But he would just go ahead and do it anyway.

Most recently, to show his partisanship, after a lower court unanimously ruled that Attorney General John Ashcroft had exceeded his authority in assuming broad wiretap powers, Silberman was the judge involved in the decision that overturned it. By engaging in partisan activities while he was a sitting judge, Silberman has raised questions about his impartiality, and that is an understatement.

So I hope we continue to talk about the need for an independent, bipartisan commission because as long as Laurence Silberman is attached to this commission, it will be tainted. This crucial investigation as to what went wrong with our intelligence operations cannot be tainted with any hint of bias or prejudice—and it is. It is not tainted, it is smeared with partisan prejudice because of this man.

There is already a distrust of the intelligence gathering surrounding weapons of mass destruction. The Silberman appointment only makes matters worse.

I call upon the President to replace Judge Silberman on this commission. There are many respected Republicans in public service who have demonstrated an ability to put their ideological and partisan views aside when it comes to what affects our Nation. Silberman cannot meet that. This is such an issue and demands such a person. Laurence Silberman is not such a person.

To show how skeptical the country is about our intelligence-gathering operations, even Bill O'Reilly—even Bill O'Reilly, reports Reuters News:

> Conservative television news anchor Bill O'Reilly said on Tuesday he was now skeptical about the Bush administration and apologized to viewers for supporting prewar claims that Iraq had weapons of mass destruction.
>
> The anchor of his own show on Fox News said—

This is Bill O'Reilly—

> he was sorry he gave the U.S. government the benefit of the doubt that former Iraqi leader Saddam Hussein's weapons program posed an imminent threat, the main reason cited for going to war.

Appearing on TV, O'Reilly said:

> I was wrong. I am not pleased about it at all, and I think all Americans should be concerned about this.

We have a committee, a commission appointed by the President, in the guise of being independent, in the guise of being bipartisan. It simply is not true. As long as Laurence Silberman has anything to do with this, it cannot be a fair, independent, bipartisan commission.

The scope of this so-called independent commission was determined by the President through Executive order. There was no discussion with the legislative branch of Government; it was just a fiat. Despite the fact that numerous questions have been raised about the actions or statements of both the intelligence and communications community in the days before the war, the President's Executive order specifically rules out an examination of the administration's actions.

Can you believe that? Instead, his Executive order makes clear the only issues the commission can address are related to the performance of the intelligence community, precisely the same issues, in many cases, that the Republican-controlled intelligence committees in the House and Senate are already exploring. Unfortunately, this will not be a real commission that can answer the main question we believe needs to be addressed; namely, the administration's role in all of this.

On top of all this, they have appointed Laurence Silberman to cochair. This is a gross mistake. I can't imagine how the President and his people think he can get away with this.

Mr. DORGAN. Mr. President, I wonder if the Senator from Nevada will yield? I wonder if he would yield for a question?

Mr. REID. I am happy to yield to my friend. He and I have had discussions. I would just preface it for this——

The PRESIDING OFFICER. The Senator from North Dakota is not recognized. The Senator from Nevada yields for a question.

Mr. REID. I would say through the Chair, the Senator and I have discussed this on many occasions off the Senate floor.

Both agree that this issue has to be talked about publicly.

This is a disgrace to a determined, independent, bipartisan commission. It is just wrong.

I would be happy to yield to my friend from North Dakota for a question.

Mr. DORGAN. Mr. President, I have visited the Senator from Nevada and others following the announcement of the cochairs of this commission.

First of all, I believe there should be an independent commission. I believe very strongly that the question of intelligence—both the gathering of and use of intelligence—is critically important to this country because it, and only it, will provide protection for this country against the next terrorist attacks. We have to get it right.

When Mr. Kay comes before a committee and says it was all wrong, it was wrong and it failed the President—it also failed the Congress and the American people—we had better figure out what happened, what was wrong. There needs to be a commission. But it needs to be an independent commission.

Now what we have is the President announcing a commission to investigate the intelligence. But more than that, the point the Senator from Nevada just made about the cochair, Mr. Laurence Silberman, a judge—I read this book from a while ago, ''Blinded By the Right.'' I was aware when I read this book by David Brock of Mr. Silberman's activities in other venues as well.

I must tell you that having read this book and seen that a sitting Federal judge was involved in the sort of things Mr. Brock says he was involved in with respect to a series of things that it seems to me would go well beyond what would be acceptable activities by a Federal judge, I think it is just Byzantine that the President would appoint a cochair to this commission who doesn't meet the test of objectivity or the test of common sense at all. There can be nothing independent about a commission that is cochaired by a sitting Federal judge whose discussions and activities in this book disclose that there is nothing at all impartial about this judge.

I will not read into the RECORD these passages. I assume perhaps the Senator from Nevada has. I know many of my colleagues are talking about the same thing.

I ask the Senator from Nevada: Can there be a presumption of impartiality by a cochair of this commission, appointed by the President to investigate this issue of the executive branch—by the way, without subpoena power or anything of the sort—when the President has chosen a very strident, aggressive, partisan supporter as the cochair?

Mr. REID. Mr. President, I do not understand how the President and the people around him could do this. Do what? Have a commission with an outline that is very weak and won't contribute very much to find out what our intelligence community did or did not do. But maybe he could get by with it a little better by not having a person who has been proven to be one of the most partisan people in all of America as cochair of this commission. Here is a man who is violating the canons of judicial ethics and responsibilities that judges have. Yet he is on this commission as cochair. I have trouble articulating how irresponsible and unfair and brazen this is.

Mr. DORGAN. Mr. President, again, inquiring further of the Senator from Nevada, aside from the fact that this is not an independent commission, it is not what is needed to be done at this point to evaluate and investigate the ''failures'' Mr. Kay described in our intelligence. This so-called commission cannot possibly be a commission held in much respect if the selection as the cochair is a fierce partisan whose exploits are described at least in part in this book.

Incidentally, I think the question should rest with the judicial system, Why has this not been investigated? I know of no investigation in the judicial system with respect to what is alleged with respect to the activity of Mr. Silberman.

This country needs an impartial, independent, aggressive investigation of what happened with respect to our intelligence.

As I indicated, our safety and security depend on intelligence getting it right with respect to protecting us against the next terrorist attack. That is why this is so important.

I personally plan to support and aggressively speak in favor of a truly independent commission. I am assuming one will be offered by perhaps Senator CORZINE who has offered it on the floor of the Senate. We will have this debate at some point. We need a commission. It needs to be independent. It needs to be cochaired by people who do not have a partisan agenda. That is simply not the case with the independent commission that has been announced now by the President.

I ask the Senator from Nevada: Is that not the case?

Mr. REID. It is absolutely the case.

I also ask the Senator from North Dakota, through the Chair, to respond to a statement by David Kay given to me yesterday. He said there should be an examination of how the intelligence was used by the administration—not simply the failings of the intelligence community.

Will the Senator agree that David Kay is right, there should be an examination of how the intelligence was used by the administration—not simply the failings of the intelligence community?

Mr. DORGAN. Mr. President, if I might respond, there is no question that any evaluation of this should be an evaluation of what kind of intelligence existed and how it was used. That is not an attempt to put any one person under a microscope; it is an attempt to evaluate what happened here. What on Earth happened?

Again, I say there are some who want to say nothing happened. They want to allege nothing has happened. Clearly, something has happened.

The top weapons inspector came back to this country and said our intelligence community has failed the President, and in fact the intelligence community failed, and we now believe that to be the case. The Secretary of State went to the United Nations and he said: We know, we know, we know, on point after point after point, slide after slide, intelligence pictures, satellite photos, we know this, we know this, we know this. It turns out we didn't know that.

This is important business. This country needs to act on what we know—not what we think we know. If our intelligence community failed us,

as Mr. Kay indicates it did, and he says failed the President—I say failed all of us—then the question is, Why? How did that happen? How was intelligence gathered? Where did that failure exist? And how was that intelligence used? I believe only an independent commission will get to that answer. I think it is urgent that we get there.

As you know, in England they are now having such an investigation, with an end date I believe of July. They understand the urgency. They are saying let us do it, and let us do it quickly but thoroughly.

In this case, we have a so-called independent commission, cochaired by a strident partisan, and at the same time we are told it is fine to have that commission report sometime after next year. I just do not think that is the right thing.

Mr. INHOFE. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. Will the Senator yield for a parliamentary inquiry?

Mr. REID. I am happy to yield for a parliamentary inquiry.

Mr. INHOFE. Will the Senator yield for a question?

Mr. REID. I have the floor. I will yield for a question.

Mr. INHOFE. I think we are in a highly charged political season right now. Everyone is talking about this, and the subliminal picture that is trying to be painted here is that somehow this President may have not known something he should have known or knew something and he didn't act appropriately.

Let us remember what David Kay said. He said, when he came in, we all thought there were weapons of mass destruction. We acted accordingly. And, quite frankly, I contend there were weapons of mass destruction. I asked him that question. I don't think either one of the two Senators in the Chamber—I am about to finish my question—were at that hearing.

I asked him this question: I said, If in January, 13 months ago, they found 11 chemical rockets with a capacity of a warhead of 140 liters, and they had enough VX on hand to do that, and that one chemical rocket with 140 liters of VX could kill a million people, and subsequent to that, 3 months later, they found 36 more—that is 47 weapons of mass destruction that were found—I asked him: Aren't they truly weapons of mass destruction? He said: Well, yes, if they put the chemicals in the warheads.

The other thing people keep talking about, What did they know or what did they not know about a connection between Saddam Hussein and Osama bin Laden. That should have been put to rest about a month ago when there was a leak to the Weekly Standard. They specifically drew that connection and said, yes, in fact, there is a connection. In fact, two of the passports of the pilots were gotten by Saddam Hussein and his people.

Just this morning in the New York Times there is an article stating the connection is there. This is the New York Times, not a Republican operation. It says: ''Found, Smoking Gun.'' That is the name of this article.

We are enjoying this very much, but the political season is on us. I hope we will keep cool heads and do the best we can to improve our intelligence.

Right after September 11 we had the bicameral commission look at this. We came a long way. I ask the assistant leader if that is not correct.

The PRESIDING OFFICER. Before the Senator from Nevada responds, the Chair feels constrained to remind all Senators, Senators may yield for questions but not for speeches.

The Senator from Nevada has the floor.

Mr. REID. Mr. President, I know the Senator from Oklahoma says this is political season. We are in the Senate. Every day of our life is political season. That is what we do. That is what we do for the American people. That is what we do for the people of the State of Nevada, the people of Oklahoma, the people of North Dakota, and the people of Missouri.

I agree with my friend's statement, there is no showing of weapons of mass destruction. True. The point is, this is serious business. This is not trying to determine what happened at half time at the Super Bowl. This is looking at the situation involving the security of this Nation and actually the security of this world. We should have an independent commission, bipartisan in nature. Everyone agrees with that.

I personally do not like the parameters of what the President set forth. It does not establish what needs to be done. But the purpose of this discussion today with Senator DORGAN and this Senator from Nevada is the commission, as set up as an independent bipartisan commission, is tainted. As I indicated earlier, it is not only tainted, it is smeared. Why? Because the President chose as the cochair of this commission a man who is one of the most partisan zealots in the history of this country. So this commission can never render anything of substance that will be accepted in this country because of this man being the cochair. I suggest, get him off. If he had any care about this country, he would resign.

The Senator from North Dakota hit the nail on the head: Where is our judicial system? There could be hearings and proof established, for example, that David Brock went into this man's home, time after time after time while he was sitting on important cases. What was Brock doing—getting advice as to how he could berate, denigrate, lie, cheat about the President of the United States?

These are facts.

Mr. DORGAN. Will the Senator yield?

Mr. REID. I am happy to yield.

Mr. DORGAN. Let me respond briefly to my friend from Oklahoma, and I will phrase it in the form of a question to the Senator from Nevada. There is no question the world is better off because Saddam Hussein was found in a rat hole and no longer runs the country of Iraq. The world would be better off if Kim Jong Il were not running the country of Korea. That is not the issue. An interesting point, but not the issue.

The issue is, the top weapons inspector says that which we said we knew, which we told the world we knew, was not the case. Why? Because he said our intelligence system failed.

No one here should sleep quite as soundly as they used to sleep, understanding that our intelligence system failed.

We all ought to demand on an urgent basis to understand what happened and how it happened. That is the point the Senator from Nevada and I are making. I hope the Senator from Oklahoma believes in the urgency of this, as well.

I ask the Senator from Nevada if it is not the case that the question by the Senator from Oklahoma about the September 11 commission moving in the right direction, is it not the case that yesterday we saw this headline: ''9/11 Panel Threatens to Issue Subpoenas for Bush's Briefings''? In fact, they have already had to issue subpoenas. This commission investigating the September 11 attacks had to issue subpoenas against the FAA and others and is now threatening to issues subpoenas against the White House and said this morning they had more cooperation.

Is it not the case that any administration, Democrat or Republican, ought to say to this commission and any commission: Here are our records. They are open. We want you to get to the bottom of this.

Mr. REID. I say through the floor to my friend from North Dakota, the Senator makes the point. The other body which is doing the investigation, no one raises any question about the Members of that commission. They are Democrats and they are Republicans. Very conservative Congressman Tim Roemer is part of that. But no one questions what they are trying to do to get to the facts of this matter.

My point is, and the point of the Senator from North Carolina is, this so-called bipartisan independent commission can never render anything the American public will accept because of the person that is cochairing it. Laurence Silberman is a partisan zealot.

Now the New York Times article the Senator pointed out is a group of people, including Tim Roemer, and Governor Kean of New Jersey. No one questions his integrity. He believes we should move forward and get this done as soon as possible.

I repeat, the independent commission President Bush has appointed to look at the failure of intelligence in our country will never, ever be accepted for a number of reasons, not only the breadth and scope of the investigation but because of the cochair, Laurence Silberman.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JEFFORDS. Mr. President, let me reiterate how important this bill is to our country's infrastructure and our country's economy.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JEFFORDS. This bill will provide desperately needed funds to rebuild decaying roads and bridges and to improve transit systems across the country. It will pump billions of dollars into real, lasting improvements in physical infrastructure.

In the process it will provide new, quality jobs for hundreds of thousands of people. These are jobs that cannot be outsourced. I repeat—these are jobs that cannot be outsourced.

The President says that this bill is too expensive. He also apparently believes that outsourcing American jobs is a good thing. He is wrong on both counts.

If we can spend billions rebuilding Iraq's physical infrastructure, surely we can find the money to maintain America's transportation infrastructure. Without well-maintained roads, bridges, and transit systems, our economy will inevitably suffer.

Let's keep the big picture in view here. This bill spends money to pay Americans for work done in this country. This work translates directly into improved roads, bridges, and transit systems. Better infrastructure reduces transaction costs and makes the economy more efficient. This is an economic fact.

This bill also reduces congestion on our Nation's roadways by enhancing public transportation and promoting intermodal solutions to regional transportation problems.

As we all know, less congestion means shorter commute times. Shorter commute times means more time for productive activity. This too is an economic fact.

But this bill goes far beyond simply improving the infrastructure in this country. It also enhances our ability to move goods across our borders in trade with Canada and Mexico. By enhancing freight capacity and improving binational transportation planning efforts, the bill reduces the transactions costs associated with cross-border trade.

That means that American consumers will pay lower prices for imports from Canada and Mexico. It also means that our exports will be less expensive for Canadian and Mexican consumers, and that's good for American manufacturers. This too is an economic fact.

Finally, as several of my colleagues have noted, this bill will also enhance safety on our Nation's highways. With improved safety we can reduce injuries and loss of life from highway accidents. That's obviously good for the American people in a deeply personal sense. It is also good for the country as a whole because it reduces the social costs associated with injury and loss of life.

Our country needs this bill and it needs it now. I urge my colleagues to help pass this bill before the Senate concludes its business this week.

I yield the floor.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. INHOFE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ALEXANDER). Without objection, it is so ordered.

Mr. INHOFE. Mr. President, yesterday when we were discussing the seatbelt law, quite frankly, I was opposed to it. I am opposed to any kind of mandate. I cannot find anyone in this body who has either been a former Governor or mayor of a major city that won't oppose mandates. Of course, that would have been a great one, with three penalties. That is behind us now.

During that time, the assistant minority leader had a suggestion that we might want to consider what they have done in Nevada. They had this requirement just for the babies and small children, which was interesting. I commented that I am very familiar with that, having 11 grandchildren. I know all about the seatbelts and all these little requirements they have and how expensive they are. In an attempt to outdo me, as sometimes happens on the floor of the Senate, the Senator from Nevada commented that, yes, you have 11 grandchildren, but I have 14. I got a phone call after that and found out that I in fact have 12 now. So I want to get the record straight that we are still working on it and we are going to catch the Senator from Nevada. A new Swan will be born; that happens to be my daughter's name.

Mr. REID. If the Senator will yield, I say to my friend that under the rules the distinguished Senator from Oklahoma has established, he is counting those children who are in gestation and not having been born. If that is the case, I can still up him one. I will have 15 because we have a new baby who will be born a month from now. So I am still two ahead of him.

Mr. INHOFE. Reclaiming my time, I observe we are both still working on that, and when they are conceived they are babies.

Mr. TALENT. Will the Senator yield? I hope the Senator's child and in-law have already announced this expected occasion and you have not revealed it to the Senate and the world.

Mr. INHOFE. I did get that permission. I made that mistake once. I was commenting back when a little boy was born to my older son and his wife. My older son is James Mountain Inhofe II. He kept having baby girls. The years went by and they kept cranking the girls out. I always wanted to have a boy, selfishly, James Mountain Inhofe III. So we found out—and this happened a couple years ago—that in fact my daughter-in-law was unexpectedly pregnant—Jimmy's wife. I respond to the Senator that what we did is for 8 months we prayed every day it would be a boy. I figured if Abraham could do it, I could do it. Sure enough, we were up in the waiting room and the nurse came in while I was doing a 30-minute talk show with Ollie North. Right in the middle of that, she came in and said, ''Senator, how did you know? You are the only one who knew it was going to be a boy.'' I said, ''Ollie, James Mountain Inhofe III has been born.'' On the way back it occurred to me they had not yet named that child, and I announced the name on the radio. So I learned that lesson.

I yield the floor.

The PRESIDING OFFICER (Mr. SUNUNU). The Senator from Missouri is recognized.

Mr. TALENT. Mr. President, I am sure sons and daughters-in-law have been forgiving proud grandparents of a lot worse things than that. I congratulate the Senator from Oklahoma and the Senator from Nevada on the additions to their families.

We are really talking about a subject today that is important to all of our families. That is why we are here. That is why those who have worked so hard for transportation, including my friend from Oklahoma, have done what they have done. I am here to rise in support of the bill, and also in support of an amendment I am now offering at this time with my friend from Oregon, Mr. WYDEN, and also on behalf of Mr. CORZINE and Mr. COLEMAN.

This is an amendment that has broad support within the community of those who are particularly interested in transportation, including the support of the American Association of State Highway and Transportation Officials, Associated General Contractors of America, Chamber of Commerce, National Heavy and Highway Alliance, which represents the labor unions, operating engineers, carpenters union, iron workers union, cement masons, the teamsters, and bricklayers, and many others. We call it the Build America Bond Act of 2003.

We think it is one of the most important things we can do on behalf of the Nation's transportation infrastructure. I am here to explain the amendment and the idea and argue on behalf of it.

First, however, I want to say thank you to my friend from Oklahoma, Senator BOND, Senator REID, and Senator JEFFORDS for their efforts on behalf of the underlying bill. Those efforts have been heroic. They have done a great job to get the level of spending in the bill up to where they got it. I am going to

make the point in a couple minutes that it needs to be a lot higher than that. In making that point, I don't wish to be understood as criticizing them for their work. They have done the best they can do with the traditional methods of funding.

I would also like, before I begin discussing the amendment, to thank my friend from Oregon, who may or may not make it to the floor this afternoon to talk about this amendment. I know he wants to. We have had the pleasure of working together for almost a year now on the Build America Bond Act. For me, it has been a personal as well as professional pleasure to renew an acquaintance and working relationship we had together in the House during our years when we were there together.

I thank our friends who are handling this bill, especially my senior Senator, KIT BOND, for his great work on behalf of the underlying bill. I am pleased they have gotten the measure to where it is right now. Yet I have to tell the Senate the measure is not big enough. I say that because it bothers me when critics of this bill say it spends too much. The truth is it does not invest enough. It bothers me when critics of the bill say spending on transportation infrastructure is irresponsible, when actually the opposite is the truth. Not spending enough on transportation infrastructure is what is irresponsible, because we have a transportation deficit in this country. It is growing every day we fail to take the necessary steps in the Congress.

The Department of Transportation studied the Nation's highways, bridges, and transit systems, and reported back to Congress. They filed a long report and concluded we needed a highway bill that was about $375 billion. This is the report of the expert agencies on behalf of the Federal Government. It says $375 billion, not $311 billion. I am glad we got it to that point, but it will not take $311 billion, not $300 billion, not $280 billion, not $250 billion, but $375 billion—or something close to it—if we are going to begin paying back the transportation deficit we have.

I don't believe what I am saying about the status of our Nation's transportation system is seriously contested by anybody. A lot of people don't want to remedy it and pay what we need to pay to do something about it, but they are not contesting that there is a serious problem.

Thirty-two percent of the Nation's roads are poor or mediocre; 36 percent of our urban roads are poor; 37 percent of our bridges are obsolete. We lose $67 billion a year in wasted time and wasted fuel costs because of congestion caused by inadequate roads. We lose 4.5 billion man-hours from people around this country who are stuck in traffic. Those are hours they are not at the office or the factory producing things. Those are hours they are not at home with their families.

We spend $49 billion a year on extra vehicle repair costs because maintenance costs are higher than they should be because the roads are no good. Those are the overall statistics. And everybody has their own anecdotal stories about the shocks they had to replace because of the potholes, the time they lose getting to work in the morning.

There are so many examples of poor infrastructure that my friend Senator BOND and I could give. I called back to Missouri and asked for a picture of the bridge over the Missouri River leading into Hermann, MO. Don Kruse, who is the editor of the Advertiser-Courier in Hermann, did me a favor and went out and took a picture of it. This is a bridge not over some small river or not over the Missouri River where the river begins where it is narrow. This is over the Missouri River in east central Missouri. This is the bridge you take to get into Hermann, MO, which, by the way, is a great town. It is a bustling town, a town with a future if we can get the proper infrastructure.

I don't know if most Members of the Senate can see this picture or if the people in the Galleries can see it that well, but the rails are rusted. We can see how narrow the bridge is. That is a Mack truck coming one way, and that is a car trying to go the other way. You don't have to be a transportation expert, you don't have to work for the Department of Transportation to say: I don't think that bridge is adequate. It isn't.

You have to either laugh or cry over it. When I drive over it, I say: We ought to tell Hollywood if they ever want a crumbling bridge or a poor bridge to use in a movie, they don't have to build one; come here and use this one outside Hermann.

We have blood alleys all over Missouri. I have driven on them—roads that are so dangerous people regularly die because the roads are no good. We also have interchanges in our growing communities, such as Springfield, the I–44 and I–64 interchange that are inadequate.

There are many opportunities around Missouri for economic growth of which we cannot avail ourselves because the transportation system isn't what it should be.

North Missouri has been in economic trouble for a long time, long before the existing recession. It is not because of the people there. They are productive people with a vision. A big part of the reason is the roads are not good enough.

If we could turn Highway 36 in north Missouri into a four-lane road, it would link up Hannibal to St. Joseph, which links up Chicago to Kansas City, and the jobs would follow that corridor. We don't have the money.

There are too many first-tier, urgent projects in the State of Missouri and in States all over this country that are not being done, not because they shouldn't have a priority, but because there isn't enough money. So they get pushed further and further behind, and we are all familiar with that situation.

We are all familiar with the departments of transportation saying: We are going to do that; we are going to widen that road; we are going to do the system maintenance; it is on the books for 2020. Everybody in the communities knows what that means. It is never going to be done.

If that isn't enough—and it should be enough—in Missouri, we lost 1,028 people to highway fatalities in 2002 alone. The statistics show that one out of three accidents are related to the fact that the roads are no good.

When you travel around Missouri, one of the things you notice—and I wonder if they have this in other States. I should ask some of my colleagues; I never have. But the highway department allows people, grieving families to put little white crosses on the side of the road where they lost a loved one, and they will write the names of those loved ones on the crosses, sometimes the age. You might see ''Jennifer, age 7'' as you whiz by and see that little white cross.

Every one of those people who died on one of those roads has a family who loved them. Tell those families that this highway bill is too big. Tell them we don't need to spend more on transportation infrastructure. Tell them that.

What can we do about it? We can do something. We have a mechanism available that is used in States and localities all over this country, a mechanism that will produce dollars immediately to help us remedy this transportation deficit. We can do it responsibly. It has the support of groups involved in transportation from all over the country. It is bonding, and that is why the Senator from Oregon and I in the spring of last year sponsored the Build America Bonds Act.

We argue that it is the only way we can address this issue quickly, in combination, of course, with the traditional methods of funding that we also support. This is a way to jump-start this effort. This is a way to make up for this deficit in transportation, for this work that we should have done in the past and did not.

Basically, the amendment, if and when we get a chance to offer it, would create a federally chartered nonprofit corporation that would raise $56 billion in tax credit bonds that could be immediately invested in transportation infrastructure. According to our amendment, $40 billion could go to highways, $10 billion to public transit, and $6 billion to rail. It could be invested right away, not even over the life of the bill, the 6 years, but as fast as we can raise it and get it out to the States, and the work could be done in the course of the next year or two.

It is a great job creator. Every billion dollars in transportation investment creates about 47,000 jobs. Build America Bonds have the potential to create over 2 million jobs. It is one of the reasons the trade unions are so strongly in support of it, because their members

have to drive on these roads and use this transportation system, too. Our amendment also has the potential to generate over $300 million in economic activity.

There is a feature to it that my friend from Oregon and I particularly like. The amendment would require that a percentage of the bonds be issued in small denominations, $25, $50, so that moms and dads and grandmas and grandpas could go out and buy a Build America bond and give it to their kids or their grandkids for their birthdays and know that they were investing their moneys in American roads and creating American jobs and protecting the future of their kids as they grow up in this country.

The bill has the potential to save us up to $67 billion that we now spend or waste in traffic congestion and the $50 billion spent in extra vehicle repair.

This kind of financing is done all over this country. The funny thing is, there is a certain irony to it. This Government will borrow—and everybody here is going to vote for this highway bill or has voted for one at one time or another—hundreds of billions of dollars in long-term debt to pay for operating expenses. Nobody else in the country does that. Yet unless this amendment passes, we will not borrow money for long-term capital expenses, which routinely happens all over the country in public and private life. We will not borrow the money for the items we should finance—investments in capital goods that pay off over time.

What is the cost? The way we have set this mechanism up and given the international bond markets and their sophistication, we estimate that under current market conditions, the total cost to the taxpayers would be $2.5 billion a year, for 30-year bonds. It would be $2.5 billion a year. For that we get about 2 million jobs. We actually get this bill up to the level which the Department of Transportation says we need to really begin remedying this transportation deficit. It is, quite simply, the cheapest way of addressing the problem.

What is the most expensive way?

Mr. WYDEN. Mr. President, will the distinguished Senator from Missouri yield for a question?

Mr. TALENT. I will be happy to yield to my friend.

Mr. WYDEN. Mr. President, I so appreciate the Senator's leadership on this issue and opportunity to be a bipartisan partner in this effort. Isn't it fair to say the Federal Government is now essentially the only entity on the planet that isn't going with the kind of approach that the Senator from Missouri has been advocating? It is being done at the State level, it is being done at the local level, and it is being done through various private initiatives.

It seems to me what the Senator has identified is essentially a case for saying the Federal Government ought to join the rest of the world in its approach to this logical way. Would the distinguished sponsor of this amendment, my partner, address that briefly?

Mr. TALENT. I thank the Senator for his question. He is absolutely correct. I have been to ribbon cuttings and ceremonies in Missouri, and I bet the Senator has been to them in Oregon, where localities have financed local bond issues in order to do transportation infrastructure, because there is not enough money coming from the State and Federal Government. States also do this.

The Senator and I are not talking about shifting over to bonding as a way of replacing other highway dollars, or taking over the job of financing transportation, because we do not want that. But bonding should be part of a package that will give us the ability to do the big projects, the one-time projects. We are not suggesting the States should build this into their regular maintenance budgets because this money is going to come in and is going to be invested. It is not a regular stream. It is part of an overall financing package absolutely, and it is done all over this country. Given the deficit transportation situation we are in, the fact that we have this terrible problem with transportation, I think it is foolish of us not to consider it.

It is one of the reasons I have appreciated so much working with my friend. I say to my friend, through the Chair, what is the most expensive way of dealing with this? If we were looking for the most expensive and risky way to pay for the transportation problem we have to fix the roads, rail, and transit that we need in this country, what would we do? We would wait. I submit that is what we are proposing to do with this bill, as heroically as the sponsors have worked to get it up to the level where they have gotten it up to.

If one were a homeowner and had a hole in their roof, they would consider how to fix it. They might try to do it out of their current income. They might take another job to fix it, which would raise their income. They might decide that the best thing to do would be to take out a home equity loan and pay for it that way.

What they would not do is say: ''Well, this is optional. I am going to let this go because it would be irresponsible for me to spend on this. I would be mortgaging my kids' future if I took out a home equity loan to fix the hole in the roof.'' They would know eventually they were going to have to fix this hole, because if they waited, what would happen? Was the problem going to get better? No. Holes in roofs do not get smaller if they are not fixed, they get bigger, and if one waits long enough, the roof collapses, and then they do have to spend some money, don't they?

My wife called me the other day about this cold weather we have been having in Missouri, as well as in Washington. We have had ice storms and the driveway has been under ice because I did not get out quickly enough to scrape it off when the snow and the ice started, which she and I had a little discussion about. But she is noticing now that some of it is melting, that part of the driveway is beginning to chip. She is upset about it, and so we are going to fix that and seal that driveway. What would happen if we waited and we did not do that? The cracks in that driveway are not going to get any better. They are going to get worse.

This highway bill is a lot bigger than the last highway bill—if we can get the number my friends from Oklahoma and Missouri have worked so hard to get. It is a lot bigger. It is 30 percent higher than the last highway bill we passed. It is a lot bigger because the problems have gotten a lot worse.

One thing I will guarantee is, if we do not do something decisively to fix this problem now, we are going to have a highway bill 6 years from now and it will be even bigger. It will be much bigger. The gap between the size of the bill and what we will need to do then to fix the problem is going to be a lot bigger, too. We are trying to bail out a boat and we do not have a big enough bucket. Bonding will fix that. We have a chance to do that in this Congress. We have strong bipartisan support.

This is one of the few things we may be able to do on a real bipartisan basis. We have support from the transportation community. We have support from the bonding community. There is precedent for this all over the country. The cost is extremely small relative to the gain and relative to the risk of doing nothing, because if we do not do this now, we are going to pass the bill for our poor transportation system on to the next generation. Let's not kid ourselves that we are doing them any favors by not investing. We are passing it on to them and we are guaranteeing that their bill is going to be a lot bigger than it needs to be. The economic growth they are going to need to be able to pay that bill when we give it to them is going to be undermined if we do not act now.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Before my friend from Missouri leaves, I again say how much I have enjoyed working with him on this legislation. I think it is fair to say that nothing important in the Senate gets done unless it is bipartisan.

What the Senator from Missouri has done is lead the Senate in an area that I think is bold and innovative. In my view, it is an opportunity to provide a real turboboost to our economy. I represent a State that consistently is suffering high unemployment, loads of working-class families facing extraordinary economic hurt, and as we have talked about now for a good part of the day, there is no initiative before the Senate that will do more to create good-paying jobs than this particular legislation.

I think it is important for the Senate to say on this bill, at this critical time, that we are not going to stand pat, that the status quo is not good enough. Let's not have a business-as-usual transportation bill. I like the idea of getting our citizens excited, for example, about buying a child or a grandchild a Build America bond, something where kids can save and families can engage in an effort to strengthen our country's infrastructure, rebuild our critically neglected transportation systems, as the Senator from Missouri has noted, and particularly get the American people involved in the exercise.

I have just come from a round of town meetings at home across Oregon and talked about Build America bonds. As we have said, this is to supplement the good work that has been done by the Senator from Vermont and the Senator from Oklahoma and all of the Senators who have been part of our leadership. This is not to supplant existing funds; it is to supplement them, and to supplement the transportation sector at a very critical time.

I have long believed we cannot have big league economic progress with little league transportation systems. The pictures that have been shown today by the Senator from Missouri could essentially be pictures that could come from any of our communities, the communities of Vermont or New Hampshire or any of our individual States. In my State, there are traffic jams and backlogs in communities where no one could have even dreamed there would be a traffic jam even a few years ago. So it is for that reason that the Senator from Missouri and I come to offer a bipartisan and fresh approach involving a tax credit and an opportunity to address our country's transportation needs.

I will say to my colleagues that we are very much aware of the situation on the Senate floor with respect to this topic and the administration's views on it. My own belief is that at the end of the day, when the Senate and the House get together, led by the distinguished Senator from Vermont, Mr. JEFFORDS, and the distinguished chairman of the Environment and Public Works Committee, Senator INHOFE, when they are in that room at the end of the day negotiating between the Senate and the House, I think they are going to be looking for opportunities to do a lot of good in the transportation area where the pricetag is pretty modest. When you use that as a definition in a conference committee, where you are trying to wring out the maximum in terms of value for job creation in meeting our country's infrastructure needs, if that is your measure, I think the legislation that Senator TALENT has authored, with the help of myself and Senator CORZINE and Senator COLEMAN of Minnesota—we have been very pleased on our side to be joined by Senator DURBIN and Senator DAYTON and others—I think when the Senator from Vermont and the distinguished whip, Senator REID of Nevada, and others are in that final set of discussions with the House, this proposal is going to look pretty darned good. It is going to look very attractive compared to a tax increase, which certainly some have debated. It is always a noncontroversial topic to discuss tax increases in the Senate.

But I think to go with an approach like this, the Build America Bonds Initiative, where, as I learned in the course of the discussion, and the Senator from Missouri has just confirmed, the Federal Government is the only entity now that has not figured out how to do this, it seems to me we have an opportunity to address that deficiency and to do it in a responsible way.

The administration has indicated they want to cut the Senate bill. That has certainly generated concern in many quarters. It seems to me, when we can find hundreds of billions of dollars for various kinds of international challenges and concerns around the world, we can do some rebuilding here at home. I think this bonding proposal is a very innovative approach to, in effect, think outside the trust funds, think outside the box, and because of the various opportunities for transportation services to be addressed, this legislation lets the country think outside the gas tank.

As we have indicated, we call on this legislation for issuing federally backed bonds to pay for new transportation construction projects. A very broad coalition of groups has come together, groups representing business organizations, labor organizations, and all of them are united around the proposition that at a time when workers and communities are reeling from layoffs and getting pounded economically, we ought to look for opportunities to responsibly get the dollars that are needed for the transportation sector.

The Build America Bonds Program is a stimulus that will generate funding for our economy today. It is a chance for the Federal Government to hold up its end of the bargain with our States. I am hopeful Congress will finish the critical work on this legislation quickly, but more than anything, let us pass a transportation bill that is not business as usual. These are not standpat times. This is not a time, based on the meetings I just had in Oregon, where folks will say let's just keep doing what we have been doing and we can stand pat because everything is hunky-dory. I think they are looking for bolder and more creative ways to get our citizens and our economy going where we need to go.

The legislation Senator TALENT and I have sponsored will help America get going in the right direction by providing additional funding to meet our country's transportation and economic needs.

I understand the situation with respect to the floor and the Senate today. I hope our colleagues will continue to work with Senator TALENT and me as we go forward in the Senate, as it is debated with the House, because I am absolutely convinced that in the last hours of this discussion, when the Senate and the House are looking for a way to meet this country's transportation needs and looking for a way to do it in a cost-effective fashion, they will say the legislation that Senator TALENT and I have put together is an opportunity to do a lot of good in a fashion that is fiscally responsible.

I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. TALENT. Mr. President, I am not going to inflict myself much more on the subject, but my friend spoke so eloquently on it, and I wanted to add a little bit to what he was saying, particularly with regard to cost.

The thing he and I emphasized that I believe is so important is that these problems we have in transportation are problems that are not going to go away if we don't do anything. If the Federal Government were a private company and its capital infrastructure were in the condition that America's capital infrastructure is in, you would have to list that somehow on the books as affecting the valuation of the company. I am no expert on these things, but that inadequate capital infrastructure of that company would be an ongoing obligation of the company. It would be a debt that the company has to pay because everybody in the commonsense world, if I can say that, understands that eventually you have to deal with this issue.

It is also common knowledge, uncontested, that in particular with regard to transportation, when you delay, costs go up a lot because there are so many inputs to transportation costs: Material costs; wages, of course, go up, one hopes, periodically; costs of right-of-way can go up. There are a lot of things affecting those costs. Everybody knows it is dangerous to put off projects because costs can escalate far beyond the rate of inflation, far beyond what you are earning on the money you are not spending because you didn't want to pay for the transportation.

Under current market conditions we estimate this proposal of ours would cost about $2.5 billion a year, which is about, not 1 percent, but one-tenth of 1 percent of the entire Federal budget. It is considerably less than other proposals which have been made for new kinds of spending, and which I have generally supported, but which were not paid for by any other new stream of revenue. For example, the global AIDS bill, which received wide support in the Senate and which I certainly supported, costs more every year than this costs.

This kind of spending empowers us. This kind of spending gives us the opportunity to create jobs. The Senator from Oregon and I have not even talked about the dynamic impact of transportation investment. But if you Members

don't believe that investment in roads and highways and rail and transit has a dynamic impact, go and talk to the economic development people in your State—in the urban areas, in the smaller towns. They are all for this.

I remember when I was traveling around Missouri in support of Build America Bonds and I went to Springfield, one of our dynamic cities in Missouri. I had a meeting at the Chamber of Commerce. The head of the chamber came rushing up to me and he said: ''You know, I like the tax cut. But this,'' he was waving the one page we had for Build America Bonds, ''is a jobs stimulus.''

He understands that.

This is a proposal whose time has more than come. I want to reiterate what the Senator from Oregon said. I know the problems the bill faces. We certainly do not want to imperil the underlying bill for this. I would not do that. I don't want to suggest that those supporting this bill have not done great work. I am looking forward to supporting this highway bill. But at some point in this process we need to be able to confront this because this is not a problem that is going to get any better if we don't do anything about it.

I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

JOBS MOVE OVERSEAS

Mr. HOLLINGS. Mr. President, I will address the most important subject we have confronting us in this country. It is brought about by a headline yesterday in the Los Angeles Times, ''Bush Supports Shift of Jobs Overseas.'' I know the distinguished Presiding Officer, as well as this particular Senator, was shocked to see that. But it is the truth. It is unfortunate because of the policy of this particular body, the Senate, we are as guilty as the President of the United States.

I hear my colleagues weeping and wailing, how could he say such a thing? Heavens above, how could you pass fast track? It's just shipping jobs overseas faster. There's all this free trade, free trade whining; all of this level the playing field, level the playing field but we're shipping jobs overseas.

What really happens is the distinguished President—I don't know what his situation is with respect to being AWOL in the National Guard, but I make a categorical statement—and many others are AWOL from the trade war. Now let's talk about the Afghanistan war, the Iraq war, the terrorism war, but more than anything else, a trade war.

Senator, let me tell you how to start one. It was in the earliest States, the colonies that are great forefathers started. That is the greatest generation. We sit around here, a few of us, veterans from World War II being called the greatest generation. But the real heroes are not here. The real greatest generation was Madison and Jefferson and Washington and Hamilton and Adams. That was the real great generation of our time.

The colonies had just won their freedom when the mother country corresponded back and proposed exactly what we hear today, economists running around all over the land yelling ''comparative advantage.'' Today, we read in the Los Angeles Times article about the comparative advantage. But the doctrine started with David Ricardo, when the British suggested what to do is trade back to the mother country what you produce best—your comparative advantage—and they will trade back with you what they produce best. Free trade, free trade, free trade.

Alexander Hamilton wrote a little booklet, ''Report On Manufacturers.'' I say to the Senator, there is one copy in the Library of Congress. I have been allowed to make a copy of it, but that is the only original copy I know of. But, in any event, rather than wasting the time of putting it in the RECORD here, in a line, Hamilton told the British: Bug off. We are not going to remain your colonies, shipping to you the rice, the cotton, the indigo, the timber, the iron ore, and the natural produce of the land, and continue to import the manufacturing.

There was a law before we won our freedom that you could not erect a manufacturing plant in the Colonies. It was against the law to produce. Oh, yes.

So how do you start a trade war? On July 4, 1789, the second measure that passed the Congress in its history—the first was the Seal of the United States—but the second, on July 4, 1789, was a tariff bill. It was protectionism. It was a 50-percent tariff on over 60 articles. That is how we started to build up our economic strength.

Our economic strength, I say to the Senator, is the vital leg in the three-legged stool of a nation's security. You have the one leg of a nation's values. That was unquestioned until we started preemptive wars. But we are known the world around—they do not hate us. They do not like this policy, but they do not hate Americans. I have traveled the world for the last 37 years, and I can tell you they love America. They revere our stand for individual freedom, democracy, and human rights.

We have sacrificed the world around; and we still are. We have, counting in Afghanistan and Iraq and Kuwait, 14 peacekeeping forces around the world right now. So we have sacrificed.

But there is no sacrifice for this war in Iraq back home, and there is no sacrifice in this Congress. We need a tax cut so we can get reelected. So we tell the poor fellow in downtown Baghdad: We hope you don't get killed. And we really hope you don't get killed because we want you to hurry back so we can give you the bill.

But, in any event, the second leg is the military, unquestioned as the world's superpower. We have the fine soldiers we have deployed in both Afghanistan and Iraq and elsewhere in those peacekeeping outfits. More particularly, the economic leg, that third leg is what has been fractured.

Now how did we build it up? How do you build an economy? Every country in the world is engaged in this trade war. You have to compete. You have to protect your economic interests.

After the forefathers came Abraham Lincoln, the father of the Republican Party. When they came to President Lincoln and said: We are going to build the transcontinental railroad, and we are going to get steel, he said: We are not going to get the steel from Britain. We are going to build our own steel mills. When they were completed, they not only had a transcontinental railroad but a steel capacity under Abraham Lincoln.

In the darkest days of the Depression, Franklin Delano Roosevelt protected America's agriculture. It is still the envy the world around. But we put in import quotas, subsidies for agriculture, and they should be protected unless we want to lose that. They jump all over poor Trade Representative Zoellick. He finally got a free trade agreement with Australia. There were exemptions—dairy exemptions, farm exemptions. You get what you can. We don't have just one agreement and that is the end of the world. If you cannot get an agreement with Australia, our best ally—and their standard of living, they have labor rights, environmental rights galore in Australia—if we cannot get a free trade agreement with that group, we are not going to get a free trade agreement with anybody. So we got it. I would support that because we have the same standard of living.

Not only President Roosevelt, but Dwight David Eisenhower was a protectionist. He put on oil import quotas—back in the mid-1950s.

And John Fitzgerald Kennedy—he had import quotas on textiles. He had a seven-point program to protect textiles. I helped write it. I can see me down in the press room now with Pierre Salinger and Andy Hatcher, the assistant in the press room in the White House. I will give you an original copy of the seven-point program. But we saved, with the multifiber arrangement, textile production in America until we started giving it away willy-nilly in yarn. We gave away $2 billion to Turkey in Desert Storm. We gave away $1 billion here and $1 billion there. They continue with the African, the Caribbean agreements, and everywhere else.

President Reagan came down to South Carolina, and he committed to protect textiles. We passed the textile bill through the House and the Senate just to enforce the multifiber agreement. He vetoed it. We passed it under

''Papa'' Bush through the House and the Senate just to enforce the multifiber agreement, and ''Papa'' Bush, who had committed to textiles, vetoed it.

They keep coming in to Greenville, SC, promising, promising anything during an election. I have to come up here to Washington and watch them go back on their promises. So don't give me any of this stuff about protectionism.

Let me tell you, fair and square, we are in a trade war. That is how you build up your economic strength. Before you open your front door, I say to the Senator from Vermont, for ''Jeffords Manufacturing,'' you will need to pay minimum wage, Social Security, Medicare, Medicaid. You will need to have clean air, clean water, plant closing notice, parental leave, safe working place, safe machinery—I can keep going down the list.

So what happens? You can go to China and open a plant for 58 cents an hour—and none of that, none of that. Still, let's talk ''cents.'' If your competition goes, you have to go. If you continue to work your own people, you go bankrupt. So, you see, they have given dignity to this dilemma with this headline: Supports the Jobs Overseas. We in the Congress are responsible for setting the trade policy. We are the guilty parties around here. We have to change the culture and say: Don't worry about this free trade and that you might start a trade war. We are in the war.

We started unilaterally disarming for a wonderful purpose after World War II. Let me tell you where we were before World War II. This is the most interesting thing because this is not a politician speaking. This is none other than the famous author Edmund Morris in ''Theodore Rex.'' I will just read you a few short paragraphs about where we were at the turn of the century. I am quoting from ''Theodore Rex'':

> The first year of the new century found her worth twenty-five billion more than her nearest rival, Great Britain, with a gross national product more than twice that of Germany and Russia. The United States was already so rich in goods and services that she was more self-sustaining than any industrial power in history.
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> Indeed, it could only consume a fraction of what it produced. The rest went overseas at prices other exporters found hard to match. As Andrew Carnegie said, ''the nation that makes the cheapest steel has other nations at its feet.'' More than half of the world's cotton, corn, copper, and oil flowed from the American cornucopia, and at least one third of all steel, iron, silver and gold.
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> Even if the United States were not so blessed with raw materials, the excellence of her manufactured products guaranteed her dominance of the world markets. Current advertisements in the British magazines gave the impression that the typical Englishman woke to the ring of an Ingersoll alarm, shaved with a Gillette razor, combed his hair with Vaseline tonic, buttoned his Arrow shirt, hurried downstairs for Quaker Oats, California figs, Maxwell House coffee, commuted in a Westinghouse tram (body by Fisher) rose to his office in an Otis elevator and worked all day with his Waterman pen under the efficient glare of Edison lightbulbs. ''It only remains,'' one Fleet Street wag suggested, ''for [us] to take American coal to Newcastle.'' Behind the joke lay real concerns. The United States was already supplying beer to Germany, pottery to Bohemia, and oranges to Valencia.

Now we import all of it. And why? Because at the end of World War II, in order to prosper, we had to spread prosperity, the Marshall plan. We sent over not just the money of the Marshall billions, we sent over the expertise, the equipment. And it worked. We industrialized Europe and the Pacific rim and capitalism has defeated communism. So it worked. But in that 50-year period, we more or less unilaterally disarmed.

I can remember back as a young Governor in 1960, I testified before the old international tariff commission, and Tom Dewey was the lawyer for the Japanese. He was chasing me around, and I was attesting to the fact that if this continued, with imports of textiles, 10 percent of the American consumption in textiles would be represented in imports. Over two-thirds of the clothing I am looking at now is imported, not 10 percent. Over 86 percent of the shoes are imported. And so it goes with automobiles and steel and hand tools and everything else.

I have been watching Lou Dobbs. He has had a series on how the world is sending us their architects; then they are sending over medical personnel, and doctors in America are sending mammograms to be read in India. And then I find out that my utility in South Carolina—SCANA—was administering my light bills in downtown Bangalore, India, and my Food Stamp Program at the State capital in my home State had moved to India. I said: Heavens above.

The other night I turned on the series, and now we are moving our law work to lawyers abroad. Instead of hiring paralegals for $75,000 to $80,000 a year in New York to do the background work on a brief or an appeal—they are moving the work to lawyers overseas. They are going to move everything overseas except politicians. We are already too cheap, I can tell you that. They will be importing everything except us politicians. And we keep sitting around whining and beating the desks and showing charts how we are leveling the playing field.

How do you think you level the playing field? You raise a barrier against a barrier and then remove them both. This proposition of the Golden Rule doesn't work in business, I can tell you that.

Mr. REID. Will the Senator yield for a question?

Mr. HOLLINGS. Yes, sir.

Mr. REID. I would like the Senator to comment on the Los Angeles Times headline: ''Bush Supports Shift to Jobs Overseas.''

Mr. HOLLINGS. Show that to the viewing public, please. That is the theme here.

Mr. REID. You are aware, of course—that is why you are here—of ''the loss of work to other countries, while painful in the short term, will enrich the economy, his report to Congress says.'' This is the man who succeeded Lawrence Lindsey, who had such a great career in the Federal Government. You are familiar with Lawrence Lindsey, are you not?

Mr. HOLLINGS. I surely am.

Mr. REID. This is his successor. I think he will maybe fit in the same shoes as Lawrence Lindsey did. So the Senator doesn't think this is such a good philosophy, that we are shipping all the jobs overseas?

Mr. HOLLINGS. I tell you, it has been ship, ship, ship. And who is financing this extravagance we have going? Let me bring you up to date. In 2003, as of the end of November, the Chinese had borrowed, in the People's Republic $143.8 billion and at Hong Kong $55.5 billion. So they have financed your and my extravagance to the tune of $199.7 billion—they are financing our debt.

Treasury Secretary John Snow goes to China and he says: How about floating your yen here so we can do away with that advantage you have? And the fellows in Beijing say: Bug off, boy. Go on back home. We might start selling your bonds rather than buying them, if you don't think that will wreck your economy and get the Democrats elected in November. That is what they told Snow. And Snow put his tail between his legs and came home. This is what controls the trade policy. We don't control it because we abdicate. Just like President Bush is AWOL in the trade war, we have been AWOL in the trade war—we have, this Congress.

Article I, section 8, of the Constitution reads that the Congress of the United States shall regulate foreign commerce. What do we do? We bug out. We want the money from the big guys and the rich guys and the multinationals, so we bug out and say, oh, no, you take it, Mr. President, we will give you fast track so we cannot even amend trade agreements and you have the responsibility. With that responsibility, he goes AWOL. Here is the headline. And we are AWOL.

You have the candidates running all over the land weeping and wailing about jobs. Let me tell you one thing, Mr. President. If you are going to try to rebuild an economy, you have to do one thing. I am going to give you our jobs omnibus bill and we will draw it up and I will get the distinguished Senator from Vermont to look at it and see what he thinks of it.

No. 1, what we have to do is immediately quit financing the move of jobs overseas. I will never forget, I called Walter Allen Drissi. In Lexington, SC, I helped him with the water and sewer lines. He went out and got himself organized and started a high-tech company, Avenax. He got involved with Bill Gates and MCI. So 4 or 5 years ago, when his stock was up, I called Walter

out in California and I said: Now, when you expand, I want a plant somewhere in South Carolina. We were good to you and you still have a home in Columbia.

He said: I will keep my home. I love South Carolina, but I don't make anything in this country. He said: I got my research and sales out here. He said: I go right to China for my product. I get a year-to-year contract. I don't have to build a plant. They have the plant and the workforce. I got a quality man and I am sitting here with the Internet. I watch it every day. My good and trusted man watches the quality. I make two or three visits a year. At the end of the year, I have made a wonderful profit. If I haven't, I haven't lost anything really because I don't have to renew the contract. If I have done better than expected, I get another contract. It is a sweetheart deal.

That is what is going on with American business. Do you know who the enemy within is? The enemy within is our best organizations—the Business Roundtable, the Conference Board, the National Association of Manufacturers, the U.S. Chamber of Commerce, National Federation of Independent Business. They are running all over the floor saying: free trade, free trade, free trade. Are you for free trade? And we jump like monkeys and say, yes, I am for free trade, but I want to level the playing field. This is nauseating. I have been watching this for years.

Even the newspapers are against it. They make a majority of their profits on retail advertising, and the retailers buy all their products overseas.

I used to sit right where the Senator is standing, talking about how retailers have 100,000 articles at Christmastime, and when they run out of supplies and need another 10,000 dozen quick they would get it from New Jersey. But now they make a way greater profit on the imported article than on the New Jersey production. So the retailers make all their profits on the imported articles, and they advertise and they call up and they give the already canned editorials to the newspapers, so all the newspapers are hollering free trade, free trade, saying it creates jobs. It loses jobs.

I have lost 58,000 jobs since President Bush has taken office. Come on. My State is in trouble. That is why all the candidates were running around there making promises. They started a movement. But they have to understand that we have to change the culture.

How do you change the culture? You change the culture by, No. 1, quit financing them, and letting them keep the profits they make overseas. They don't have to pay income tax. That has to stop. We have a bill in that takes those benefits from overseas production and gives it to the particular domestic manufacturer that continues to work his own people.

No. 2, we have to start enforcing our laws. I have worked with the private community over the years in customs law and enforcement of trade laws, and it has been left to the manufacturer and the private entity to enforce it.

I will never forget the final climax of this so-called enforcement in customs laws occurred back when President Reagan was President. If you had a problem, you had to go first before the International Trade Administration, prove a dumping violation, come before the International Trade Commission and prove an injury, and then go to the U.S. Supreme Court and prove the legality; and then you have one final step, where the President of the United States, on national security provisions, can vitiate the whole thing.

In the Zenith case, they won it all. They won before the Trade Administration and the International Trade Commission. They won before the Supreme Court. Then the Cabinet was gathered around the table and they agreed unanimously to enforce the finding. In walked President Reagan and he said: I have talked to Prime Minister of Japan and we are going to have to reverse that. That was the end of it—three years, millions of dollars, all kinds of motions and pleadings and everything else, and it didn't get anywhere.

So the real trial bar in trade cases has just about disappeared because it is not worth the billable hours to go through the exercise. We need an Assistant Attorney General on textile laws. We have an Assistant Attorney General on antitrust. We need an Assistant Attorney General on trade laws and on dumping.

We ought to start enforcing our dumping or selling lost leaders below cost. That is against the law in the domestic economy and the capitalistic society that we have, to have lost leaders and sell below cost. That is exactly what they are doing.

That Lexus that costs $32,000 in America sells for $42,000 in Tokyo on the main street there. They have been selling below cost here, financing with the banking system to get market share. They don't care about profits. Market share is the competition.

They say it is not WTO compatible. Well, if it is not World Trade Organization compatible, we have to change that or get out of the World Trade Organization. After getting that, in addition to enforcing our laws, we have to make sure we have the customs agents.

I got an office in the Customs house in Charleston, SC. I used to go to them on textiles and they said: Senator, wait a minute, we are shorthanded. Do you want me to enforce drugs or textiles?

I said: No, no, let's be sure we get the drugs.

Now I go to them and they say: Wait a minute. Do you want me to enforce homeland security, or drugs, or textiles?

I say homeland security and drugs, forget about the textiles.

The Treasury Department and Customs testified that they got 5 billion in transshipments—illegal transshipments of textiles into this country. We could save thousands of jobs if we could just get that law enforced.

We need specifically to fully fund the Manufacturing Extension Partnership and the Advanced Technology Program. We need a list of the critical materials in the Defense Department that are necessary to our national security. We must make sure we aren't running a deficit in the balance of those critical materials.

Do you know why we waited that long to go into Desert Storm? We couldn't get the flat panel displays for the lookdown, see-down, before we could go in and decimate Saddam. Now, for much of that defense materiel we have to depend on allies whom this administration has made generally unfriendly.

Come on, in this terror war, might doesn't make right; right makes might in the war on terror. Don't worry about a big old defense budget. Get me a big old State Department budget. Let's start making friends. We can't do this by ourselves. We are whistling ''Dixie'' running around with an atom bomb and a bunch of GIs killing.

The question is: Was it really worth the invasion of Iraq to get rid of Saddam with 530-some American dead, over 3,000 injured, $160 billion in costs, and creating more terrorism rather than less terrorism? We actually, this minute, have more terrorism rather than less terrorism. We hope—and we want to support our effort in Iraq to bring it to as quick a conclusion as possible—we hope we have democracy, but right now, if you had to call the hand, it would be a loser because we were misled into this war.

Saddam Hussein didn't have any weapons of mass destruction, but when the President—and I want to explain that vote—when the President on October 7, 2002, said there is clear evidence of peril—those are his words, ''clear evidence of peril''—we cannot wait until the smoking gun is a mushroom cloud.

Mr. INHOFE. Will the Senator yield?

Mr. HOLLINGS. Wait a minute. That was on October 7. On October 11, we voted. Once the Commander in Chief says there is clear evidence of peril, and 4 days later we have a vote, anybody reasonably sane and prudent would vote to support his Commander in Chief. We thought there was clear evidence of peril. There was not clear evidence of peril.

I will be delighted to yield.

Mr. INHOFE. Mr. President, is the Senator aware that 13 months ago they found 11 chemical rockets with warheads that would hold 140 liters of any kind of chemical? They found with that VX gas enough to load these 11 rockets. Subsequent to that they found 36 more. That is 47. Each rocket, with 140 liters of VX gas, can kill a million people; is the Senator aware of that? Would the Senator call that a weapon of mass destruction?

Mr. HOLLINGS. We ought to make my colleague, Senator INHOFE, the inspector rather than David Kay, who didn't find any of what the Senator was

listing. In other words, I don't think there is any more argument. There might have been a little bit here, a little bit there, but there was no imminent threat. There was no clear evidence of peril. You can find stuff that could have killed anybody. We could all get the chicken flu, but we are not trying to eliminate the State of Delaware because they have a little chicken flu there. Come on.

Mr. INHOFE. Will the Senator yield further?

Mr. HOLLINGS. Yes.

Mr. INHOFE. If they found 47 chemical rockets, rockets that would hold 140 liters of chemicals, why would they have them if they didn't intend on using them against somebody? Would you inform the Senator?

Mr. HOLLINGS. Why didn't they use them? Excuse me, why didn't they use it? You found them, why didn't they use them? Why didn't you call Saddam and say use them?

Mr. INHOFE. Why did they have them if they weren't wanting to use them at some point?

Mr. HOLLINGS. What is the excuse? You should have called him, you found them, and Saddam didn't use them. The proof of the pudding is in the eating. You are running around on the floor of the Senate finding all kinds of things, but we had inspectors upon inspectors, and they have pretty well proved there was no clear evidence of peril.

Mr. JEFFORDS. Will the Senator yield for a question?

Mr. HOLLINGS. Yes.

Mr. JEFFORDS. I commend the Senator for his accurate statement relative to the purported threats. There was no way to deliver. I think 900 miles was the furthest rockets could carry, and there was no threat really ever given anyway. I want to clear that up from my perspective.

I thank the Senator from South Carolina more so for the wonderful economic history of this Nation he has given us and how we came to the incredibly strong positions we were in but now find ourselves dissipating all those great triumphs we had in the past and watching them all march overseas.

I think what Senator HOLLINGS has given us today ought to be put in marble so everybody can read and better understand the situation of this Nation at this time. I thank him for that wonderful contribution to our history.

Mr. HOLLINGS. The Senator from Vermont has been overgenerous to me, but I think what we both agree we are at fault as much as the President in shipping jobs overseas. We are the ones under the Constitution, article I, section 8, the Congress, not the President, not the Supreme Court, the Congress shall regulate foreign commerce, but we have abdicated our responsibility, and we have gladly done so. Why? Because the Conference Board and the Business Roundtable and the United States Chamber of Commerce gives us money, and we need the money to run. So we take the money and run and avoid our responsibilities.

We have to change the whole culture. We are into a dynamic trade war. We had a plus balance 10 years ago with Europe. We have a negative balance now. NAFTA hasn't worked. We had a $5 billion-plus balance before NAFTA. Now it is a negative $15 billion balance, and the average Mexican worker is not making less. What we really need is a Marshall Plan for our neighbor, the country of Mexico. That is what we ought to have rather than going back and forth.

We had last year a $500 billion trade deficit, and about $500 billion in a budget deficit. So we have infused—infused—$1 trillion in the last year into the economy, and we created no jobs. That should worry everybody in the Congress. And what the President proposed for next year's budget is not a $521 billion deficit. Look on page 392, and you will find it's a $726 billion budget deficit that he proposes, and he doesn't include anything for Afghanistan and Iraq and the cost of the alternative minimum tax, which is another $200 billion.

We are in real trouble. We have to sit down in a bipartisan way and quit running around with the signs saying the President is AWOL, because the Congress is AWOL. That is my beef. I fought these trade bills. I couldn't get anybody's attention, but now we have their attention. Baloney with that Business Roundtable, and profits, and downsizing and moving overseas. Let's make it profitable for manufacturers to do business in the United States. That is common sense. I say to the Senator from Vermont, doesn't he want to do that? I am sure he does. I thank the distinguished Senator for his kind attention. These are the most important issues we have ever had. There isn't any question about that.

The January 27th New York Times reports that at a business meeting in Davos, Zhu Min, an economic adviser to the President of China, was met with silence when he asked Americans how their country planned to finance its economy with both blue collar manufacturing and white collar service jobs going elsewhere.

The world has changed. Come on, wake up and start working out a good jobs policy in this Congress and quit blaming each other. There is plenty of blame to go around for all of us. But when it gets so bad that the economic adviser to the President of China, is asking how you pay your bill with all of these jobs going over here, and the economic adviser to the President of the United States says, ''Right on, we need more of them overseas, it is good for the country,'' we are in real trouble.

I thank the distinguished Senator.

I yield the floor.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that I be allowed to speak for up to 30 minutes as in morning business.

The PRESIDING OFFICER. The Senator has that right.

THE FUTURE OF SCIENCE AND TECHNOLOGY IN AMERICA

Mr. BINGAMAN. Mr. President, for the last 2½ years the primary efforts of the President and much of official Washington have focused on: How do we meet the threat of terrorism? Clearly, that is a threat we need to meet as a country, but there are other threats and other challenges that demand our attention as well. The first, most important of those, in my view, is the need to create high-wage jobs. Others have spoken about that. The Senator from South Carolina spoke about it. Others in the Senate have spoken about it in the last few days.

High-wage job creation requires, as a precondition, that we adopt sound monetary and fiscal policies. The monetary policy we leave up to the Federal Reserve, but the responsibility for maintaining sound fiscal policy rests with the President and with the Congress. Both this President and this Congress have failed miserably in carrying out that responsibility.

Much has been said about that failure, and I am not going to repeat those arguments again today. But even if the President and the Congress come to their senses and pursue a policy that is responsible with regard to fiscal affairs, the problem of how we are going to create high-wage jobs is still unaddressed.

So the question is: What actions can we take to achieve that goal? Each of us can list at least some of the building blocks for a high-wage society, fair and equitable tax structure, an educated and skilled workforce, an efficient, robust transportation infrastructure, a modern communications infrastructure, and so on.

I would argue that any discussion of high-wage job creation should start with what military strategists refer to as the point of the spear, the tip of the spear, and I firmly believe that in the economic competition for high-wage job creation, this point of the spear is science and technology. Just as in the case of our national security, our economic future depends on our remaining the world leader in science and technology. If that leadership is lost, then our capacity for high-wage job creation will soon atrophy.

Joseph Schumpeter, who taught all of us about the creative destruction that is inherent in our capitalist system, the competition that is brought on by new technologies and new markets destroys companies, it destroys entire industries. Jobs that existed in those industries are lost, only to be replaced by new jobs in other industries, in new companies that are nimble enough to take advantage of the dynamic change that is ongoing at all times.

As Andy Grove of Intel has said, only the paranoid survive. If we want the United States to lead in the 21st century, we need to recognize that the world of the future is being shaped by new technologies and their rapid diffusion. Entire industries may disappear in the process or be utterly transformed, and there are many examples. One is the entire industry of recorded music that is being reshaped by the ease of downloading music from the Internet. Sales of recorded CDs have been dropping each year for the past few years. Today, blank CDs for making recordings at home substantially outsell recorded CDs. When one walks into Staples or Office Depot, one sees a big display of blank CDs for sale, and one can be certain that most of those CDs are not destined to be used to store spreadsheets of data. Even the small number of high-profile lawsuits against individuals who burn disks of music without regard to the copyrights have not substantially altered this phenomenon.

The music industry still is in search of a mechanism to adapt to this fundamentally new business environment brought about by the diffusion of two new technologies; that is, the Internet and, secondly, cheap CD-burning drives.

Another example: The biotechnology industry. This is an industry that has sprung up in a very short period of time. The basic patent for genetic engineering, the Cohen-Boyer patent on making recombinant DNA, was issued 30 years ago. No one at that time could have predicted we would one day have a biological industry rivaling the chemical processing industry that was already a century old at that point.

The United States has reaped enormous economic benefits from being the first country to lead in the development of the Internet and the harnessing of biotechnology, but these revolutions are far from being the last technological revolutions we have seen or will see in the future.

So the key questions at this point in time for us are: Which countries will win the competition to develop these new industries, these new jobs, based on future technological changes? Which countries will benefit overall from those changes? Which countries will lose out? After the current wave of technological change has passed, which countries will be best positioned for the next inevitable wave of change?

We ignore these questions at our peril. After reviewing the President's proposed 2005 budget for science and technology, I am persuaded that this administration is ignoring these questions now. It is clear that we are, in fact, in the middle of a set of interrelated technological revolutions that are both reshaping existing industries and leading in a number of cases to entirely new industries.

A short list of those ongoing revolutions would include the following: Microelectronics, particularly the continued miniaturization and diffusion of data processing power; secondly, high-end super computing; third, telecommunications technologies; fourth, man-made materials, including materials in which the structure has been designed and built at the atomic or the molecular level.

This is, in essence, nanotechnology. Another example is robotics. Another is biotechnology, which I have referred to before. Also, technologies to increase energy supply such as renewable energy technologies that are as inexpensive as traditional fossil fuel sources of energy and that use hydrogen as an energy carrier, and also technologies for increased energy conservation. We know that these technologies are crucial to our future.

The question is: Will America play a leading role in their continued development? The answer is not that self-evident. In the 60 years since World War II, other countries and other regions of the world have built science and technology capabilities that rival ours today and in many cases are destined to rival ours in the future. The Governments of China and India and Japan and the European Union have all targeted advancements in their research and innovation system as key elements of their plans for future national and regional economic prosperity. Even if we have a strong science and technology policy in this country, these other countries and regions will give us stiff competition.

Unfortunately, though, just as this international challenge is becoming very clear, this administration appears to be sticking its head in the sand. A look at the budget proposal for fiscal year 2005 submitted by President Bush on February 2, shows the serious gaps in support of the kind of basic science and engineering that will be the most important to the development of technologies and industries of the future. Let me give some examples:

The budget proposes $660 million in cuts for basic and applied research at the Department of Defense, the sort of research that has the greatest potential for dual use and effective spinoff to the civilian high-technology industries.

There is a proposed $68 million cut for the Department of Energy's Office of Science, which is a major supporter of basic physical sciences and engineering research.

There is a $63 million proposed cut for energy conservation research and development at the Department of Energy.

There is a proposed $183 million cut for fiscal year 2005 for agricultural research.

There is a proposed $24 million cut for transportation research.

There is the proposed total elimination of the Advanced Technology Program in the Department of Commerce. That is a loss of $171 million for new technologies that would otherwise have been enabled and brought to commercial reality. This termination of the Advanced Technology Program is particularly egregious in light of the circumstances we face.

The rationale for the termination in the President's own budget document deserves to be enshrined as some sort of classic wrongheaded reasoning. Let me read this for anyone who is listening to understand what was said. This is word for word out of the President's budget document. The heading is ''Advanced Technology Program—ATP.'' This is a description:

> The ATP endeavors to help accelerate the commercialization of high-risk, broad-benefit enabling technologies with significant commercial potential. ATP is a merit-based, rigorously competitive, cost-shared partnership program that provides assistance to U.S. businesses and joint R&D ventures to help them improve their competitive position. The President's 2005 Budget proposes to eliminate the program and, therefore, no funds are requested for FY 2005.

So that is it. I did not add a single word. I did not subtract a single word from the President's rationale. Literally it says ATP is a great program; it helps our competitiveness; it is effective. Therefore, we propose to kill it.

There is another aspect to President Bush's budget that makes the point that science and technology policy is a low priority for this administration. That is the underfunding of important R&D programs that Congress has recently authorized by overwhelming margins and that the President has signed into law.

One example is cybersecurity research and development. Every American knows that computer viruses and worms can cause serious damage to the economy. In November of 2002, Congress passed, and the President signed, the Cyber Security Research and Development Act. That bill authorized a significant program of research and development on computer and network security in the National Science Foundation. For fiscal year 2005, those R&D authorizations amounted to just over $122 million.

After signing the bill, the President had a complete budget cycle to develop a budget request incorporating the authorizations that he signed into law. There appears to be no proposed funding in 2005 in the National Science Foundation to carry out the law. In essence, the President's signature on a law to increase R&D investment in cybersecurity meant nothing when it came time for the administration to put together a proposed budget for 2005. In fact, the budget element for the National Science Foundation budget that would fund this activity is proposed for a decrease of $40 million.

A similar situation has occurred in the area of nanotechnology. Again, last year Congress passed, and the President signed, a major research authorization bill for nanotechnology. The contents of the bill were well known during the bulk of the budget cycle. For fiscal year 2005, the bill provide for nanotechnology spending across five agencies adding up to over $800 million.

The President chose to hold a formal signing ceremony at the White House on this bill, and this is unusual for a bill dealing with research and development legislation. The White House press release for the signing ceremony noted that the President had previously requested a 10-percent increase in nanotechnology funding for the 2004 budget. In the fiscal year 2005 budget request, after the signing ceremony, after the photo opportunity, the President asked for a 3-percent increase for the national nanotechnology initiative as calculated by the Office of Management and Budget.

Before we passed the legislation, he asked for a 10-percent increase. After we passed the legislation, he asked for a 3-percent increase. When you compare the President's nanotechnology request for fiscal year 2005 to the authorized levels that he signed into law, it turns out that he has requested $200 million less for nanotechnology R&D in the budget that he sent us on the February 2, compared to the authorization that was signed a few months earlier.

Finally, there is a total disconnect between science and the administration's plans for the space program. At the same time that the President is cutting and terminating or failing to fully fund R&D programs with demonstrated effectiveness in creating jobs and wealth in the country, he is proposing a manned Moon-Mars initiative at NASA. That is likely to yield some benefit to the Nation. There is a lot of debate about how much benefit.

Most of the alleged technology spinoffs of past space exploration activities have not been as great as was advertised. We did not invent Teflon or Velcro or even Tang, as part of the space program, contrary to the belief of many.

To pay for the new Moon-Mars initiative, the President proposes to take funds from other parts of NASA during the next few years. Beyond that, future Presidents will have to direct substantial funds to manned space fight in order to keep the program on schedule.

We have already seen the first wrongheaded move at NASA in the area of diverting resources and that is the proposed abandonment of the Hubbel space telescope, which is one of the premier assets of NASA at this time. The Hubbel telescope is still in its prime. It is capable of continuing to make major discoveries about our universe and its formation. The proposal to abandon the Hubbel telescope to find money to plan for a manned mission to Mars is a clear example of the low value that seemingly is placed on real science by the administration.

Because of the outcry from the scientific community and from some colleagues in the Congress, notably Senator MIKULSKI of Maryland, this proposal is now getting a second review, but it is too soon to say that it will, in fact, be withdrawn. The fact that this termination was proposed in the first place illustrates the lack of priority given to science in the administration's thinking about our Nation's future.

There are other policies as well that this administration has put forward related to science and technology that are also deleterious to our future, just as these cutbacks in funding are, to which I have referred.

One example is the visa and other immigration restrictions that have been put in place over the past 2 years related to science and engineering students in this country. Foreign-born students coming to this country have for decades been an important asset to the United States. After completing their training, many have stayed here to make significant contributions to both basic science and innovation. They are a great source of strength in our innovation system and to our country.

We have only to look at the current Director of the National Institutes of Health, Dr. Zerhouni, who was born in Algeria and came to the United States in his early twenties to train in diagnostic radiology at Johns Hopkins University in Baltimore. Today, in the name of increasing our national security, we are making it extremely difficult for the best and brightest foreign students to come to the United States and be educated and to remain in this country and become citizens as Dr. Zerhouni was able to do.

Instead, the effect of our policies and the ham-handed way we are implementing those policies is driving away from the United States some of the scientists and engineers who want to come here to build a better life for themselves and for our society. This is an issue we need to look at seriously, and we need to begin to make rational decisions with regard to it.

The end result of these policies that have been implemented today is that the brightest students from around the world will increasingly choose non-U.S. educational institutions for their advanced education, and major scientific meetings will increasingly take place outside the United States. Our policies could have the effect of strengthening the innovation systems in other countries. As a result, we might well be encouraging high-wage job growth to take place overseas instead of the United States.

What can we do about these issues? We in Congress can do several things. Let me mention a few.

First, Congress can put more pressure on the President to beef up the White House Office of Science and Technology Policy, or OSTP. One of the basic reasons there seems to be so little leadership on science and technology issues coming out of the White House may be that the Office of Science and Technology Policy appears to be significantly and severely understaffed. The current Science Advisor is authorized under law to have six high-level deputies and most previous Science Advisors were extremely well qualified people in all of those positions. Under this administration, only two of those six positions have been filled. No attempt was made to adjust that staffing strategy after the events of 9/11.

Clearly, this is an issue that deserves attention. The President's Science Advisor appears to have spent the bulk of his energy on terrorism-related issues since 9/11 with the result that the overall health of our science and technical foundations has not gotten the attention it otherwise could have received from a fully functioning OSTP.

A second action item we could address in Congress is require the President to actually prepare and make public a science and technology policy. We have a lot of speeches about how we need a national energy policy in the country. Why don't we need a national technology policy? Having such a document is not a panacea, but the discipline of having to sit down and write such a document will force the White House to give some thought and examination to the technological opportunities and revolutions we face and on which we are in danger of missing out. Previous Presidents have had explicit policies in this area. The value of such policies has only increased in recent years.

A third action we can take in preparing this new budget resolution is to insist that the entire Federal science and technology budget get better and more unified consideration. It would be valuable to have some joint hearings across the relevant committees in the Senate on the overall shape of our science and technology spending. It might be worth considering whether the functional structure of the budget itself should be revised to put the entire Federal S&T budget in one place so that there is more transparency as to what the real trends are in the national budget for science and technology.

A final action item I would mention today is Congress needs to take a strong role in resisting the cuts that are being proposed by this President to the research and development budget, particularly to programs such as the Advanced Technology Program. Frankly, instead of terminating the ATP, we should be looking to duplicate its strategies and successes in other Federal agencies.

For example, both in the Department of Energy and in the Environmental Protection Agency, we could benefit from having programs structured along the lines of the Advanced Technology Program as part of the overall mix of programs in each agency to spur the development of new technology.

One thing I hope Congress does not do is what the administration unfortunately has done; that is, to lose focus on where the real source of our future national wealth and high-wage job creation opportunities lie. Our future economic security crucially depends on innovation and genius as reflected in our

scientists and engineers, particularly universities and major laboratories that are supported by the Federal Government. Our long-term economic future depends upon us making well-reasoned choices about what our real priorities are, and science and technology needs to be recognized as a priority that it in fact is for the country.

I yield the floor.

The PRESIDING OFFICER (Mr. CORNYN). The Senator from New Hampshire.

Mr. SUNUNU. Mr. President, I want to take a few moments to respond to the Senator from New Mexico and some of the thoughts and ideas he has presented. I appreciate his interest in this topic and his interest in science and technology. But I strongly disagree with some of the conclusions he draws.

I think the reason for some of those conclusions is that all too often when Members of the House or the Senate talk about issues of science and technology, we assume that all programs having to do with science, technology, or research that carry that label in the Federal Government are all created equal; that they all have the same goals, motives, and effects in areas of science or research and the same effect on our economy. They simply do not. I think it is important that we draw a distinction between the various types of research and technology programs that have been discussed.

The Senator from New Mexico mentioned NASA's program. He touched very briefly on National Science Foundation programs, many of which fund some of the nanotechnology initiatives. He mentioned the Advanced Technology Program, and that in particular is the one I wish to talk about.

If there is one program in the Federal Government that ought not to be expanded, it is the Advanced Technology Program. It is for the reasons that are described or listed in the description read by the Senator from New Mexico. He described a program that invests in or subsidizes commercial research for private companies to develop new products to sell in the market. This isn't investing in research that subsidizes or supports basic physics or chemistry or computational mathematics. This is new product development for private—and in most cases profitable—companies. The description he read of their commercial applications means that someone somewhere has to assess the value of these new products. I think the description also mentioned the risk involved.

Those who have worked in manufacturing, engineering, and product development understand there are risks involved in developing new products. But there are also rewards to be gained. That is why many of these companies are quite profitable.

What this program in particular—not all federally funded research, and certainly not the work of the National Science Foundation that provides support for physics and chemistry and computational mathematics but the advanced technology program—is doing is subsidizing product development for private sector companies. That naturally begs the question, What companies? What companies are benefiting from these subsidies? As I said, they are profitable. But these are companies that have competitors. That means someone in the Federal Government—a man or woman somewhere in the Federal Government—is looking at a number of different firms in a given industry and picking one or two to provide a taxpayer-funded subsidy for the development of a new product that they are going to sell in the marketplace and make money from.

The Federal Government doesn't get an equity position. We don't get royalties. We are not benefiting from the fruit of these subsidies, but we are certainly taking the taxpayers' money from families who might be earning $30,000, $40,000, or $50,000 a year—middle income or low income. We are taking their tax money and giving it to some private corporation to subsidize their new product development. That is simply wrong. It does not matter if there is a merit review. It does not matter if the man or woman or the board evaluating these programs is being very thoughtful about it and very judicious in trying to be fair and balanced and pick the right technology or the most promising technology.

It is wrong to be subsidizing the product development of a private company selling its goods into the marketplace, trying to make a profit. It is certainly not an efficient way to run an economy. It certainly is not fair to those competitors who are selling similar products who have to compete with the company getting the big government subsidy or the small government subsidy. It does not matter to me if they get $100,000 or $200,000 or $2 million. It certainly is not the role of the Federal Government to try to manipulate or micromanage markets for commercial products. That is not the role of the Federal Government.

I do not take issue with a lot of the concern and interest shown in encouraging our children to dedicate themselves to areas of science or technology or mathematics. I certainly enjoyed math and science as a student, and although I don't know how well I performed, I performed well enough to go to engineering school and work at least at one time in the real world helping to develop new products and helping to bring them to market. Maybe it is that personal experience, having worked at the very type of firm that may be applying to the Federal Government for these subsidies, that makes me so concerned this is not the right role for the Federal Government. This is not the best way to spend taxpayers' money.

That is precisely the reason the administration has said we ought not to be spending $150 million in this way. We can find a better use for this money. We can find a better way to utilize it for the public good in a way that does not, in my opinion, sap our economic strength by trying to manipulate or micromanage these markets.

There are many areas of the Federal Government where we might be providing support—through the National Science Foundation, through the National Institutes of Health—the basic research in medicine or physics or chemistry or mathematics or some of the other areas I mentioned which might be very worthwhile, to expand our understanding in these areas of basic science and mathematics. But helping some company develop a new air conditioning system or new control system or write a new software code they can sell into the marketplace is not the way to do it.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, let me respond briefly to the comments of my colleague. I respect his background and knowledge in engineering and science. He is, I believe, the only qualified engineer we have serving in the Senate at this point. I certainly respect that.

I believe strongly the Advanced Technology Program which he has discussed is a very good use of taxpayer dollars. It is not, as he describes it, subsidizing product development by individual companies. It is, in fact, assisting with generic, broad-based, high-risk, precompetitive technology development.

I suggest to my colleague much of our ability to compete in world markets depends upon our remaining world leaders in the various generic technologies we are talking about. In microelectronics, in nanotechnology, in a whole range of areas, we need to have Government support for continued development of generic technologies so our companies can, in fact, pick up on that and hopefully be competitive in the world markets. That is what has happened in biotechnology.

Maybe the genome project is a terrible use of taxpayer dollars, funding the development of the genome product. There are a lot of commercial benefits coming out of that and many more in the future. But that was a government-funded research effort, and that was an extremely good investment. That is one of many examples.

The Advance Technology Program—and I do not have all the examples with me today, but I will bring them to the Senate in the days ahead. But to say the rest of the world can do what it wants in the way of pursuing generic-enabling, precompetitive technologies, we are doing nothing in those areas, is shortsighted in the extreme. Essentially, that is what this administration has done. We do not want an Advanced Technology Program in this country. The Japanese can do what they want, the Europeans can do what they want, the Chinese can do what they want, along with every other major country.

I just returned 2 months ago from a trip to Taiwan. I urge my colleague to go to Taiwan—maybe he has been to Hsinchu Science Park near Taipei—and talk to them about how it is inappropriate for government to be involved in any way assisting in the development of precompetitive technology that might benefit some of these companies. They do not understand what language you are talking in that kind of discussion.

We are in a severe competition with the rest of the world to remain the world leader in science and technology. The advanced technology program is an essential part of us maintaining that leadership. It is wrongheaded for this administration in this day and time to be coming to the Congress and saying, let's eliminate this program. Sure, we want high-wage jobs to be created, but the answer to that has been, Let's cut taxes some more.

That is not an economic strategy that is going to get the job done. We need various elements of an economic strategy. One of those is to remain the world leader in generic precompetitive technology development. That is what the Advanced Technology Program is intended to do. I strongly favor continued and increased funding of it.

We have a basic disagreement on this issue. I wanted that on the record.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SUNUNU. I appreciate the comments of the Senator from New Mexico.

To reiterate what I hope I was clear in saying before, I am not talking about National Science Foundation funding, which was the funding principally used to support the development of the human genome project. I have been quite supportive of the NSF funding and the National Institutes of Health funding research, which is where the human genome funds came from.

Talking about the Advanced Technology Program, I am not quite sure what ''precompetitive'' means. I would like to use the definition that is just behind the Senator from New Mexico. It says ''commercial potential.'' That means products that are commercially viable that will be sold in the marketplace, in a competitive marketplace, in that description behind the Senator from New Mexico.

It says the grantees of this program are businesses—businesses and joint R&D partnerships that are funded by, I assume, I hope, American businesses. In fact, at one time some of the largest grantees of this program were those in the automotive industry, automotive manufacturing industry. We were using these ATP funds for the partnership for the next generation vehicle. This was an initiative driven originally by Vice President Al Gore at the time to develop a hybrid car, hybrid electric and combustion engine. After spending about $2 billion in all with the Advanced Technology Program, that effort was abandoned. It simply is a case in point as to why it is not a good idea to take taxpayer money and try to subsidize the product development—in this case, of cars—that is a product sold in the marketplace, and in a competitive marketplace at that.

One final anecdote, and I think it is an important anecdote. The Senator from New Mexico mentioned Taiwan. I have been to Taiwan before; not to this particular office park. I do not believe in a national economic policy that says: Let's do what the Japanese are doing. Let's do what the Germans are doing.

In Germany right now they have over 10 percent unemployment. In Japan right now they are still in the throes of a deflationary spiral and a stock market collapse that began several years ago.

I do not want to be Japan. I do not want to be Germany. I want to be America. I want the strongest, most competitive, most vibrant economy in the world. That is what we have today. I do not want to lose that, certainly. But if we look back just a little bit, back to the late 1980s, industrial policy wonks within the Senate and the U.S. Government were insisting if we wanted to be a competitive economy, we had to subsidize the development of the high-definition TV standard, and they did not talk about putting $100 million or $200 million or $150 million, as we have in the Advanced Technology Program today, into subsidizing the development of a TV standard. They were talking about billions—$2 billion, $5 billion, $10 billion—to subsidize the development of a commercial application.

Fortunately, the United States did not do that. But Japan, the model cited by the Senator from New Mexico, did do it. They put roughly $20 billion of their federal taxpayer resources into the development of that commercial standard. As a result, they have a high-definition TV standard that cannot rival the standard that was developed by the private sector, the competitive marketplace here in the United States.

It is a small example.

We might be able to point to an example where a technology or venture in ATP did result in a good commercial product that enabled the owners of that product to make a lot of money. But, as I often point out to my constituents, if you let me spend $150 million a year, I can certainly create a few jobs with it; the question is, is it the role of the Federal Government. Should we be micromanaging private sector, profitable companies in the private marketplace? Should we be subsidizing one company at the expense of its competitors? Is it the right thing to do? I think in this case it simply is not.

I yield the floor and very much appreciate the Senator from New Mexico engaging in this discussion and difference of opinion.

The PRESIDING OFFICER. The minority whip.

Mr. REID. Mr. President, I first of all extend my appreciation and my apologies to the Senator from Wyoming, Mr. THOMAS, for allowing me to go before him. I will be as brief as possible. I wanted the discussion to be in keeping with what has been said by the Senator from New Mexico and the Senator from New Hampshire.

I am not a scientist, but I am a historian. I understand history. I know, for example, in 1844 Congress was approached by a man who said: I want to revolutionize the communications systems in this country. He asked Congress to appropriate $40,000 for an experiment he did not have the wherewithal to do. He had been trying for many years to get the money to do this.

The experiment was to build a telegraph line between Washington, DC and Baltimore, MD. For $40,000 they did it. The Federal Government did not ever have to put another penny into that project. It revolutionized the way we communicated in America—the telegraph system. The Federal Government did the right thing by doing the research and development on this issue.

Let's fast forward now more than 100 years from 1844 when two scientists from MIT, by the name of Danby and Powell, were stuck in traffic in New York. They were both professors at MIT, scientists. They said: This is ridiculous. We shouldn't be stuck in traffic like this. We should figure something out that would stop this.

They went back to the laboratories, and they, within a short period of time, invented magnetic levitation, which is the ability of these huge trainlike vehicles to speed through the air, but the vehicle is less than a quarter of an inch off the guideway. It goes 300 miles an hour.

The Federal Government, the United States of America, for 5 years paid for research and development for this new technology. There were cost-cutting issues that came forward and it was eliminated. There was no more research and development. But the Germans and the Japanese picked up from where we left off, and now they are in the process of finalizing their experimentation of magnetic levitation.

We are going to have magnetic levitation in this country, no question about it. It is only a question of when. The bill that is now before this body will spend hundreds of millions of dollars on magnetic levitation. The bill before that did not spend that much. It is going to happen, but we are going to have to import the equipment and the technology from Germany and Japan.

I believe the Senator is right. I believe the Federal Government has to be very careful in picking and choosing where we help with research and development on a scientific project, but we have an obligation, I believe, to the taxpayers of this country to develop the telegraph or magnetic levitation.

I underscore the need for this and applaud and congratulate the Senator from New Mexico for his usual farsightedness.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, let me just continue, if I can, for another 2 minutes before yielding to my colleague. I promise it will be very short.

I thank the Senator from Nevada very much for the examples he cited. I think there are many other examples, and in the coming days and weeks I will try to bring some of those to the floor, as I am sure my colleague from Nevada will.

The truth is, we would not have an Internet if it were not for Government-funded technology development. The President himself has identified some areas where he believes we need to put additional resources into research and development—developing hydrogen-operated vehicles, for example.

There are a great many areas where the Government does have a legitimate role to play in underwriting generic, precompetitive technology our companies can then take to be competitive and remain competitive. That is what the Advanced Technology Program has done. There are many examples we can point to over the years of successes they have had, and we will get those examples out for the Senate.

But it is shortsighted in the extreme for us to be saying, in this day and time, when we are worried about high-wage job creation in this country, that the way to start dealing with that is to eliminate this kind of program, to eliminate our support for science and technology development in the Department of Commerce. That is a very shortsighted approach. I hope this Congress will not agree with this President and go along with this kind of cut.

Mr. President, with that, I yield the floor. Again, I thank my colleague, Senator THOMAS, for his courtesy in allowing us to continue this debate as long as we have.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. THOMAS. Mr. President, I enjoyed listening to the debate.

I do rise to talk some more about the issue that is before us, the issue we have been talking about now for 10 days, and that hopefully we will be able to complete within the next couple of days, and that, of course, is the highway transportation infrastructure bill that is now before us.

I thank the chairman of the EPW Committee and the ranking member and the staff for continuing to move forward with this important bill.

Sometimes we take for granted what is out there, whether it be electricity—we have been working on the electric bill—whether it is energy. Because it is there, we just sort of forget all that goes into making sure it is there.

But our previous transportation infrastructure bill, the Transportation Equity Act for the 21st Century, expired on September 30 of the past year. Now we are nearly half a year beyond the bill expiring to take care of our infrastructure needs. For some time, then, the transportation system has been operating under a 5-month extension, which expires at the end of this month, by the way, and which doesn't fund nearly to the present needs because it is a CR from before.

So the infrastructure is in great need. All of us recognize that. There is an increasing use of it, increasing numbers of cars on the road, increasing numbers of trucks.

Our whole economy depends on this transportation infrastructure. The Interstate Highway system is almost 50 years old. Thirty-two percent of our major roads are in poor or mediocre condition. You can see that, particularly when we have had the rain and the storms, you drive around and bump into the potholes.

But more importantly, we don't have the kind of expansion to handle the increased traffic. Twenty-nine percent of our bridges are structurally deficient, functionally obsolete. Thirty-six percent of the Nation's urban rail vehicles and maintenance facilities are in substandard condition. Twenty-nine of the Nation's bus fleet and maintenance facilities are substandard or in poor condition. We really have a challenge with one of the most important aspects of our economy being in poorer shape, certainly, than we would like to see it or even imagine that it is.

I am very pleased that we are working on this bill. I happen to be a member of the EPW Committee as well as the Finance Committee. Those are the two main committees involved. I have been involved for some time—in fact, 6 years ago I was involved in the previous program from the EPW Committee. I feel strongly about this issue, very strongly about it in terms of the infrastructure, very strongly about it in terms of the jobs that it creates. Quite frankly, it creates more jobs more quickly than any other kind of activity we could undertake.

We are in the process of seeking to get that resolved, of course. This legislation would result in thousands of jobs. In my State of roughly half a million people, one of the smallest States in the country, 20,000-plus jobs mean a lot. We would have those very quickly. In fact, for every $1 billion in highway construction, we can expect 47,000 new jobs to occur. This means creating opportunities for people to work.

In my State, again, we have nearly 20,000 people who are employed as truckers and move more than 31 million tons of manufactured freight and earn more than $674 million in wages. So this is part of the economy that is impacted and affected. Without good, safe roads, of course, these people can't get their jobs done.

The highway system is almost 50 years old. You don't think about all the things that are involved in that. It is terribly expensive to have roads fixed. Last year we had 20 or 30 miles of roads being fixed over the mountain into Yellowstone Park. This is a U.S. road. This is an interstate highway that people were using. Of course, it is very expensive. So there are a lot of dollars involved in doing this. But we can't allow these kinds of things to continue to deteriorate.

I just came from a meeting for an hour or so with the Director of the National Park Service. I happen to be chairman of the Park Service Subcommittee. One of the issues important to the Park Service is maintenance of highways in national parks. Of course, here again it is very expensive but absolutely necessary to have it done. There is a great deal of discussion about what we ought to do. The expenses are high. We are all concerned about the budget and the deficit, of course. We want to work to change that. But we have had that in mind as we have gone along on this whole program.

Of course, the basic source for funds for highway funding is the tax on gasoline that each of us pays, 18.5 cents each time we put in a gallon of gas. That goes into this fund. It goes into the fund for highways, partially for mass transportation as well. The funding actually was done in the Finance Committee, and there has been a considerable amount of talk about the fact that there was some sort of trick being pulled in order to get money in there that didn't belong there. Quite frankly, I followed it as closely as I could. I keep hearing these incorrect allegations.

I encourage critics to read the Finance Committee title. Under the committee title, the highway trust fund will maintain more of the excise taxes that were intended to go into that fund originally but have not been there. This accomplishes partial elimination for the ethanol blend of fuels. These fuel users now pay the full excise tax, and the trust fund under this plan will receive the money. It has not in the past. The benefits will be taken as a tax credit against the general fund as are all other energy production incentives.

Likewise, the trust fund will retain excise taxes collected from certain users such as State and local governments using the highways and paying into that fund. Currently, these users get a refund. Under the committee amendment, the refund is not charged to the highway trust fund. What we have done is made some changes in the funding that should have been going into the trust fund but has not been going into the trust fund, and then finding some others to replace these so that there is not a reduction in the general fund but that the highway trust fund has more body to it.

The committee changes have been called gimmicks. We hear the allegation that the Finance Committee used accounting gimmicks. This is unfair and incorrect. What the Finance Committee did do was ensure that the trust fund keeps more of the excise tax, which is what it was designed to do in the first place.

Then, for instance, the Finance Committee recognized that the trust fund should earn interest on the balance. It is a huge amount of money, and the interest is a significant amount. It has not gone into the trust fund in the past. It would do that.

So there are a number of aspects that have been changed here. We find a good deal of complaint on the floor that these were gimmicks and criticisms of the Finance Committee. Unfortunately, interestingly enough, the Commerce Committee is also a part of this. They have been able to spend $7 billion in their programs, but they don't ever mention that. All they do is complain about what the Finance Committee is doing.

I can't emphasize enough the need to move this bill and to move it now. This idea that we would have a CR for a year simply doesn't deal with the issues we have, the problems we have, keeping up this infrastructure in the way it needs to be kept up. We have solved these issues. What we need to do is pass this bill this week and go into conference committee. Get the House to do what they are going to do with it, go into the conference committee, work with the House and the White House and with the Senate and come up with a bill that is appropriate for everyone and will be accepted by others. That is the system we have.

Increasingly, if someone disagrees with the system, instead of debating and discussing their differences, they just look for ways to hold up the bill. Quite frankly, that is a high price to pay for all Americans to not have these jobs, to not have this infrastructure kept up, to not be able to do what is needed on one of the most important aspects of our economy. We have the opportunity to do that.

I am certainly hopeful that we can come to some agreement. No one in this Senate is more concerned than I am about the spending level. I think you have to take a look at what we are seeking to do to balance the budget, to reduce the deficit, and to help increase the economy.

These are the issues we have been dealing with. Of course, in addition to that, as a cause of the deficit, we had September 11. So it is not easy. But we can do it. I certainly hope we do and that we move forward as quickly as possible to be able to do this.

I yield to my friend from Missouri.

Mr. BOND. Will the Senator yield?

Mr. THOMAS. Absolutely.

Mr. BOND. Mr. President, the Senator made a very good point about the need to move this bill. He raised the question about a 1-year extension. Is it the understanding of my colleague that the major projects that would generate the kind of work that is needed to improve our Nation's infrastructure, the major highway and bridge projects, cannot be undertaken on a 1-year extension because these are multiyear projects and they need a multiyear extension?

Mr. THOMAS. The Senator is absolutely right. These are large projects. They are contracts. They take a while. If you are going on a 1-year extension, our highway department, for example, couldn't put the contracts out on some of the most important jobs because they wouldn't be finished in that length of time and they don't have the dough. It is that simple. That is a very important aspect to continuing to resolve this question now.

Mr. BOND. If the Senator would further yield, I know the Senator is from a Western State in the north, and the time during which significant highway construction can go forward is limited by the weather.

What is the timeframe for summer construction in your State?

Mr. THOMAS. Well, of course, in order to have summer construction, it is necessary that now the Transportation Department be able to know what their funds are going to be, what their ability to contract will be, so that they can do it very soon, so that these contractors can get in place in April and begin to work for a longer summer. If they have not gotten the contract until late in the summer, they are all faced with a couple of months of work, and they go into winter, which they cannot do. Seasonal is very important. We have a chance to take advantage of the summer construction system now.

Mr. BOND. Mr. President, I ask that question because some people talked about a 3- or 4-month extension. I wonder if my colleague agrees that that simply would miss an entire season, even in Missouri, where our weather may not be quite as harsh but we would not be able to really undertake any construction projects. Is that similar to the condition in the Senator's State?

Mr. THOMAS. Absolutely. We have heard a great deal from our transportation people before Christmas, wanting this. This was supposed to have been done in September, when the fiscal year began. They wanted to be in to make the contracts then so that these contractors could get ready. It is going to be quite close now. Still, if we can move in February, it will give us a pretty good shot.

Mr. BOND. Mr. President, I thank my colleague.

Mr. REID. Will the Senator from Wyoming yield for a question?

Mr. THOMAS. Certainly.

Mr. REID. Mr. President, I think the picture here says it all. We have on the floor now two of the majority party and two of the minority party, representing diverse areas of this country, including Wyoming, Missouri, Vermont, and Nevada, and I also see my friend from New Jersey in the Chamber. Each State is so reliant and dependent upon doing something about this highway bill that all of us in the Chamber are doing everything we can to move this ball down the field.

The State of Wyoming is an example that doesn't have a lot of people coming there to pay enough money into the trust fund to take care of the needs of that great big State. Not only is it large area-wise, but having spent some time there myself in the cold winter, I know maintaining the roads in Wyoming, compared to a place such as Nevada, is more expensive because of the tremendous variation in temperatures.

My point is that this legislation is bipartisan. It is legislation that is for every part of the country, as evidenced on the floor.

I was speaking here, off the record, with the distinguished Senator from Missouri. We are going to pass this legislation now in a matter of hours. It is imperfect, but it is a really good piece of legislation to allow the director of the Department of Highways in the State of Nevada to have some ability to look down the road, as they have a continuum for money, so we can complete projects we have to do in Nevada. We are a big State area-wise. We have problems in the southern part of the State that are totally different from in the northern part of the State. It rarely freezes in the southern part, but in the northern part, for instance, we have Wild Horse Reservoir that, on various occasions, is the coldest place in the country. So we have our own problems, as do Missouri, New Jersey, Vermont, and Wyoming. I am so happy there has been this cooperation on this bill. I hope it sets a tone for the rest of the year. It is a Presidential election year and some Senate seats are up.

For the first bill this year, I think the distinguished majority leader and the distinguished Democratic leader picked a good one to show that we can work together on matters and set aside our partisan differences. We have done it on this bill. I appreciate the comments of the Senator from Wyoming.

Mr. THOMAS. I thank the Senator.

I yield the floor.

Mr. BOND. Mr. President, very briefly, this is a difficult bill, as the distinguished Senator from Nevada has said. There is a lot of work that goes into it. If anybody was completely 100 percent happy with it, we would not have done our job, because there are too many interests. The only way to accommodate them is to work on a bipartisan basis.

I want to say this while the Senator from Nevada is here. The Senator from Nevada and the Senator from Vermont and, obviously, my good friend from Wyoming, on both sides of the aisle, with Senator INHOFE as chairman of the committee, have worked well together, including the occupant of the chair. This is probably one of the most important economic stimulus infrastructure bills we are going to act on this year, or maybe for quite a few years. I hope we can get a solid vote to move forward tomorrow. There is a lot more work to be done, as I believe several have already said. We are waiting for the House to act. When the House acts, we will take it and work with them and we will take into consideration what the White House has said to

see if we can—and we must—craft a good bill that takes care of the crying needs of infrastructure.

I have said before on this floor so many times that it is not just a question of convenience, of cutting down on idling time, it is a question of long-term economic growth as well as immediate jobs. In Missouri, it is a question of saving lives by having adequate highways. When we have two-lane highways carrying 15,000 or 20,000 cars a day, that is too many. We should have divided highways. The fact that we don't means that wherever you travel in Missouri on heavily traveled two-lane roads, you see little white crosses where grieving families and friends have indicated the place where a loved one was lost.

This bill isn't going to solve all the problems in Missouri. If we pass this bill, many of the problems in Missouri and around the country will be solved. I urge my colleagues to work together and move forward on the bill. Our staffs are working now on a cooperative basis with a very large number of amendments that have been filed to see how many we can accept, how we can move it along.

Tomorrow is going to be a very busy day. We will try to accept as many amendments as we can on a bipartisan basis. If you want more money, please tell us where you are going to find it because we are strapped for money and major new spending sources without revenue are going to be difficult to accommodate.

Within those parameters, I urge everybody to work together. The filing deadline for first-degree amendments is past. I know what we have in front of us. I hope we can resolve as many as possible.

I yield the floor.

Mr. JEFFORDS. Mr. President, I thank the Senator for his statement. I want to reassure all of our Members that we will be working together and have been working together, and we will find a solution to many of those amendments. We won't unless they are filed. The sooner they are filed, the sooner we may even have a chance to get home for the weekend. That might be incentive for some.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. LAUTENBERG. Mr. President, I rise to discuss an amendment that was cosponsored by Senator DEWINE from Ohio. We would like to have had this considered in this important transportation bill.

I want to say this to those who are managing the bill and who have developed it. We see a piece of legislation that has a lot of good aspects to it. My State of New Jersey is doing better in this bill than it has on occasions in the past, with some adjustments here and there that give us some more funding in transit as well as highways. We appreciate that.

The subject we want to discuss is one that deals with safety, which is an integral part of this legislation and certainly should be, and that subject is the result of drunk driving.

Drunk driving cost the lives of 17,419 people in 2002. It is an increase for the third straight year in a row. This is unacceptable in our society by any measure. This is evidence that we are not doing enough to win the war on drunk driving. In 2000, I was proud to team up with Senator DEWINE to standardize our Nation's drunk driving blood alcohol concentration level at .08. That is a critical step toward reducing drunk driving, but that measure alone will not end this crisis.

During my career of public service, I promoted many legislative initiatives to help curb drunk driving in our country. In addition to .08, I wrote the law that established a minimum legal drinking age of 21. Most Americans have responded to these laws by drinking responsibly and reducing fatalities and injuries on our highways.

At one point it was estimated that we saved 1,000 young people a year from dying on the highways as a result of that change in the age of drinking.

The most feared category of drunk drivers who have failed to mend their ways is also the most shameful: the hardcore drunk drivers. These are the problem drinkers. These are the ones who ignore the dangers and have no concern for the safety of those of us on the road, including our families and our friends.

It is estimated that hardcore drunk drivers are responsible for as many as 40 percent of all alcohol-related deaths on the road, and that means about 6,000 to 8,000 people a year die at the hands of a hardcore drunk driver. That is not an acceptable situation.

Many of us have terrible, tragic stories involving lost loved ones due to drunk driving crashes. A young woman on my staff recounted a moment in her life when she was a teenager, when five of her close friends, all juniors in high school from southern New Jersey were hit by an SUV. Four were killed and one was badly injured. This was in broad daylight at 3 o'clock in the afternoon. A heavily intoxicated 29-year-old woman had plowed her SUV into the girl's car. One police officer described the scene as ''an explosion with glass everywhere.''

The driver of the SUV is what safety experts term a ''higher-risk'' or ''hardcore'' drunk driver. In fact, her blood alcohol content was found to be .21 nearly 5 hours after the crash, and usually that diminishes significantly. This is almost three times the legal limit of .08. Perhaps the most disturbing part of this story is the fact that this driver had two prior charges of driving while intoxicated in 1991 and 1996.

Some States have adopted laws that try to get hardcore drunk drivers off the road. It is something we heard a lot about when we put in place the .08 blood alcohol concentration standard. They said you have to get to the hardcore people; they are the ones who are really dangerous on the road. That is true, but anybody who is impaired while driving is a problem.

A TEA–21 program that we put into place resulted in 36 States and the District of Columbia passing repeat offender laws, but currently only 13 States have enhanced penalties based on blood alcohol concentration levels of .15 and above. Thirteen States and our own District of Columbia still do not have laws mandating alcohol assessment and treatment by a professional. Fourteen States do not have laws mandating that a drunk driver's vehicle be impounded.

We have to take action to keep these hardcore drunk drivers off our roads. The costs we pay are too high. We can save thousands of lives by passing this bipartisan commonsense amendment that I would like to offer along with Senator DEWINE.

Victims rights groups, such as Mothers Against Drunk Driving, have brought to our attention the need to change our laws to make our roads safer. It is my great pleasure to work with the dedicated, thorough, and caring people of MADD.

This hardcore drunk driving amendment takes advantage of research and policies that have been proven effective to fix what is wrong with this current repeat offender program.

First, it builds on the excellent work done by Senator INHOFE and Senator JEFFORDS in the bill by allowing the use of ignition interlocks, a popular and effective tool. Forty-two States have laws allowing for ignition interlocks to be used so that in case of hardships, a conditional license can be granted.

Our amendment also fixes the loophole that currently exists to allow States to spend Federal funding designated for driver safety programs on construction projects. While road construction is certainly a worthy ambition, this loophole defeats the purpose of the Federal program in the first place and must be addressed.

Our amendment cracks down on very high blood alcohol concentration drivers. Drivers with a .15 percent or greater blood alcohol concentration are almost 400 times more likely to be involved in a fatal accident than a sober driver.

I believe the Federal Government needs to continue strong leadership in relation to reducing alcohol-impaired driving. Not all States have dealt with this safety crisis in a comprehensive manner. Loopholes still exist, loopholes so large that drunk drivers continue to drive right through them.

Now is the time to take the next step in getting these hardcore drunk drivers off our roads. I look forward to working with Senator DEWINE, Senator DORGAN, and Senator CORZINE, all of whom joined with me in trying to reduce the 17,000 alcohol-related traffic fatalities that occur each year.

It is regretful that we cannot have an opportunity to offer our amendment. It

is relevant and germane to this bill, but not having the chance to offer the amendment, frankly, hurts our work and our interests in keeping our highways safer, saving lives wherever we can.

This is something I hope we can work out with the managers of the bill to see if there isn't something we can do to show that we are seriously interested in getting drunk drivers off the road. Remember, over 17,000 deaths a year on our highways, 40 percent of which are due to the antics of the repeat drunk driver.

The PRESIDING OFFICER. The assistant Democratic leader.

Mr. REID. Mr. President, before the distinguished Senator from New Jersey leaves the floor, I want to make this comment. I am sure we all wonder, having served in legislative bodies, what has been accomplished, what have we been able to point to that we have done that changes the lives of people in our country. Let me say to my friend from New Jersey, he need not worry about that because his legacy has already been established.

I owe so much to the Senator from New Jersey, as does my whole family, and I speak for most families—I should say the vast majority of families in America, many of whom don't realize what the Senator from New Jersey has done to make their lives more pleasant.

When we used to travel back and forth from Las Vegas and Reno to Washington with my family—they were little children at the time—my daughter and my boys, especially two of them, could not stand cigarette smoking in an airplane. It really made them physically ill. We would pacify them and say, well, that is in a different section; do not worry about it. As we know, when one person smoked on an airplane, we all smoked on an airplane. The Senator from New Jersey is more responsible, by far, than any other one person, or group of people, for being persistent and pushing that there would be no smoking on airplanes. The Senator from New Jersey did that.

When he started out on this issue, people thought he was tilting windmills. No one believed with the very powerful interests that favored smoking on airplanes, including the airplane owners and, of course, the cigarette manufacturers, that the Senator from New Jersey could accomplish what he did. But he did.

In addition to that, we all owe a debt of gratitude to the Senator from New Jersey for pushing to make sure all States had a .08 standard for blood alcohol. The Senator from New Jersey did this.

The reason I mention these two things that are the legacy—and I have only mentioned a couple of things because they stick out in my mind that the Senator from New Jersey has done, that I know. With the tireless efforts of the Senator from New Jersey on the things that he believes in, that he is talking about, this will get done. This will be accomplished for a number of reasons, not the least of which it is the right issue but, No. 2, because the Senator from New Jersey is the one who is pushing this.

I want the Senator from New Jersey to know how much I—and I speak for millions of Americans—recognize his great contributions to making our lives healthier, better, and safer in America.

Mr. LAUTENBERG. Mr. President, I take this moment to respond to my good friend from Nevada. He has always been interested in the safety and well-being of our people at the basic level, where we can make a difference. Senator REID from Nevada is always there, and I appreciate his support. I like working with him. When he says this is going to be done, my colleagues can take it to the bank because we are going to keep on working on it.

If we ever forget what it is we are talking about today, just continue to read the papers, and there will be stories about the intoxicated driver who went way over the limit and took a life.

I will never forget a young woman who came in from Maryland to talk to us one day. She was waiting with her daughter for the schoolbus, child in hand. Someone driving a car at 8 in the morning jumped the curb and killed this child whose hand she was holding.

Then there was the man in Hawaii who was driving with his wife behind a car that his son and daughter had rented. They were struck by a drunk driver. It killed them both.

These things happen all the time, enough to kill over 17,000 people a year. That means that in less than 4 years, there will be as many people killed on our highways as were killed in Vietnam. So this is not a trivial thing, and we are going to have to keep on working on it.

I am willing to do it, and I know the Senator from Nevada is willing to do it. We just have to hope that the opportunity arises.

The PRESIDING OFFICER (Ms. COLLINS). The minority whip.

Mr. REID. The Senator from New Jersey was responsible for one of the most memorable debates that I ever was present for in the Senate, and I am sure the Senator from New Jersey will remember it. It was a debate on drunk drivers. The very articulate Dale Bumpers, former Senator from Arkansas, gave many great speeches but none more memorable than when he spoke about his being a law student at Western University and he received a call from his brother. He knew it was bad news. He did not know how bad it was, but a drunk driver had killed his parents when he crossed over the line.

The Senator will also remember the distinguished former chairman of the Budget Committee, now the ranking member of the Budget Committee, the Senator from North Dakota, KENT CONRAD, who was made an orphan as a little boy by a drunk driver who killed his parents.

So we have to continually do more to keep these higher-risk drunk drivers off the road. They are a menace to society. In my opinion, the only thing they understand is force, power. They have to be put in jail. They have to be prevented from driving their cars.

As the Senator knows, we are in a parliamentary quagmire and maybe there is a short-lived victory for those who oppose what the Senator is trying to do but it will not last long.

Mr. LAUTENBERG. I thank the Senator.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, I rise to speak about the highway transportation bill which we are on right now. I will discuss basically two general points. The first has to do with the amount of funding in the bill and the administration position on that matter. Then secondly, I will talk a little bit about the funding formula in the bill.

As everyone knows, we are talking about a bill that would authorize and pay for the highway transportation and mass transit needs of the country over the next 6 years, financed historically by the gas tax. The 6-year bill that has been offered intends to be more generous than that by taking in some additional revenues, providing a lot more funding, and extending the authorization that currently exists for a period of 6 years.

I ask unanimous consent that at the conclusion of my remarks this Statement of Administration Policy be printed in the RECORD.

The PRESIDING OFFICER. Without objection it is so ordered.

(See exhibit 1.)

Mr. KYL. I am quoting now from a February 11, 2004, Statement of Administration Policy from the executive office of the President, Office of Management and Budget. As my colleagues know, these Statements of Administration Policy are issued with respect to important legislation and they set forth the administration's position on the legislation.

After noting that the administration supports enactment of the 6-year highway funding bill, the letter says the following:

> The administration's proposal, as modified by the President's FY 2005 budget, would provide $256 billion over six years, an historically high level of investment for highways and transit. This proposal represents a $45 billion, or 21 percent, increase over the Transportation Equity Act for the 21st Century (TEA–21), the six-year bill enacted in 1998.

The administration goes on in this Statement of Administration Policy to say the following:

> The administration believes that surface transportation reauthorization legislation should exhibit spending restraint and adhere to the following three principles.

Now, let me digress before I state what those principles are. The reason

the administration is talking about spending restraint is because the bill that is before us is far larger in its amount of spending than what the administration's proposal and the President's budget provide for, and it is far larger than is necessary. Frankly, in view of the status of our excess spending and our Federal budget deficit, it is more than we can afford.

Moreover, it is greatly in excess of the funds we collect with the gas tax, which in the past has been the funding that has been used to pay for this highway bill. So this is what the President and the administration is writing in this letter.

The administration believes the legislation should exhibit spending restraint and adhere to the following three principles: One, transportation infrastructure spending should not rely on an increase in the gas tax or other Federal taxes. Two, transportation infrastructure spending should not be funded through bonding or other mechanisms that conceal the true costs to the Federal taxpayers. And three, highway spending should be financed from the highway trust fund, not the general fund of the Treasury.

It goes on:

All spending for highways should be authorized and appropriated from the Trust Fund and derived from taxes imposed on the highway use, thereby maintaining the link between Trust Fund revenues and highway spending.

Madam President, how does the administration's position and the articulation of the three principles under which it believes the bill should be funded compare with what we are considering on the floor here? I am going to go on and quote the administration's characterization of the legislation on the floor.

However, the bill pending before the Senate authorizes $262 billion on highway and highway safety, which is $50 billion above the President's request, and $56 billion on mass transit, which is $12 billion above the President's request. In total the Senate bill authorizes $318 billion in spending on highways, highway safety, and mass transit over the next six years, a full $62 billion above the President's request for the same period.

The Administration's proposed authorization level of $256 billion over six years is consistent with the three principles listed above. We support a responsible six-year bill and support many of the provisions contained in this legislation. However, we oppose S. 1072 and the pending substitute because their spending levels are too high and they violate these principles discussed above. Accordingly, if legislation that violates these three principles—such as this legislation which authorizes $318 billion—were presented to the President, his senior advisors would recommend that he veto the bill.

There is more in the letter, but I think you get the gist of it. The administration is trying to tell us it would prefer a bill that, No. 1, adheres to the President's budget, to spend no more than $256 billion, and, No. 2, does not violate the three sensible funding principles the President lays out in the bill.

But the statement of administration policy notes that the bill before the Senate is a full $62 billion above the President's request, and it concludes in this part by noting that:

The administration, therefore, opposes Senate bill S. 1072 because the ''spending levels are too high'' and because ''they violate the principles discussed above.''

And if we end up passing legislation such as this, then the President's senior advisors will recommend he veto the bill.

I think the President is getting the same message the rest of us should be getting from our constituents, the American people: Congress and the President have been spending too much money.

In defense of the President, he has reached agreements in the past year with the leaders of the House and the Senate over spending limits and has said he would not support any legislation—and I presume he would have vetoed legislation—above that level. We have sent him bills at those levels. So in that regard, it is not the President's fault.

But I take responsibility as a Member of this body, and all of my colleagues should as well, that we as the body that initiates the spending proposals and sends them to the President must act more responsibly in ensuring that we do not exceed revenues, that we send the President bills that are fiscally restrained and that will not add to our budget deficit.

Alan Greenspan, the Chairman of the Fed, has made the point many times in recent months that the biggest threat to our economic growth and to our fiscal stability is profligate spending, and he has urged us to rein in our appetite for spending.

Some of my colleagues on the other side have expressed great dismay that when the Office of Management and Budget was finally able to calculate the cost of the Medicare prescription drug bill from last year, instead of $395 billion of cost over 10 years, as calculated by the Congressional Budget Office, the administration's people found that it actually would be far higher than that, over $500 billion.

Some of our Democratic friends have said—I gather they seem to suggest that therefore it is the President's fault. The President's people are the folks who found out that the spending was more than the $400 billion and have brought that forth and told us that. What should we do?

Later on I am going to give my colleagues an opportunity to bring the spending back in line with the $400 billion of which they seem so enamored. I think that is plenty. I think we can live within that $400 billion limit. So we will all have an opportunity to decide whether we really mean it when we say the spending on that bill should be limited to $400 billion over 10 years.

My point in digressing from the discussion of the highway bill is to note that there has been a focus on a lot of the spending the Senate and House have engaged in recently, and certainly the prescription drug and Medicare funding bill is one of the largest. Another we have had before us is the energy bill, which has a subsidy of about $30 billion. The administration budget request was $8 billion. That is another bill that, were we to pass in excess of $8 billion in subsidies, would exceed the administration's request.

Here is a third example where the Senate is poised to pass a bill way in excess of the President's request. My point is it is not the White House that is doing the spending, it is the Congress that is passing the bills that have the spending in them. The President is sending us a signal that he is tired of this and his advisors are saying, to be precise about it, that they will recommend a veto to the President if we don't get this bill more in line with what the President's budget is. He is sending us a message.

I urge my colleagues to read that message, to listen to what the President is saying. He means business. He is right. We are spending too much money. This bill is an over 40 percent increase in highway spending. We all know roads and bridges need to be built. We all understand some jobs are produced. That is fine. But do we, in this era of budget deficits and excess spending, have to increase spending in this one area by over 40 percent? Isn't a 21 percent increase over last year sufficient?

The President's budget is almost flat. It has about a half a percent increase—except for homeland security and defense—for the discretionary part of our budget. We know it is going to be difficult to live within that, but we should try. But how can we in good conscience pass a budget that has virtually no growth in it, except for homeland security and defense, and then with regard to highways say that is an exception; we are going to increase spending by 21 percent? The income of how many people in this country will grow 21 percent this year? Not very many. Not, certainly, for the average working man and woman.

I daresay, at a 21 percent increase, we can do just as well, in terms of building our roads and highways, and then if we need to adjust it later on because we are rolling in dough, we can do that. But for this year at this time with this kind of deficit, we should not do it. That is what the President's advisors are saying in this letter.

What I would like to do is talk for a little bit about how the bill before us violates those three principles. Let me just cite a couple of examples.

The first principle is that the transportation infrastructure spending should not rely on an increase in the gas tax or other Federal taxes. It doesn't rely on an increase in the gas tax, but it will rely upon Federal taxes because we will be taking money from the general fund. That gets us to the

second and third points. Transportation infrastructure should not be funded through bonding—we are not going to do that—or other mechanisms that conceal the true cost to Federal taxpayers. I will show you in this bill how that happened. And the third principle is highway spending should be financed from the highway trust fund and not from the general fund of the Treasury.

No. 2 and No. 3 go together here. Let me give a couple of examples from the highway part of this; not mass transit but the highway part is funded from the gas tax. We are going to collect $196 billion in gas tax revenue. That is how much we should spend on highways. But, no, we are going to be spending much more than that. How do we make up the difference? Obviously, Members of Congress are pretty creative in figuring out how to pay taxpayer dollars. So, a lot of new ways of deeming money to be in the trust fund have been thought up here. Some of them actually I suggest have some merit.

Just to give one example: Interest in the highway trust fund. The highway trust fund is a fund that has maybe $9 billion or $10 billion, give or take $1 billion, in it at any given time. You have to have some money in the bank. It is like a bank account, to pay the checks when they come due. There is always money coming in when people buy gasoline and pay the tax, and one thing we could do is attribute to the trust fund interest which is otherwise attributed to the general fund. That is between $1 and $2 billion. I am perfectly happy to have that attributed to the trust fund.

If you go through some exercises like that, you can get up to $214 billion, more or less, in revenue you say is somewhat legitimately attributed to gas tax revenues.

Let me give you two examples of revenues that are being attributed to the highway trust fund that really are not revenues in any sense of the term, and, therefore, would violate both principle No. 2 and principle No. 3.

One of these concepts has to do with the fact that counties, cities, towns, churches, and schools are by and large exempt from paying a gas tax. What we are going to do in this bill is pretend like they actually paid the tax. That is worth, I think, $8 billion. That is a nice thing, if you can get away with it. But I don't think it reflects reality. That is $8 billion. We are simply going to treat this as if the trust fund had received all of the money from counties, cities, towns, and so on.

Is the general fund going to collect that money from the schools, churches, cities, and towns? No. There isn't going to be any new revenue. Your school district is not going to have to pay money for the gasoline that it buys for the schoolbuses that are driven. They will not have to pay the Federal gasoline tax, but we will pretend like it does. That $8 billion is pretend money.

There is another part of this which they calculate at $9 billion that is attributed to the highway trust fund. What is this? The gas tax is 18.3 cents. But for ethanol users, we provide that they don't have to pay 5.2 cents of that. There is an exemption for that of 5.2 cents on each gallon. In this bill, we are going to pretend like they paid that to the trust fund. We are going to actually collect their money. The revenue will actually be collected. But when people ask for a refund, we will send it right back to them. Assuming that most people will ask for a refund because they can get it, we are going to be sending the money right back to them.

As a result, we take with one hand and we give back with the other, and the fund is no better off. There is no real money in the fund except what was there before. We haven't added to the fund. We have collected the 5.2 cents and then we give it back when the people apply for the refund.

Since Federal contractors actually have to pay their people, buy asphalt, and run their road graders, how are we going to make up this $17 billion?

As I have indicated, in both cases this is not real money. We are going to get it from the general fund. We are going to just spend that money from the general fund.

How are we going to do that? It is not in the budget. The Finance Committee has come up with a variety of tax law changes which will close certain corporate loopholes and in other ways raise revenue that is not currently raised. We had hoped and anticipated that additional revenue would be applied to a reform which has to do with corporate tax relief that will have to be passed this year because the WTO—the World Trade Organization—has ruled against the United States in a case in which we have been providing some tax relief to American manufacturers abroad. We are going to have to take that tax relief away in order to make these companies whole. We will have to pass a different kind of tax relief. To do that, you have to have the ability to pay for it. That is what this money was going to be used for. Instead of using it for that, we will use it to build bridges and highways. We will take that money, put it in the general fund, and send that over to the highway trust fund.

We are violating the principles laid down by the administration that none of this bill should be paid for by either a mechanism that conceals the true cost to the taxpayers or financed from the general fund of the Treasury.

This bill, both by being in violation of at least some of the principles laid down by the President and by being $62 billion in excess of what the President said the bill should cost, is going to create a situation in which the senior advisers of the President are going to recommend a veto. We should not be passing a bill under those circumstances or be passing this bill under those circumstances.

What do we do about it? There are a couple of different options. One of the options is that we could simply modify the bill to take out that $62 billion, get it back down to the level of the President's budget, and support that. I have an amendment that would do that. In effect, it will say the President's budget of $256 billion—that represents a 21-percent increase—ought to be enough, and, therefore, we would finance only that amount of money.

I think we should vote on that and express our will in that regard, support the President, and be willing to begin exercising some fiscal restraint.

Some people say they do not want to reduce the 6-year funding by that much money. They would actually be able to spend over 40 percent more than last year and, therefore, maybe what we should do instead is simply reauthorize the existing law for 1 year, get past the election, and then do another 6-year authorization bill that will spend 40 percent more than last year, since, obviously, that is going to cost more money than we are taking in in gas tax revenues, since there are objections to taking it from the general fund because that creates a horrible precedent, and therefore we will raise the gas tax.

We don't want to tell people that because, of course, in an election year we wouldn't want anybody to really think we intend to raise the gas tax. So let us be real quiet about this and not discuss this alternative too much because it assumes that next year we will come in and provide this large amount of money and raise the gas tax. We could do that. It certainly is at least better than what we have before us, because it simply reauthorizes at existing levels the highway authorization bill for 1 year and we can decide to do it next year at the time. Some of us would oppose the gas tax increase.

I suggest that either of those alternatives are better than the third alternative, which is to pass the bill that is before us.

I want to make this clear. There are not very many people in this body for whom I have greater respect than the chairman of the EPW Committee, the Senator from Oklahoma. I don't mean to suggest in anything that I am saying here that the effort of the committee and the chairman of the committee is anything other than an attempt in good faith to try to satisfy the demands of our country's infrastructure and provide the best possible highway transit funding program they can. I will say they have been very unfair about the way they treated my State, but that is another matter that I will talk about in a minute. I want to make it clear that the chairman has a tough job. He has done his very best in this regard. I want that to be very clear.

But the third alternative is to pass the bill before us. The argument made is that we know it is way too much money but we will get into the conference committee because the House

will pass a bill and then you will have the House and the Senate bills. We will get together and figure out an appropriate amount of money. We will get the President's people in there to negotiate to make sure it won't be too much so the President won't veto the bill.

That is another way to do it. I can't support that because we would be supporting a bill out of this body that is far too big in spending.

The House bill presumably will be above the President's request. It is a little hard to figure out how we are going to start with a bill that is $62 billion over what the President wants, and the House bill is—I don't know how much but let us pick a number—say, $50 billion more than the President wants. And somehow they are going to compromise at a number closer to what the President wants. That is ordinarily not the way things work around here. I think it will be close to $256 billion. They are playing with fire and risk sending the bill to the President which he is going to veto. That will demonstrate that we are not very responsible. I think that would be the wrong thing to do.

Let me address the other subject I said I would address, and that is the fairness of this bill.

I say to my colleague from Oklahoma that he would be the very first to say it is almost impossible to get a bill that spends this amount of money and divvy it up among over 400 Members of the House of Representatives and 100 Senators and have everybody think they have been treated fairly, especially given the historic unfairness of the way the formulas have worked.

Again, he has a tough job. I make the point right up front that I know he has tried his hardest to do this right. In fact, one of his guiding principles was to try to get all of the States up to a level of funding equal to 95 cents out of every dollar that they send to Washington for the highway gas tax. The minimum level today is 90.5 cents.

There are a lot of us who represent donor States such as Arizona. We are donors. We send $1 and we only get 90.5 cents back in highway revenues. The chairman wanted to try to do something about that to try to remove some of that unfairness. I commend him for that. For the most part, he has gotten States up to 95 cents out of every $1.

A lot of States are donee States, and they are way above a dollar. Obviously, the reason only some States get 95 cents back is some States get more than $1. But I commend the chairman for trying to get at least to 95 cents.

The problem is, as has been explained to me, there are some fast-growth States, such as Florida, California, Colorado, or Arizona. We have been at such a low level in the past in terms of the amount we were reimbursed, the 90.5 cents, and we are growing so fast in order to keep up with our growth, it would require so much money to catch us up to the 95-cent level that basically it cannot be done. So they will bring other States up to 95 percent, States that already for the past 5 years have done very well, for the past 10 years have done very well. For those States that have continually lagged behind, such as the ''growth'' States I mentioned, since it is so darned expensive to catch them up, we just will not try to do that for 5 years.

So here is the result we get, demonstrated on this chart. I note the dark blue represents on the chairman's chart a green color which he demonstrated the other day when we were discussing this, saying: Arizona actually will increase its spending over this period of time. Then in 2009—assuming the money is there—you will go back up to 95 cents like everyone else.

In 2004, the State of Arizona, which is in the dark blue, would get a little bit more—it gets 90.5 cents. That is what is guaranteed. In 2005, we get 90.5 cents. In 2006, we get 90.5 cents, as well as in 2007. In 2008 it goes up a little bit but is still under 91 cents. Then if there is enough money in 2009, hopefully we get to go back up to where everyone else is, guaranteed 95 cents.

We just took a State perhaps roughly comparable to Arizona, and this State happens to be Missouri, but I could pick any number of States that illustrate the same idea. Missouri, on the other hand, is guaranteed 95 cents each one of these years.

Here is the point: During this 5-year period of time—because there was not enough money, some State had to sacrifice or be sacrificed and that happens to be my State of Arizona. I don't like that, and I don't think it is fair. I would have rather had, in this case, Missouri brought down to 93 and raise Arizona up to 93 rather than taking some all the way up to 95 and leaving the rest of us down at 90.

My colleague from Oklahoma says, but you are getting a substantial percentage increase and even a dollar increase, because you are growing so fast. That is true. But in terms of the total amount of money Arizona would lose during this period of time, it is over $160 million. So during this 5 years, Arizona will lose out on over $160 million it would have received if it had been treated the same as the other States and gotten the base of 95 cents.

Remember, there are a lot of States that are way up here that are getting over 100 cents, 110 cents; some are getting several dollars back. I will not name names.

The bottom line is some States are treated very well and States such as my State of Arizona are not treated so well. I obviously cannot be expected to support a bill that picks on a few States such as mine and says, look, we just did not have enough to go around so you have to be the one that does not get paid what everyone else gets paid. We are sorry; be happy with the fact you are getting more money than you have ever gotten before.

My answer is, we are growing faster than anybody and therefore, of course, we are getting more money than we got in the past, but we are not getting the same relative amount other States are. We are not getting 95 cents on our dollar contributed. We are still stuck down here at this 90.5 cent level. That is not fair.

I want to be clear about this. My opposition to this legislation is based upon the first two points I made. It is too much money and we are going to fund it now out of general revenues rather than the highway trust fund, as a result of which there will be no logical constraint on how much we spend in the future. At least pegging it to what we received in Federal gas revenues in the past was a break-loss, a check and a balance, and it prevented us from going beyond that amount of money. But once you begin to dip into the general treasury, there is no logical end to how far you can dip. As I said, you could double the amount of increase the administration has asked for, you could go to over 40 percent increase and say, we are just going to make part of that up through general revenues. Why not 50 or 60 percent? There is no logical end once you get away from the highway trust fund. That is why I oppose this bill.

The sponsors of the bill were not able to equalize the States, as hard as they tried, in terms of the funding formula, and therefore there are some Members from some States that obviously have to point this out, have to demonstrate the unfairness and inequality of it and ask the bill be amended to provide a more fair result.

The amendment I spoke of that funds the bill at $256 billion over 6 years does not address this problem. So I make it clear, the amendment I have offered that allows people to vote for an amount in the highway spending that is consistent with the President's budget request does not fix this. I am willing to support that amendment. I am willing to send the bill to conference with that amount of money, but I am also hopeful my colleague from Texas will be offering an amendment tomorrow—has filed it and will offer tomorrow—that will to some degree at least fix this problem for those states such as Texas and Arizona which are not guaranteed the same 95 cents everyone else is guaranteed.

I am hopeful we will be able to vote on that and support that tomorrow.

There are other amendments which I will speak to later, one that my colleague Senator MCCAIN has offered that represents a good compromise in the way we fund highway revenue and reimburse the States. We will talk about that tomorrow. There may be an additional amendment offered tomorrow we will want to support.

I am hoping I will have a chance to vote on these tomorrow. The way this bill has procedurally come before the Senate, we will vote on a cloture petition tomorrow at 9 o'clock. That is a vote which presumably will pass. It means we then have only 30 hours of

debate on the bill and opportunity to offer amendments and have those amendments voted on. My understanding is there are over 400 amendments that have been filed. On a bill of this importance and this magnitude, I don't think it is right we only have 30 hours to dispose of 400 amendments. It obviously cannot be done.

I ask for my colleagues' understanding that when this debate begins after the cloture motion is approved tomorrow—assuming it is—we will have an opportunity to offer these amendments, have a brief period of time to discuss them, have a vote on them, and go on to the next amendment. It is not my intention to try to garble up the works or slow things down. I hope we can speed things up to the point we can get these amendments considered within that period of time. If not, because there are actually two different cloture motions here, we may have to have a second cloture vote and then have another 30 hours so we can continue to try to get the amendments adopted. That is something we are just going to have to work through. I ask for my colleagues' cooperation so that perhaps we can avoid that second 30 hours. But if necessary, obviously, we will have to use that.

Now, if there are questions or refutation of anything I have said, I am happy to hear that and I can stay for a few minutes to try to answer or respond to questions.

If my colleague from Oklahoma would like to speak, I yield the floor to him.

EXHIBIT 1

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,

Washington, DC, February 11, 2004.

STATEMENT OF ADMINISTRATION POLICY

S. 1072—SAFE, ACCOUNTABLE, FLEXIBLE, AND EFFICIENT TRANSPORTATION EQUITY ACT

The Administration supports enactment of a six-year highway, highway safety, and transit authorization bill and procedural efforts that would limit consideration of extraneous amendments and bring the bill to an up or down vote. Such a multi-year authorization would provide States and localities with predictable funding that enhances long-term transportation planning. The Administration's proposal, as modified by the President's FY 2005 Budget, would provide $256 billion over six years, an historically high level of investment for highways and transit. This proposal represents a $45 billion, or 21 percent, increase over the Transportation Equity Act for the 21st Century (TEA–21), the six-year bill enacted in 1998.

The Administration believes that surface transportation reauthorization legislation should exhibit spending restraint and adhere to the following three principles: (1) transportation infrastructure spending should not rely on an increase in the gas tax or other Federal taxes; (2) transportation infrastructure spending should not be funded through bonding or other mechanisms that conceal the true cost to Federal taxpayers; and (3) highway spending should be financed from the Highway Trust Fund, not the General Fund of the Treasury. All spending for highways should be authorized and appropriated from the Trust Fund and derived from taxes imposed on highway use, thereby maintaining the link between Trust Fund revenues and highway spending.

However, the bill pending before the Senate authorizes: $262 billion on highways and highway safety, which is $50 billion above the President's request, and $56 billion on mass transit, which is $12 billion above the President's request. In total the Senate bill authorizes $318 billion in spending on highways, highway safety, and mass transit over the next six years, a full $62 billion above the President's request for the same period.

The Administration's proposed authorization level of $256 billion over six years is consistent with the three principles listed above. We support a responsible six-year bill and support many of the provisions contained in this legislation. However, we oppose S. 1072 and the pending substitute because their spending levels are too high and they violate these principles discussed above. Accordingly, if legislation that violates these principles (such as this legislation, which authorizes $318 billion) were presented to the President, his senior advisors would recommend that he veto the bill.

In addition, the Administration opposes inclusion in a surface transportation bill of unrelated provisions regarding Amtrak. Any legislation regarding the future of Amtrak should be considered separately and should provide for meaningful reforms, such as those proposed by the Administration. If surface transportation legislation containing such provisions were presented to the President, his senior advisors would recommend that he veto the bill. The Administration wants to work closely with Congress to achieve an acceptable bill and recommends attention to the following areas.

Safety. The Administration appreciates the creation of a new Highway Safety Improvement Program (HSIP) and a strong safety belt incentive program, but believes the bill should also require States that have not enacted primary safety belt laws or achieved safety belt use rates of 90 percent to spend no less than 10 percent of core highway safety construction HSIP funds on behavioral safety projects eligible under the Section 402 program. In addition, the Administration opposes limiting a State's flexibility to use HSIP funds by requiring mandatory set-asides for rail-highway grade crossings or safe routes to schools. The Administration believes that several programs of the National Highway Traffic Safety Administration (NHTSA) should be consolidated and a portion of those funds should be used to reward States that aggressively reduce fatalities in the manner proposed by Section 2001(a) of the Administration's proposal. Also, language similar to that included in the Administration's proposal on providing for NHTSA-administered highway safety data grants should be added to help States improve their data to reasonable standards.

Environmental Provisions. The Administration opposes substantially broadening the list of eligible projects for Congestion Mitigation and Air Quality (CMAQ) funding because many of these new projects would have minimal air quality benefits. Eligibility for CMAQ funds should be limited to projects that achieve air quality benefits, particularly because the number of Clean Air Act nonattainment areas, which need this type of funding, will increase. The Administration believes that the bill should improve project delivery while protecting our environment. The bill should include a 180-day statute of limitations for legal challenges following final agency approval of highway and transit projects. This limit is necessary to reduce litigation uncertainty that can impede project development for years. The bill should also avoid adding new requirements to the transportation planning process, and integrate the transportation planning process with other environmental review processes to reduce redundancies.

With respect to project review under the National Environmental Policy Act, the bill should clarify the authority of State and local governments to be joint lead agencies, with the U.S. Department of Transportation, in preparing environmental documents. The Administration also notes that section 1511 is inconsistent with the President's proposal is SAFETEA, and encourages the Senate to adopt the President's proposal.

The Administration also believes that the bill should clarify standards pertaining to public park and recreational lands, wildlife and waterfowl refuges, and historic sites—commonly referred to as ''Section 4(g).'' A clarification of the Section 4(f) definition of ''prudent'' is needed to forestall confusing standards applied unevenly by the Federal Courts of Appeals. In addition, the bill should address the overlap between Section 4(f) and Section 106 of the National Historic Preservation Act to decrease project delays and uncertainty.

In addition, the Administration believes that the bill should not include a mandatory two percent set-aside from the Surface Transportation Program (STP) to support a highway stormwater discharge mitigation program. Stormwater discharge mitigation costs are already eligible under STP.

New Regulatory Mandates. The Administration strongly opposes the numerous mandated rulemakings for NHTSA and the FMCSA. These provisions predetermine timetables and outcomes without adequate grounding in science, engineering and proof of net safety benefits. By prescribing specific requirements and mandating priorities, these provisions will delay or interfere with ongoing safety initiatives and may have the unintended consequence of redirecting agency resources away from programs that will do more overall good for safety. The Administration also objects to the inclusion of: (1) costly and burdensome provisions of the bill requiring FMCSA to issue medical certificates to 6.5 million commercial drivers while limiting the performance of medical examinations to physicians alone; and (2) the bill's expansion of hours-of-service safety exemptions.

Financing and Freight Mobility. The Administration appreciates the bill's expansion of the Transportation Infrastructure Finance and Innovation Act (TIFIA) loan program by lowering the project threshold and broadening the list of eligible projects to include freight projects. However, the Administration opposes removing the TIFIA program requirement that a borrower have a dedicated source of revenue for repaying its TIFIA loan. Likewise, the Administration opposes allowing railroads to use Federal grants to pay the credit risk premium or repay Railroad Rehabilitation and Improvement Financing loans.

The Administration supports amending the bill to give States the ability to manage congestion and raise additional revenue by allowing drivers of single occupant vehicles to use High Occupancy Vehicle lanes by paying tolls. The Administration also supports amending the bill to provide States flexibility to implement variable tolls on interstates for congestion management or air quality improvement purposes. In addition, the Administration supports amending the bill to incorporate the Administration's proposal to amend the Internal Revenue Code to permit the issuance by State and local governments of ''private activity bonds'' for highways and surface freight transfer facilities.

Public Transportation Programs. Aside from concerns about overall funding levels,

the Administration is pleased that the bill includes provisions to improve human service transportation coordination and expand the ''New Starts'' program, but is disappointed by the omission of a performance incentive program to reward transit agencies based on increases in transit ridership.

Accountability and Oversight. The Administration is pleased that the bill includes stringent project management and financial plan requirements which were requested by the Administration. Improved accountability and focused oversight by the Federal Highway Administration will help maximize the effective use of available funds.

Funding Firewalls and Guarantees. The Administration supports a separate category or ''firewalls'' for determining the level of spending from the Highway Trust Fund, but only in the context of the Administration's proposal for annual statutory limits on discretionary spending. In addition, the Administration does not propose the creation of ''firewalls'' for general fund spending on such critical areas as defense and homeland security, and therefore opposes such treatment for general fund spending on mass transit programs.

Byrd Test Change. The Administration opposes weakening the Byrd Test to compare spending authority to current resources plus for years, rater than two years, of estimated future revenue. The Byrd Test was established at the creation of the Highway Trust Fund in 1956 to ensure that future revenues would be sufficient to cover outstanding spending authority. The Byrd Test has been successful in ensuring the Highway Trust Fund's solvency for nearly 50 years, and modification could allow levels of spending that cannot be sustained by estimated revenues to the Highway Trust Fund.

Park Roads. The Administration supports the funding level for park roads, but opposes the provisions of section 1806 of the bill that establish a park funding priority system that would reduce the Administration's ability to implement the President's Park Legacy Program. Allocation of park road funding should be consistent with the sound asset management approach on which the President's Park Legacy Program is based and which is currently used by the National Park Service, in a manner that will best address the needs of all parks, not just a few.

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MAGLEV. The Administration opposes the continued authorization of funding for Magnetic Levitation Transportation Technology Deployment (MAGLEV). The Administration's SAFETEA proposal did not seek funding for MAGLEV and believes funds can be better spent investing in the Nation's public transportation systems.

Budget estimates and enforcement

This bill would affect direct spending and receipts. It is critical to exercise responsible restraint over Federal spending in a manner that ensures deficit reduction and the Administration looks forward to working with Congress to control the cost of this bill. The Budget Enforcement Act's pay-as-you-go requirements and discretionary spending caps expired on September 30, 2002. The President's FY 2005 Budget includes a proposal to extend the discretionary caps through 2009, a pay-as-you-go requirement that would be limited to direct spending, and a new mechanism to control the expansion of long-term unfunded obligations. OMB's cost estimate of this bill currently is under development.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. First of all, there is no one I have a higher regard for than the man who was elected with me to the other body in 1986, Senator KYL, the junior Senator from Arizona, and they elected him then to come over to this body in 1984. We are both conservatives.

He has heard me say many times when I was first elected to the other body, I got on the Transportation Committee and the reason I did it was because I always felt the conservatives were pretty big spenders in two areas. One is national defense and the other is infrastructure. That is what we are sent here for. Apparently, the most recent poll I saw shows the vast majority of the people, 69 percent, are willing to spend more money if it will be spent on highways, roads, and bridges. I see that as what we are here for.

I have to address the fact that there are a lot of amendments that have come up. I have stood here for 2 weeks trying to get people to propose amendments, to discuss their amendments. We sit down here and we talk about everything there is to talk about until now at last there is hysteria that we do not have time to bring up our amendments. There has been plenty of time.

I have to say, too, to my good friend, the junior Senator from Arizona, it is because of the senior Senator from Arizona that we have not been able to bring up the amendments because they are objecting to any motions to bring them down to vote. That means the only thing we can vote on that does not require that particular permission is a tabling motion which we have done only once because no one else has had anything else to table.

So that is the reason.

I regret that we wasted a lot of time when we were inviting people to come down. Those who were opposed to this for any number of reasons—some legitimate reasons, some not so legitimate—were the ones who were stopping us from moving forward with the bill.

First, I think as far as the cloture motion, the Senator from Arizona is exactly right. In fact, I appreciate the letter he was citing from the administration that came down today. It says: ''The Administration supports enactment of a six-year highway [bill],'' and so forth, and they are in support of the cloture motion.

So this is the administration that is in support of the cloture motion. I think if you look at the letter—and I will give you a different slant than my friend from Arizona—they have three criteria. There is nothing new about this. I saw this 2 months ago. I saw it on the 4th of this month when they sent a letter from the administration. It says these three criteria are:

[T]ransportation infrastructure spending should not rely on an increase in the gas tax or other Federal taxes. . . .

I believe this meets that guideline.

(2) transportation infrastructure spending should not be funded through bonding or other mechanisms that conceal the true cost to Federal taxpayers. . . .

I agree with that. In fact, I have been the one who has rejected the suggestion of any type of a bonding that might just be deficit spending in disguise, something we are going to pay back in the future, some increased debt.

This is the big one. This is the one the Senator, with his vast knowledge, has gone through and who is in a better position to do that than I; and that is the criterion that says:

[H]ighway spending should be financed from the Highway Trust Fund, not the General Fund of the Treasury.

Now, perhaps it is hard. There could be an honest disagreement here. If some money is going to the general fund and is being paid at the pumps by people who are paying for the gas tax, that should be going into the highway trust fund. It is user paid. We all agree with that concept.

For those of us who feel strongly about this, I can remember I was outraged back in the middle 1990s when the previous administration came through and they wanted $8 billion so they could do something other than roads, and it came out of the trust fund and went into the general fund. Frankly, this takes it back. This rectifies a problem that should not have existed in the first place and keeps us honest with the American people.

Look at the moral issue part of this. The people drive up to the pump. There is not a Senator who does not have constituents who drive up to the pump. They don't mind paying that tax—some say they would go ahead and pay more taxes—and they assume that money is going to go for the repair and construction of roads and infrastructure. In fact, that is not the case. There have been raids on that for a long period of time.

I am not going to go over the list of the Finance Committee. I talked to the chairman and the ranking member of the Finance Committee back when we were working on this bill well over a year ago. It said when we come up with what we believe is necessary to just stay even—there is one report out that says even with this spending level that does not even keep us repairing what we have today, but if this comes up, you guys in the Finance Committee are going to be the ones who have to come up with this.

I have never been on the Finance Committee. I have never attended one of their meetings. I don't know how it works. But I do know the chairman and ranking member said: We have come up with a way to come up with this money. Sure, a lot of it, as the Senator mentioned, is spending down the trust fund. Yes, we can do that probably to $6.5 billion without hurting ourselves. That is an assumption we make here. The interest? Yes, it should go to the

trust fund. There are some fixes in there in terms of ethanol that are all part of it. This going after people who avoided paying taxes is something we would all agree is something that should happen.

The one area the Senator mentions, frankly, I can't address is having to do with the WTO. I am just going to trust the Finance Committee that they have come up with this and have done what I asked them to do a long period of time ago.

Oh, yes, in response to that, I was underlining something. This came out in the Finance Committee, I say to my friend from Arizona. It said: In the view of the Finance Committee, these tax policy benefits—we are talking about benefits deductions, whether they are ethanol or maybe a car that is fuel efficient—nonetheless, to encourage them to do that, they are exempt from certain taxes. But those cars and those trucks still drive on our roads, still cause damage to the roads, and because they want to have a tax policy that has nothing to do with infrastructure, has nothing to do with roads and highways, fine, if we all agree on that, it should come out of the general fund, it should not come out of the highway trust fund. We are rectifying that and getting it back to the highway trust fund.

Now, on formulas, this is the most complicated part of the bill. I say to the Senator, your senior Senator came down and said he would like to trade formulas with Oklahoma. I have to say, as I have said several times down here in the last 2 weeks, everyone has the same formula. You have the same formula. North Carolina has the same formula. Maine has the same formula; Oklahoma does.

Now, the results come out differently because in that formula we are taking care of problems that are real problems. Arizona is a fast-growing State, the State of Texas, the State of California, the State of Florida. So in order to make all of this happen, there are caps, there are ceilings. If you bump the ceiling, we are not going to go above that. You may not like it because you are a fast-growing State. But if you don't, then that is going to be paid for in the formula with a change, maybe a change that is going to be coming in the form of an amendment tomorrow, by getting into some of the States such as Pennsylvania and New York.

So here is what we have in the formula: No. 1, total lane miles on the interstate, on principal arterial routes; No. 2, VMT—that is, vehicle miles traveled—on the Interstate System, on principal arterial routes, excluding the interstate, and on the Federal aid system; No. 3, annual contributions to the highway trust fund attributed to commercial vehicles; No. 4, diesel fuel used on highways; No. 5, relative share of total cost to repair or replace deficient highway bridges—I am very sensitive to that; my State of Oklahoma is dead last in terms of the condition of bridges—next, weighted nonattainment and maintenance areas and, lastly, rate of return of donor States.

We all know that the Senator from Arizona and I both know all about being a donor State. If we accelerated the point within those 6 years to raise that amount, then, obviously, there would not be enough money to ultimately get to the 95 percent we want to ultimately get to. So if you change one thing in the formula, it changes everything. You cannot do it in a vacuum.

There will be amendments, I am sure, tomorrow that are going to be addressing this and wanting to change the formula. But if you do it, it is going to change other States.

Now, if you will remember, the reason I am proud of this formula is that we have tried to do it. We tried to do it in 1991 with ISTEA. We tried to do it in TEA–21 in 1998. We failed during that time because right about at this point in the process they said: Well, we can't do it. There are too many people who don't like the way the formula has come out. So instead of that, we need 60 votes. How do we get 60 votes?

So they had a minimum guarantee. They said: All right. We are going to offer 60 of these votes what they want in terms of a percentage of the overall, and then, once we get to 60 votes, who cares? We have our 60 votes and we are going to pass it.

Well, I refused to do that back when the temptation was great to do it about 3 months ago. So the formula is going to be the first pure formula that we have had. But are there frailties in it? Yes, there are. There are corrections to be made because if you look in previous years at States where they have had an undue political influence, they have gotten more than their share.

Let's look at Pennsylvania. They had a good friend of the Senator from Arizona and myself who served in the other body, Bud Shuster, a Congressman from Pennsylvania. He, for a number of years, was the chairman of the committee, and Pennsylvania did disproportionately well.

I would say the same thing of our beloved Daniel Patrick Moynihan of the State of New York; certainly John Chafee, one we all loved, from Rhode Island. So the Northeast got kind of a benefit to which they were not entitled.

In fact, to be specific, under TEA–21—let's keep in mind I was a senior member of the Environment and Public Works Committee in 1998 when we put this together. And so at that time, in terms of a percentage of taxes paid in, New York got $1.25 back; Pennsylvania, $1.20 back; Rhode Island, $2.16 back; Montana—Senator BAUCUS, who is a very hard worker for his State—$2.18 back; Oklahoma, 90.5 cents, the minimum, the bare minimum.

I am the guy who should be out here complaining. When your senior Senator said, we ought to swap, if we swapped, I would end up with $40 million more. I will stand here right now and swap with you, and it will not affect any of the rest of the formula.

The formulas are not an easy thing to deal with.

Insofar as the State of Arizona is concerned, if you take an average of the 6 years of TEA–21, $463 million, and then you watch as it goes up here to finally reach $800 million, the total amount of increase is $1.11 billion in the State of Arizona. For my State of Oklahoma, the chart looks almost the same, but the difference is we end up at $1.07 billion. So there is $40 million more going to the State of Arizona. I don't like that. If I were to try to do something as chairman, I probably could have. I could probably have looked at the first run and said, no, Oklahoma needs to have more. But I didn't do it because we wanted the formulas to work. So the formulas are something that you can't mess with because if you do, you get right back to the minimum guarantee policy we have had in the past. I don't think that is good for anyone.

Since we have committed some time to two other Members, including the Senator from North Carolina, I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Madam President, I ask unanimous consent to print in the RECORD the Statement of Administration Policy dated February 11, 2004, and also, though I did not quote from it, an editorial of the Wall Street Journal entitled ''Road Kill,'' and the date is February 10, 2004.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET, WASHINGTON, DC, FEBRUARY 11, 2004.

STATEMENT OF ADMINISTRATION POLICY

S. 1072—SAFE, ACCOUNTABLE, FLEXIBLE, AND EFFICIENT TRANSPORTATION EQUITY ACT

(Senator Inhofe (R) Oklahoma and 3 cosponsors)

The Administration supports enactment of a six-year highway, highway safety, and transit authorization bill and procedural efforts that would limit consideration of extraneous amendments and bring the bill to an up or down vote. Such a multi-year authorization would provide States and localities with predictable funding that enhances long-term transportation planning. The Administration's proposal, as modified by the President's FY 2005 Budget, would provide $256 billion over six years, an historically high level of investment for highways and transit. This proposal represents a $45 billion, or 21 percent, increase over the Transportation Equity Act for the 21st Century (TEA–21), the six-year bill enacted in 1998.

The Administration believes that surface transportation reauthorization legislation should exhibit spending restraint and adhere to the following three principles: (1) transportation infrastructure spending should not rely on an increase in the gas tax or other Federal taxes; (2) transportation infrastructure spending should not be funded through

bonding or other mechanisms that conceal the true cost to Federal taxpayers; and (3) highway spending should be financed from the Highway Trust Fund, not the General Fund of the Treasury. All spending for highways should be authorized and appropriated from the Trust Fund and derived from taxes imposed on highway use, thereby maintaining the link between Trust Fund revenues and highway spending.

However, the bill pending before the Senate authorizes: $262 billion on highways and highway safety, which is $50 billion above the President's request, and $56 billion on mass transit, which is $12 billion above the President's request. In total the Senate bill authorizes $318 billion in spending on highways, highway safety, and mass transit over the next six years, a full $62 billion above the President's request for the same period.

The Administration proposed authorization of $256 billion over six years is consistent with the three principles listed above. We support a responsible six-year bill and support many of the provisions contained in this legislation. However, we oppose S. 1072 and the pending substitute because their spending levels are too high and they violate these principles discussed above. Accordingly, if legislation that violates these principles (such as this legislation, which authorizes $318 billion) were presented to the President, his senior advisors would recommend that he veto the bill.

In addition, the Administration opposes inclusion in a surface transportation bill of unrelated provisions regarding Amtrak. Any legislation regarding the future of Amtrak should be considered separately and should provide for meaningful reforms, such as those proposed by the Administration. If surface transportation legislation containing such provisions were presented to the President, his senior advisors would recommend that he veto the bill.

The Administration wants to work closely with Congress to achieve an acceptable bill and recommends attention to the following areas.

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[From the Wall Street Journal, Feb. 10, 2004]

ROAD KILL—CONGRESS'S SPENDING BINGE MOVES TO THE PASSING LANE

An old political adage has it that the most dangerous place in Washington is between a Congressman and asphalt. That is exactly where taxpayers now find themselves as Congress conspires to pass another monster highway bill. The only good news is that President Bush is showing signs he may fight this election-year porkfest.

The Administration has its own highway proposal, which is hardly cheap. Mr. Bush is asking for $256 billion over six years, which is 21% more than the past six years and fairly close to Treasury estimates of revenue from the current 18.4-cent-a-gallon federal gas tax that is earmarked for roads.

Ah, but this isn't enough for the boys of summer construction. The draft Senate bill demands $55 billion more than Mr. Bush and is loaded with fiscal gimmicks that divert money from general (non-gas-tax) revenues into road building. The House bill from Transportation Chairman Don Young is even worse—an astonishing $375 billion with a five-cent gas-tax increase.

Notwithstanding lip service to the budget deficit, the strategy for passing this is to offer so many goodies for individual Members that they can't resist. The American Road & Transportation Builders Association, aka the road graders lobby, recently advertised how much more booty each Member could take home under the Young bill.

In the Senate, meanwhile, Minority Leader Tom Daschle is planning to attach his stalled ethanol-subsidy legislation (cost to drivers: $8.5 billion a year) to the bill in order to attract farm state votes—and grease his own re-election this year. Republicans who go along with this self-serving gambit will be helping Mr. Daschle defeat GOP challenger John Thune in South Dakota this fall.

One of the more embarrassing arguments from Congress's highwaymen is that this is somehow a ''jobs bill.'' So at least for this parochial matter, Republicans claim to believe in the superiority of government over private spending. Some Econ 101: Highway spending rolls out slowly over many years but new taxes are immediately taken away from the more productive private economy. It's more accurate to say that Mr. Young's bill would be a net job loser.

If Republicans really wanted to be true to their principles, they'd scale back the federal highway fund and return road-financing to the states. The federal government got into this game in the 1950s to build the Interstate Highway System. That network is nearly complete, but Congress now views the highway trust fund as a way to make all Americans pay for local road projects. States are much better placed to judge real needs, and they'd have the flexibility to experiment with innovative proposals like tolls, express lanes and public-private partnerships.

Such delusional hope aside, the ultimate size of this bill will depend on Mr. Bush's determination to enforce his budget request. History isn't necessarily on his side; when Ronald Reagan vetoed a highway bill in 1987, Congress overrode him. And despite calls last week from fiscal conservatives to delay the bill, Majority Leader Bill Frist refused after 75 Senators voted to start debate.

Still, this is a fight worth having. Congress will keep spending freely until Mr. Bush shows he's willing to spend political capital to say no. In a letter to Congress last week, Administration officials warned that any bill that includes higher gas taxes, trickster accounting or a siphoning of general tax revenues will face a veto. Presidents who make veto threats and don't fulfill them quickly become irrelevant.

Mr. INHOFE. Madam President, I ask unanimous consent to print in the RECORD the summary of the Finance Committee's highway trust fund proposal.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUMMARY OF FINANCE COMMITTEE HIGHWAY TRUST FUND PROPOSAL

Finance Committee jurisdiction extends to the highway use-related excise taxes, the Highway Trust Fund, and the expenditure authority of the Highway Trust Fund. The Finance Committee acted primarily on the cash flow into and out of the trust fund. Cash flow into the trust fund is represented by trust fund excise tax receipts. Cash flow out of the trust fund is represented by trust fund outlays. Matters involving contract authority and obligation limits are not Finance Committee subject matter and the committee did not speak to them.

According to the Congressional Budget Office (''CBO''), current law trust fund receipts will total $227.8 billion over the six year period. CBO projects $196 billion in highway account receipts and $31.8 billion in mass transit account receipts.

The authorizing committees' actions placed demands on the trust fund of $231 billion for highways and $36.6 billion for transit for the six year authorization period. That means a total of $267.6 billion in demands on the trust fund.

Prior to Finance Committee action, demands on the trust fund exceeded receipts by $39.8 billion over the six year period. To make up this funding gap, the Finance Committee developed two categories of proposals. The first category increased trust fund receipts by tightening compliance. The second category included accounting changes that raised trust fund receipts.

The compliance changes raised trust fund receipts by $5.6 billion over the authorization period. These changes were also scored as revenue raisers by the Joint Committee on Taxation. These proposals have no impact on the budget deficient.

The budget resolution assumes that 2.5 cents per gallon of gasohol receipts, currently held by the general fund, will be transferred to the trust fund. That transfer raises trust fund receipts by $5 billion over the authorization period. The Finance Committee also assumed that trust fund balances would be spent down by $7.5 billion over the authorization period. Adding all of these changes together with the compliance changes, the Finance Committee closed the gap by $18.1 billion over the authorization period. That left a funding gap of $21.7 billion.

The Finance Committee proposed to close this gap with a group of trust fund accounting changes. These proposals raise trust fund receipts by shifting the burden of tax policies from the trust fund to the general fund. In the view of Finance Committee, these tax policy benefits have nothing to do with highway use and should not burden the trust fund. Included in these proposals is a repeal of the partial exemption for ethanol-blended fuels. The tax benefit for ethanol, like nearly all energy production incentives, is transferred to the general fund through a tax credit. The same effect is applied to refunds for special categories of users such as State and local governments. Finally, the Highway trust Fund will earn interest on its balance, so that the highway and transit programs are not prejudiced. This second category of proposals closed the funding gap, but, without revenue offsets, would have increased the budget deficit by $21.7 billion.

Finance Committee members decided that this second category of proposals should not have a deficit impact. To this end, the Finance Committee title includes a group of loophole closers previously approved by the committee.

Ninety-five percent cost over $120 billion . . . the cost forced us to construct a new method. Equity Bonus keeps the cost of rectifying donor states affordable.

COMPARISON OF NH AND VT [BOTH LOW POPULATION STATES PER MCCAIN]

Response: VT does very well under the formulas for the core programs (not changed from TEA–21 in this bill). Former NH Sen. Smith's position on the EPW committee during TEA–21 ensured that NH did well under the politically drafted 1104 table despite their relative poor performance under the formulas.

CO IS GETTING A RAW DEAL

Response: Colorado has the highest rate of growth . . . Senator Allard, a member of EPW has been very supportive of the bill.

ADDITIONAL COMMENTS

Highway Trust Fund was raided during TEA–21 of $8 billion (Note: argument will be made that the $8 billion was given up in order to get the ''firewalls'')

If we were to accelerate getting all states to 95 percent sooner it would add to the cost of the bill and donee states like PA and NH would have a lower rate of return

On average, in SAFETEA, donee states lost 4 cents from TEA–21 and donor states gained 4 cents from TEA–21 . . . I would call that a fair exchange.

PLAYERS IN TEA–21

	2003 of TEA–21	2009 of SAFETEA	Historic
New York (Moynihan)	1.2488	0.9975	1.23
Pennsylvania (Shuster)	1.2084	0.9746	1.16
Rhode Island (Chafee)	2.1662	1.8234	2.22
Montana (Baucus)	2.1842	2.2015	2.35
Oklahoma	0.9050	0.9500	0.87

FORMULA FACTORS:

Total lane miles on the Interstate, on principal arterial routes (excluding the interstate), and on the Federal aid system

Vehicle Miles Traveled (VMT) on the Interstate system, on principal arterial routes (excluding the Interstate), and on the Federal aid system

Annual contributions to the highway trust fund attributed to commercial vehicles

Diesel fuel used on highways

Relative share of total cost to repair or replace deficient highway bridges

Weighted non-attainment and maintenance areas

Rate of return of donor states

Mr. KYL. Madam President, if I could ask my colleague from Oklahoma a question, I appreciate the relative dollars received by States such as his and mine. I would just ask one question: Does the State of Oklahoma, under this policy, receive 95 cents in each of the next 5 years, and does the State of Arizona receive 90.5 cents for every dollar we send in?

Mr. INHOFE. The State of Oklahoma does not. It goes up to 95 cents. The first year, it is 90.5; next year, 91.75; and it gradually goes up. Yours does not because for the State of Arizona, it hits the ceiling. So you have 90.5 each of the first 4 years, then 90.84, then 95.

Mr. KYL. I thank the Senator.

Mr. INHOFE. I yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina.

Mrs. DOLE. Madam President, our transportation infrastructure is one of this country's most important investments. It is literally the foundation of America. Each day our roads, bridges, buses, and railways help countless Americans travel to their jobs, visit a faraway relative, or take a day trip with their kids.

As a former Secretary of Transportation, I am constantly in awe of this vast reach of modern-day transportation. I can still recall from my tenure at the Department the completion of the Interstate 40 corridor which runs from Wilmington, NC, to southern California, an enormous stretch of highway that literally links us from coast to coast. It is these kinds of investments that are vital to sustaining our communities and our economy. By ensuring that our roads, bridges, and infrastructure are prepared for the future, we provide economic stability. For my home State, that is a crucial component of our economic recovery.

As many of you know, North Carolina is going through painful economic times as traditional textile, furniture, and other manufacturing jobs are diminishing. Improving our transportation infrastructure is a vital part of getting North Carolina's economy back on track.

Let me give an example. Construction is already underway for Interstates 73 and 74 in North Carolina, and planning has begun for Interstate 20. The Department of Transportation estimates that the projects in this bill would create 86,900 jobs in North Carolina.

Further, these roads go through areas that are among the hardest hit by economic difficulties, creating jobs especially in rural parts of North Carolina, where mobility between towns and cities is essential for commerce. These routes of opportunity make our communities more attractive to businesses and promote investment in our neighborhoods.

Additionally, there is an 89 percent increase in funding to address North Carolina's growing transit needs, with a special emphasis on our rural areas. This money can be used to provide more buses as our rural residents travel from home to work each day. And for urban areas, such as Raleigh, Greensboro, and Charlotte, I am proud that the Banking Committee on which I serve has included much-needed dollars to relieve congestion by investing in buses, street cars and, in some cases, light rail.

We all know that relieving congestion creates a cleaner environment, improves worker productivity, combats stress, and gives employees more time with their families and less time struggling with a long commute.

This legislation also addresses a problem that exists with the highway trust fund. Right now, North Carolina gets just 90.5 cents for every dollar we put into the trust fund. This legislation guarantees that North Carolina's share will increase to 95 cents over the next 5 years. That will mean an additional $50 million a year for transportation construction, and we all know how much good can be done with those dollars.

The bill also expands the Small Starts program to include mass transit projects under $75 million. My State and local leaders' biggest complaint is the mounds of paperwork and regulatory hurdles that must be completed, even for the smallest transportation project. It simply is not fair that these smaller projects must jump through the same large hoops as the biggest projects in the United States. The Small Starts project will allow for simpler, less costly review of these projects, and that is good news for our States.

Now let me touch on another area of the legislation that is near and dear to my heart. Safety was at the forefront during my 5 years as Secretary of Transportation. Our rule 208, as we called it at Transportation, encouraged the passage of State seatbelt laws and the inclusion of passive restraints in new cars.

In 1984, there were only a handful of airbag-equipped cars on the road. Not a single manufacturer was currently offering airbags at that time. I remember a long search for a car with an airbag to use in a demonstration on the White House lawn. But today that number stands at 40 million. And as we all now know, airbags save lives and prevent crippling, disabling injuries. At that time, in 1984, there was only a 14 percent usage rate for seatbelts, and there was not one single State seatbelt law in the United States.

Our regulation 208 helped change all of that. Today, 49 States and the District of Columbia have seatbelt laws. As of 1998, the national seatbelt use rate was 69 percent. Some States, such as my home State of North Carolina, have a use rate of over 80 percent. It is estimated that 11,900 fatalities and 325,000 serious injuries are prevented each and every year due to usage. It is said that rule 208 literally changed the climate of highway safety in America.

It was also a privilege back then to work with my friend, Senator FRANK LAUTENBERG, to champion legislation encouraging States to raise their drinking age to 21, thereby helping to eliminate drunk driving and blood borders between our States.

There are many safety provisions included within this bill. Funding is there to ensure that our secondary roads are safer, something that is vitally important to rural areas. Too often accidents occur on the small two-lane secondary roads, in many cases leaving death and destruction in their wake. The money in this bill will make those roads safer for our families and our children.

There are also provisions for installing skid-resistant surfaces at intersections, traffic signal upgrades, and improvement in pedestrian and bicyclist safety. All of these are sorely needed. Safety on our roads must continue to be a priority.

Madam President, it is imperative we act now to pass this critical legislation. I urge my colleagues to support it. It is a win-win for all of our States, for businesses, and especially for the millions of Americans who rely on our transportation infrastructure each and every day.

I yield the floor.

Mr. INHOFE. Madam President, first, before the Senator from North Carolina leaves, I want to say we are very fortunate to have her expertise having served as Secretary of Transportation and in other capacities where she provided leadership. She has an understanding of transportation needs probably greater than any other single person in this Chamber. I thank her for her contributions here.

I yield the floor.

The PRESIDING OFFICER (Mr. ALEXANDER). The Senator from Minnesota is recognized.

Mr. DAYTON. Mr. President, I want to discuss a couple of amendments I intend to offer if the opportunity arises in the next couple of days.

I thank the bill's managers, Senator INHOFE and the ranking member, Senator JEFFORDS, for standing up against what I believe are very misguided attempts to take a meat cleaver to this very important bill. It is terribly unfortunate that immediately following the most recent budget projections, which show enormous deficits for this year and for the years thereafter, the very first legislation that comes to the floor is this one that provides transportation funding for the next 6 years.

This is not, I urge my colleagues, the place to economize. To do so in this bill would be penny wise and pound idiotic. It would be kind of like a person who was told by his doctor he has to lose weight and he decides to eliminate fruits and vegetables. These are public investments in our Nation's highways, bridges, rail lines, and mass transit systems. They are critical to our social and economic vitality—moving products quickly to market; moving people swiftly, smoothly, and safely to jobs, schools, and family activities, and then back home again. These are critical investments in the future of our country. They are termed capital investments, which means they are projects which themselves generate future wealth.

People say we ought to operate Government more like a business, and I agree. They should recognize that successful businesses regularly go into debt to finance their capital projects.

Building new plants, expanding or modernizing existing facilities are good and necessary reasons to incur debt.

Most State and local governments also issue debt—public bonds to finance their capital projects. They use current receipts for ongoing operations or consumption. In the Federal Government, we are doing the opposite. We are going seriously into debt to pay for current programs and consumption and treating our capital improvement budget, such as this transportation bill, as if it were the same program spending. It is not.

Bankers and brokers understand that difference. Homeowners, farmers, and business owners understand that difference. State government officials understand that difference. Why can't this administration and Congress understand that difference?

That understanding is important because this is a bill where we need to think bigger, not smaller. Unless my colleagues' States are in very different conditions, and their highways, bridges, rail lines, mass transit systems are in much better shape than my State of Minnesota's, then they have the same critical shortage of funding as Minnesota.

In my State, the conditions and capacities of our highways and other public infrastructure have been declining over the last decade, and they are going to continue to do so without this additional infusion of Federal money. Our State and local governments simply do not have, and they are not going to have in the future, the increasing amounts of funding necessary to keep up with or catch up with growing populations and increased usage. It is only here in the Federal Government that we have the resources—at least we did until a couple years ago, before the budget surpluses were turned into deficits. But even now, we still have the resources, though not to do everything. It comes down to what are our priorities. What and who do we consider most important?

The President has made his priorities very clear. He has made making the 2001 and 2003 tax rates permanent the centerpiece of his budget and his economic recovery strategy. If so, we are going to be waiting quite a while for that recovery because the President's proposal won't even take effect until the expiration dates for the change now already in place; and for the 2001 tax bill items, that will be the year 2010. For the 2003 items, most of those won't be extended until the years 2006, 2007, and beyond.

This bill before us today is the best economic stimulus bill and jobs creation bill possible for right now—not 2006 or 2010, but right now—in Minnesota and across America, which is why the funding level for this bill ought to be increased, not decreased.

I had an amendment I would like to offer—although it flies in the face of reality—to double the amount of Federal funding that was provided 6 years ago, which was $218 billion, to increase that to $436 billion. That contrasts with the Senate bill now of $311 billion and the House bill of $375 billion, although I would not increase the amount by increasing the gasoline tax as is being proposed in the House. I would fund mine through the general fund, dedicate the revenues from the highway trust fund into the purposes they are being used for, but not use that as a ceiling for funding the necessary public infrastructure. That would be a business such as Target Corporation deciding the number of new stores it is going to build in the next few years is going to be a function of some formula, such as the percentage or revenues from socks or shorts that are being sold; and if somebody, for fashion reasons, decides they are going to go sockless for a year, that number goes down and so does the investment in new stores go down. No sensible business would make future investment decisions based on this kind of formula and be dictated by that result.

In this case, as well, we should be deciding as a body, with the House and the administration, what level of public investment we need to make in highways and mass transit systems over the next 6 years—make that decision based on the needs and then decide how we are going to fund it.

Again, we do these things backward here and, as a result, we don't make the commitment that will pay off for this Nation if we do it, and we will sacrifice the future of our highways and airports and rail lines if we don't do it.

While recognizing it is unlikely to be adopted by this Senate, especially in the face of the President's insistence that even the Senate number be reduced further—again, I salute Senator INHOFE and Senator JEFFORDS for standing resolutely in favor of this and being the fiscal conservatives they are. They recognize these are public investments that are vital, and to fail to make them would be—at least for Minnesota—virtually catastrophic. I thank the Chairman and ranking member for their steadfastness in supporting this and the level of commitment it makes.

I also am proud to be a cosponsor of the Build America Bonds Act, which is being sponsored by Senator TALENT of Missouri and Senator WYDEN of Oregon, because if we are not going to use public dollars directly for these projects, then another way to finance them would be for the Federal Government to issue bonds and provide tax credits to those who purchase the bonds.

The proposal made by Senators TALENT and WYDEN would issue another $50 billion of Federal bonds that would be then used throughout the States to advance these projects. If we are not going to use general revenue dollars or highway trust fund dollars sufficiently to meet the needs, then we ought to incorporate bonding in addition to what is being funded elsewhere.

I also thank Senator GRASSLEY, the chairman of the Senate Finance Committee, for his initiative in the legislation for correcting what is essentially a penalty to those States, such as Iowa and Minnesota, that have been using ethanol as part of their fuel.

In Minnesota, we have had for the last 8 years a requirement that 10 percent of every gallon of gasoline sold in our State be comprised of ethanol. Right now, nationwide it is less than 2-percent ethanol in proportion to gasoline. If you listen to some of my colleagues, they would have you believe the use of ethanol is going to drive prices for gasoline or its substitute through the roof when, in fact, the opposite is true.

I use in my car in Minnesota with a slight engine modification made by the manufacturer, a Ford Explorer, a fuel that consists of 85-percent ethanol and 15-percent gasoline. That is 20 cents a gallon cheaper in southern Minnesota than regular unleaded. It runs just as well. The vehicle performs just as well.

If we want to reduce the $115 billion a year we send overseas to pay for the foreign oil we import, there is no more readily available way to do that than to increase the use of ethanol. I regret, because of some of the opposition to that, that Senator FRIST's and Senator DASCHLE's amendment to increase the use of ethanol over the next decade in this country by a very modest amount is not going to be offered as an amendment to this legislation. Hopefully, it can be considered by the Senate and passed as a separate measure in the very near future.

The use of ethanol in the current formula penalizes States for that consumption. Again, I thank Senator GRASSLEY and also the ranking member of the Senate Finance Committee, Senator BAUCUS, for their initiative. It is going to be vital from my standpoint that the measure passing the Senate and the conference report include that correction.

I also will have two amendments I hope I will have the opportunity to offer. One is a rural roads safety amendment which I developed with the support of the National Association of Counties. It will provide additional funding. The amendment itself calls for $1 billion a year over the 6-year lifespan of this bill. This would be additional funding to provide for programs to improve the safety of our rural roads across the country.

More than 25,000 people die each year on our rural roads system. It is a fatality rate that is 2½ times greater than that for urban highways. In fact, it is the highest rate of fatalities per vehicle mile for any type of transportation in this country.

Despite this need on some 840,000 miles of rural two-lane roads, funding directed from this bill in the past has provided very little direct assistance to rural communities which, in my State at least, have the least capacity to undertake these expensive projects.

This funding would provide for improving roadway alignments, eliminating wheel way rutting, including

skid resistance, widening lanes and shoulders, installing dedicated turn lanes—whatever the State and particularly the county and local units of government decide are in their best interest.

It is also being introduced in the House by Representative BOB NEY who is the chairman of the House Administration Committee. I hope it will receive favorable consideration in the next few hours.

The other amendment I would like to offer is a mandate for the Federal vehicle fleet to use either 10-percent ethanol-blended gasoline or biodiesel fuel, 2 percent or more where it is available and where it is at a generally competitive price. The amendment would apply to some 650,000 Federal vehicles everywhere except for the Department of Defense and the military, and it provides the opportunity for the Federal Government to take the leadership in encouraging the use of ethanol and biodiesel fuels by its own practices.

These are, as I said earlier, fuels that will add to our rural economic recovery to increase the prices of commodities, such as corn and soybeans, in the marketplace which raises profits for farmers and lowers subsidy costs for taxpayers. They are cleaner burning fuels than oil-derived fuels, and they put money in the pockets of Americans rather than foreigners.

This amendment, as well, I hope, will be considered favorably by this body. It is not going to increase costs. In fact, if anything, based on my experience with ethanol, it is going to lower costs, and it is going to provide a real boost to the rural economy of America.

In closing, I wish to say again that this legislation is crucial for Minnesota. It is crucial for our Nation. That is why tomorrow I am going to vote in favor of the cloture motion to proceed to this measure and move to pass it in the Senate. Hopefully, the House will follow suit as well so we can get this bill passed and signed by the President and into effect and get this money to the States where it can be well used and be an economic stimulus and provide jobs.

I hope during the course of that consideration I will have an opportunity to offer these amendments.

I thank the Chair, and I yield the floor.

The PRESIDING OFFICER. The assistant Democratic leader.

Mr. REID. Mr. President, I wish to take an opportunity to respond to some of the statements made by the distinguished junior Senator from Arizona, my friend Mr. KYL. I have the greatest respect for him. He is a neighbor of the State of Nevada. We have worked well together in many different areas, but his statement regarding this highway bill is simply off base.

I respectfully suggest that maybe we should understand that there are three separate but equal branches of Government. We have a responsibility in the legislative branch of Government to do what we think is right for the people of our respective States. I think we have done as well as we can do for the people of this country.

The Presiding Officer has been a Governor of 1 of our 50 sovereign States. I think he would—I have not spoken with him—have recognized during his tenure as Governor how very important the highway programs were in the State of Tennessee.

In this legislation that is now before this body, the State of Tennessee is going to do extremely well with this bill. The State of Tennessee, which has been a State that has given far more than it has taken in—that is, in the State of Tennessee, for every dollar paid into that fund, the people of Tennessee have contributed 10 cents out of every dollar to the rest of the country. The people of Tennessee have not gotten what some think is a fair shake in this legislation.

There was an effort to bring every State, including the State of Tennessee, to 95 cents in this bill. The State of Tennessee, rather than getting the 90 cents on the dollar previous to this bill being enacted, will get an average of 94.25 cents for every year this bill is in effect, and, in the final year, it will get 95 percent. That is a tremendous boon to the State of Tennessee.

We have done that for every State in the Union that in the past was paying into the trust fund far more than they were getting.

The State of Arizona also gets 95 cents on the dollar. My friend, the Senator from the State of Arizona, is complaining because we don't do it fast enough.

I want everyone to know how very difficult it was to get a formula that would bring every State up to 95 percent at the end of this sixth year. It was extremely difficult. So I would respectfully suggest to my friend from Arizona he should be complimenting us rather than saying he does not like what we have. In years past, we would not worry about the State of Arizona and the State of Tennessee. What we would do was see if we had the votes and just roll over everybody. That was how we used to do this. This is my fourth bill. That was how we used to do things, but we are not doing that this year. We are trying to be fair.

Rather than being critical of what we have done to bring everyone up to 95 percent by saying we did not do it soon enough, we should be complimented. Frankly, we could do this bill without the States of Arizona and Tennessee. We could do without those four votes. But we decided to be fair and to do everything we could to allow a minimum at the end of this year.

So I repeat for the third time, rather than being castigated for not bringing up the 95 percent sooner, I think the people of the State of Arizona—I know the people in the Department of Transportation—are happy with what they have. This is going to be a wonderful thing for the State of Arizona.

I really do not recognize tears shed by a State that is growing rapidly. The State of Nevada beats all States. We have grown more rapidly in the last 14 years than any State in the Union. We hold the record. We are the fastest growing State in the Union. So when someone says they are a rapidly growing State and should be treated differently, we also understand what it means to grow fast. We believe we have treated Arizona very fairly.

This is probably more difficult for someone in the majority to say but it is not hard for me to say: I dare the President to veto this bill. He is not going to veto this bill. This letter we have, this statement of administration policy, comes to us all kinds of times on various types of legislation. President Clinton sent us threats. President Bush sends us threats. That is what they are. The President will not veto the biggest jobs bill during his entire 4 years in office. He is not going to do it. I do not care if it is the number we have in this bill or the one Chairman YOUNG from the House wants. He wants $270 billion. Ours is $255 billion. This bill will not be vetoed by President Bush, and my colleagues can take that to the bank.

My friend from Arizona also says he is disturbed that because we got the money for this bill, he wants to make sure the World Trade Organization does not punish us. I wish they would punish us and kick us out of the World Trade Organization. I do not want to be part of the World Trade Organization. So that does not sell too well with me.

So I repeat, States have been treated very fairly in this bill. We are going to be able to invoke cloture on this bill because it is the right thing to do.

I understand the legislative process. We are going to pass a bill; the House, in their wisdom, will pass a bill; and it will go to conference. We will try to prevail in what we want. The House will try to prevail in what they want. When they are invited, which I am sure will be often, the administration will be expressing their views at the conference. Then we will have a bill and it will be sent to the President's desk. That is how the process works.

It is way too early to be threatening a veto. This is done lots of times. I do not think anyone should be quaking in their boots over a statement of administration policy. They probably have a stack of these statements of administration policy left over from the Clinton Presidency that is that high. They just peel these out on probably two-thirds of the bills we have.

I have been around for awhile. I am not impressed with this statement of administration policy because the administration knows, everybody in this body knows, that this is one step, but an extremely important step, in a very long effort to get this bill to the President's desk. We will get it to the President's desk. It will not be easy, but what has been accomplished has been very important to the process.

As I said earlier, this bill should be a picture for the American people. We are working in the Senate in a bipartisan fashion to produce a bill that is good for the American people. It is a bill that I have said before is imperfect. It is not perfect. It is difficult to do.

This is the bill. I can hardly lift it. I guess that shows how weak I am, but it is still a pile of paper. This stack of it is the highway portion of it. Another stack of it is the transit portion of the bill, and then the finance portion. This has been a year in the making. It has been extremely difficult to do.

For someone to come to the floor and say what we need to do now is have a 1-year extension—I do not think so. In the process, we would lose hundreds of thousands of jobs by extending this a year. The Presiding Officer knows that the planning department and the departments of transportation for every State in the Union have to do multiyear planning. There cannot be a transportation system in a State on a year-to-year basis. Some of these projects take years to complete, and if we stall for another year, it is going to make the projects more expensive. They will cost more money, not less money.

So I understand that my friend from Arizona comes here all the time as a spokesperson for the administration. He does it on lots of issues. I respect his being someone who answers the beck and call of the administration. He is here on so many different issues spouting what the administration wants, but we are legislators and we will get to the White House, the administration, in due time to work this out.

I repeat, we are a separate but equal branch of Government and this is not the time for the President—rather, the President's people; I should not use his name—to be waving all of these threats.

My friend from Arizona talks about these deficits. Well, my colleagues have heard us on this side talk about why we think the deficits are there, but in this legislation we have not talked about all the bad things and all the negative things that we believe the majority party is doing and the majority has not talked about all the bad things they think we are doing. This has been a bipartisan rush to score a touchdown and take this bill to the House and see what they do to respond.

I hope they can do it quickly, and I am confident they will. They can usually move things much more quickly than we can and then we work out a process to work out the differences between the House and the Senate and move this thing to the White House. It can be done and it really has to be done; we have no choice. This transportation bill is important for the American people. As the Senator from Mississippi, the distinguished former majority leader and minority leader, Mr. LOTT, said on this floor this week, there will not be more important legislation we deal with this entire year than this legislation. This is the most important thing we are going to deal with, and I agree with the junior Senator from Mississippi, this is the most important legislation we have to deal with.

I compliment and applaud the chairman of the committee, the ranking member of the committee, my counterpart, the chairman of the subcommittee. We have worked well together. I think we have set an example for what the Senate should be, could be, and I hope will be in the future.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRAHAM of Florida. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAHAM of Florida. Mr. President, in response to the threat to end the debate on the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003—the acronym is SAFETEA—I rise in opposition to cloture on this legislation. I do so for several reasons.

First, I believe strongly that increasing investment in our Nation's infrastructure—our transportation system, our water and sewer systems, our electric grids, our crumbling schools—is critical to our Nation's future well-being. Today, we are debating one of the keystones of that investment—transportation, highways, public transit, and rail.

Transportation is an integral part of everyone's daily life. It is an integral part of America's current and future economic well-being. Federal investments in transportation infrastructure increase our economic vitality and our international competitiveness.

I believe the key question for the foreseeable future of America is how we maintain America's standard of living while at the same time competing in a global marketplace where lowest unit cost of production is the holy grail. That is going to be a significant challenge to our generation and to future generations of Americans.

I don't think there is any easy answer, but I believe the answer begins with an investment in three things:

No. 1 is innovation. America must continue to be the leading edge on whatever the next wave of technological progress will be in this world.

No. 2, we must have the best educated citizenry in the world so that they in turn can be the most efficient.

No. 3, we must invest in our infrastructure, not just because it contributes to our daily quality of life but because it is a critical factor in our productivity and ability to compete in the world.

We are having a big controversy now over what the elements of America's long-term economic future are. We have people saying outsourcing jobs is going to be the key to our economic success. We have others who say various forms of tax policy. They, in my opinion, miss the point. We have to invest in those things that will make us more productive, and infrastructure is one of the keys to that progress.

I think there are three factors by which you evaluate the legislation that is before us:

No. 1, increasing Federal investment in infrastructure to avoid a further decline in the highway network and to reduce congestion.

No. 2, assuring that users pay for the highway system to avoid additions to America's burgeoning deficit.

No. 3, greater fairness among the States.

I am concerned that SAFETEA will shortchange the American people on all three factors.

First, what should be the goal of transportation funding? From a number of the speeches I have heard on the Senate floor and in committees, it appears as if the debate is over numbers. The President said he will veto any bill that exceeds his proposal of $206 billion for highways over the next 6 years. Senator INHOFE, chairman of the Environment and Public Works Committee, said cutting funding below the $255 billion level for highways would place the allocation of funds among the States in jeopardy. Congressman DON YOUNG, chairman of the House Transportation and Infrastructure Committee, is advocating a level of $300 billion over the next 6 years for highways.

What I think is missing in all of these pronouncements is an evaluation of what these numbers mean to the condition of America's highways over the 6-year life of this legislation.

When the Transportation Act for the 21st Century—TEA–21—was approved in 1998, I stood on this floor and predicted that when the bill expired in 2003, our Nation's transportation system would be in worse physical condition and with a higher level of congestion than on the day we passed the bill. That prediction has, unfortunately, come to pass.

According to the U.S. Department of Transportation's Conditions and Performance Report, capital investment by all levels of government between 1997 and 2000 remained below the cost to even maintain the system we currently have. The result? Overall performance of the system declined.

Since the passage of TEA–21, the highway system has degraded by 6 percent. Twenty-three percent of the highways in the Nation's urban areas are now considered ''unacceptable'' by the standards of U.S. Department of Transportation. Twenty-nine percent of the Nation's bridges are considered structurally deficient or in a deteriorating condition.

Additionally, according to the annual congestion study by the Texas Transportation Institute at Texas A&M University, the agency to which the U.S.

Department of Transportation looks for the evaluation of congestion, the average commute delay in urban areas has increased by 14.3 percent since 1998. This means the commute that used to take 25 minutes in 1998 will now add an extra 2 hours per month to the commute of the average American.

I will make the same prediction today that I made in 1998; that is, if the Senate adopts the funding levels currently in this bill, our Nation's highways will be in worse physical condition, with increased congestion, by the end of this authorization in the year 2009 than it is today, February 11, 2004.

The failure to address these conditions in the past has created the situation we must address in the future. By the U.S. Department of Transportation estimate, by the year 2009 we will face an additional $400 billion in infrastructure backlog and congestion costs will balloon to over $90 billion. We are not even able to maintain the current quality of our roads under the SAFETEA authorization level.

In order to maintain the highway system in its current level of fiscal condition and without increasing congestion, the American Association of State Highway and Transportation Officials estimates that investment of $92 billion a year by Federal, State, and local governments, close to $300 billion of that Federal, will be required over each of the next 6 years. In addition, our problem is compounded by the distinguished majority leader's statement yesterday that SAFETEA, already inadequate, must be trimmed to avoid a Presidential veto.

We are now at a point of decision. Are we prepared to tell the American people we are willing to accept a further deterioration of our highways and bridges and increased congestion? If we have the same experience over the next 6 years that our highway system has experienced in the last 6 years, we will see a degradation from 1998 to 2009 of approximately 12 percent and a commute delay will increase 30 percent.

Is this an acceptable result for the safety, the quality of life, and the economic expectations of the American people? In my judgment, the answer is clear. The answer is no.

The President supports an even more accelerated rate of decline in the conditions and congestions of our highway system than SAFETEA. He has insisted that the highway portion of SAFETEA be funded at $206 billion, roughly 65 percent of what is required just to maintain our highway systems at their current levels. We must do more. We cannot continue to ignore the problem and allow a critical component in our quality of life and our economic future to deteriorate.

I have a second concern. As I stated, a fundamental principle is users should pay for the use they get of our transportation system. That has been a principle throughout our Nation's history, particularly when we launched the Interstate Highway System. President Eisenhower increased the Federal motor fuels tax in order to be able to finance the Interstate Highway System, not leave it as a burden for our children and grandchildren and we, this generation of Americans, are the beneficiary of that wise judgment.

During the Finance Committee consideration of SAFETEA last week, I discussed the option of raising the Federal motor fuel user fees to fund the bill at the level needed to maintain current conditions. Many of my colleagues were not comfortable with the idea of increased fees, raising the Federal user fee just 3.7 cents per gallon. That is what we would be required if it were indexed for inflation to fully fund a Federal program of the $300 billion over the next 6 years, which is required to at least maintain the status quo in the quality of our highways.

Again, President Bush has made it very clear he will not support any highway bill that is financed by an increase in user fees, by bonding, or by funding from the general fund. I am sorry to hear the President neither supports funding the Nation's infrastructure at the levels recommended by his own Department of Transportation, nor does he support the principle that the users of the system should support the levels of investment needed to maintain and improve our highways.

If we are not willing to fund the SAFETEA bill at the appropriate level to maintain their current condition and reduce or maintain the current levels of congestion—to do as the first principle of a physician ''do no harm,'' to the system—if we are unwilling to do that, maybe we should not be considering a 6-year bill at all. Instead, the Senate should work on a 1-year extension of the current program with a commitment to work on a more substantial long-term bill next year after the Presidential elections.

We are not willing to raise fees on those who use our highways but instead have approved ''offsets'' for the spending in SAFETEA. But many questions about how the deficit will be affected as a result of these offsets remain. Last week, the Finance Committee equalized losses to the general fund by using offsets from what already had been used. For example, $22.3 billion worth of already committed tax changes. One offset used is a crackdown on corporate tax shelters, a policy that I have long supported. However, this offset has already been used in two other pieces of legislation approved by the committee and awaiting final action by the Congress—the charitable giving or CARE Act and the JOBS Act, which is our response to the WTO abolition of our current means of financing international transactions and other tax provisions, such as ending the tax bills that come with incorporating in other countries to avoid paying taxes, eliminating tax benefits for individuals who expatriate for tax reasons, and closing tax loopholes uncovered as a result of the Enron scandal again. But, again, these were the provisions that have already been used to fund other legislation.

The fiscal imprudence does not end with using offsets that have already been previously used. The bill also employs a gimmick of requiring corporations to pay their 2009 taxes in order to make it appear in the year 2008 we have raised a sufficient amount of revenue over the 6-year period of the bill. Obviously, the consequences are we will start the next 6 years in the hole because we used money through an accounting gimmick to make it appear as if it were revenue within this 6-year cycle.

These overpaid corporate taxes will ultimately be refunded, however, meaning we do not really offset the cost of the bill over the period that the highway spending occurs. This is shady bookkeeping, reminiscent of the procedures that this body worked so hard in the recent past to reform in the private sector.

Is it fair to offset the spending in this bill with already used revenue raisers or accounting gimmicks? It is duplicative at least, irresponsible at worst. We must legitimately pay for this bill.

Third, I have fought for many years to create a funding structure that is based on equity, on providing States that face the highest level of need with their fair share of Federal funds. This bill has a fatal flaw. It creates a formula for highway funding that has absolutely no solid basis in rationale public policy.

In my State of Florida, traffic delays cost the average motorist in our eight largest cities $485 per year in lost time and fuel. By the year 2020, Florida will add about 6 million new residents, doubling its international trade, and welcome more than 100 million tourists per year. This additional growth will multiply congestion and delay tremendously.

This is only a snapshot of the growing problems in my State and not an uncommon story for many States in the South and West.

Over the past 15 years, America's population has grown by 18 percent. Florida's population has grown at twice that rate, 39 percent. Vehicle miles traveled, a good measure of the use of our highway system, has grown by 48 percent nationally but 90 percent in Florida. Lane miles, a measure of the extent of the system, have grown less than 10 percent nationally over the last decade, and only 11 percent in Florida in the face of a 90-percent growth in the use of our highway system.

High growth States all face similar circumstances. In 1982, just 10 of the 25 most congested areas pursuant to the Telecommunications Transportation Institute study were located in high-growth areas such as Maryland, Colorado, Texas, Arizona, California, and Florida. Today, 15 of the most congested areas in the Nation are in those

States. But the funding formula we are considering has failed to catch up with this reality.

Under SAFETEA, these growth States are continuing to receive the lowest level of return on contributions to the highway fund, despite their obvious and growing needs.

This bill attempts to get these States to 95 percent by providing what is referred to as an equity bonus. But the equity bonus, unfortunately, does not cover all the funds available for distribution. And it will keep our State at the TEA–21 level return of 90.5 cents for every dollar sent to the Federal motor fuels trust fund until the year 2009.

Most important, however, is this entire concept assures that an unfair scheme will remain in place. All States should be guaranteed equal treatment with a formula that incorporates a yearly increase in the rate of return or the glidepath to get all States to a 95-percent return on the amount of funds they send to the motor fuel tax by 2009.

The bill we voted out of committee was significantly different from the bill we will vote on here on the Senate floor. The pending committee amendment exceeds 1,300 pages and includes significant changes from the status of the bill as it left the committees. This means the formulas which have been circulated by the committees of jurisdiction at the start of the debate no longer reflect the state of the bill.

For example, what effect will the Finance Committee's actions have on State-by-State allocations? A provision approved by the Finance Committee to change the way gasohol is taxed will change each State's contribution levels to the highway trust fund.

Will any of the amendments accepted by the managers of the bill affect the equity bonus, diluting the rate of return to our States?

This seems to be part of a disturbing trend in this body. Whether it is the energy bill, the prescription drug bill, or now it seems the transportation bill, there is a tendency to pass things now and ask the tough questions later. That practice is unacceptable in the world's greatest deliberative body.

Before the vote on cloture on SAFETEA, the Senate should be honest about what SAFETEA will do. One, it will guarantee our roads, bridges, and transit systems will be in worse shape in 2009 than they are today. Is that acceptable? It will increase the size of the Federal deficit. Is that acceptable? It will ensure that States will not receive their fair share of Federal highway funding. Is that acceptable? The answer is no.

Are Members of the Senate comfortable moving forward and approving a bill this week with open questions about how the formulas work, at what level the bill will be funded, and how any changes made here on the Senate floor will affect the ''delicate balance'' as described by the chairman? I am not satisfied. For these reasons, I will oppose cloture.

Thank you, Mr. President.

AMENDMENT NO. 2311

Mr. ROCKEFELLER. Mr. President, I rise today in strong support of Senators CANTWELL and KENNEDY's amendment to reinstate and extend the Federal unemployment insurance program. This measure would provide 6 additional months of financial assistance to thousands of West Virginians and millions of Americans who have exhausted their regular state-funded benefits. This support is desperately needed and deserves immediate attention.

The Temporary Extended Unemployment Compensation, TEUC, program expired on December 31, 2003. In response to a slowdown in the American economy, Congress created this program in March 2002 to provide federally-funded unemployment benefits to the long-term unemployed who want to work, and who are looking for work, but are unable to find employment in the current economic climate. As all of my colleagues are aware, Congress extended the program twice, in January and May of 2003 respectively, because jobs remained scarce and new ones were not being created. Now, with millions of our constituents still looking for work and with 90,000 workers exhausting their State-funded benefits each week millions of Americans need our help once again.

Over the past two years our economy has suffered through a difficult recession. Recently, however, according to some economic indicators, it does appear to be turning the corner. At least the data indicates we are poised to return to better and improved economic output from years past. This is some encouraging news, but it is long overdue. Despite strong economic growth over the last two quarters of 2003 and a surge in the financial markets, jobs continue to be hard to find. At this time, there is merely one job opening for every three out of work Americans. This is totally unacceptable. We cannot merely continue to muddle through a ''jobless recovery''—we must get the unemployed the relief they need.

Those who oppose extending emergency unemployment insurance have also argued that recent improvements in the economy and the labor market demonstrate that the program is no longer needed. How can the administration tout upward trends as a major economic turnaround when so many Americans are still struggling so hard just to make ends meet? The White House claims that jobs are one of the administration's primary concerns. Yet, I am troubled that the White House has been conspicuously silent about unemployment insurance, which has been proven to boost economic output. It has been reported that continuing the Temporary Emergency Unemployment Compensation, TEUC, program would be the single best mechanism to boost the economy, giving the economy a $1.73 jolt for each $1 of Federal benefits. Unemployment insurance benefits are excellent stimulus because they aid people who are likely to spend additional resources immediately.

Opponents to the extension cite a drop in the national unemployment rate, among other improvements in the economy, to justify phasing out this program that serves as the final safety net for workers across the country. It is true that the Nation's unemployment rate has dropped, albeit minimally, over the past few months. But it is clear that these numbers are misleading. A closer look at the numbers reveals that thousands of Americans are so frustrated they actually gave up looking for work altogether and dropped out of the labor market. Nearly 15 million Americans are out of work and the number of long-term unemployed remains enormously high, at almost 2 million. Constituents in my home State of West Virginia have been particularly vocal about the seriousness of this situation. In January, nearly 1,200 West Virginians exhausted their State-funded benefits. That number will jump to nearly 7,000 over the next 6 months. If we pass this amendment, more than 8,000 of my constituents would get the help they need and deserve.

My offices are taking calls from West Virginians who need such help. One example is a woman who lost her job due to company layoffs. She decided to return to school so that she could learn new skills and reenter the workforce better prepared for an uncertain future. My constituent was depending on the TUEC benefit to help finance her education. Without extending these benefits, how will she make ends meet until she finishes her training? I believe that it's a matter of this administration's priorities. And I very much worry we do not have our priorities straight.

Lack of jobs is the primary culprit. But what is equally troubling is that there is a clear shift of jobs from high-paying industries to lower-paying sectors. This fundamental change in the job market was precipitated by a variety of factors. But simply replacing a good, secure, and well-paying position that includes health insurance and pension benefits with a minimum wage job just doesn't cut it. And sadly, it appears as if this administration is content to tout the creation of new low-paying jobs as stimulus, comparable to the 2.6 million manufacturing jobs that were lost since this President took office. West Virginia alone has lost about 9,800 manufacturing jobs over the last few years.

Congress must recognize the urgency of this problem. We must move quickly to reinstate this program, not only to assist the unemployed, but also because in doing so we will provide our home states with additional resources that will immediately infuse economies across the country with more spending power.

We can afford to help our fellow Americans. Every worker contributes

to the Unemployment Insurance Trust Funds so that in times of need benefits are available. Failure to act would send a very negative message to the large number of Americans struggling to make their way in this difficult job climate. Not extending benefits is harsh on the unemployed and their families.

Mr. LIEBERMAN. Mr. President, for working families in the State of Connecticut and across the country, these are hard economic times. Millions have lost their jobs, and millions more fear they might lose theirs soon. Outsourcing American service jobs overseas, as the President's economic advisors suggest, would only add to the unemployment rolls and to growing anxieties. What American needs is not a plan for creating jobs abroad, but a plan for creating jobs here at home.

Nearly all sectors have been affected by the national economy's sluggish performance during the past 3 years, with job losses across the board. The manufacturing sectors has been hit particularly hard. In the State of Connecticut, nearly 26,400 manufacturing jobs have been cut in the past 38 months, and 33,500 since January 2001. Most of these jobs have gone overseas.

In addition to manufacturing job loss, services and high-tech jobs are also being sourced outside the United States—to lower cost, lower wage countries. The employment trends in this sector are harder to quantify, but the impact is no less real. They threaten to put U.S. technological competitiveness and future economic growth at risk.

The Bush administration has done next to nothing to stop this hemorrhaging—relying instead on factory photo-ops, toothless trade missions and new organizational charts. The latest comment from President Bush's top economic advisers that the outsourcing of U.S. service jobs to workers overseas is good for the Nation's economy only underscores the administration's lack of understanding and leadership on this issue.

Instead of policies that shift jobs overseas, we need to create jobs in this country. We need to strengthen enforcement of trade agreements; provide tax credits to keep manufacturing jobs in the United States; promote innovation through Federal research and development policy; leverage Federal purchasing power; create tax incentives for investment in manufacturing modernization and expansion; and strengthen manufacturing and service workers' skills.

Today I join my Senate colleagues in sponsoring a resolution that tells President Bush—loudly and clearly—we will oppose efforts to encourage the outsourcing of American jobs overseas and instead provide a manufacturing tax incentive to encourage job creation in the United States.

Ms. SNOWE. Mr. President, I rise today in strong support for S. 1072, the Safe, Accountable, Flexible and Efficient Transportation Equity Act, the Senate version of the highway bill, also known as SAFETEA.

Few things that we in Congress do this year will have as great of an impact on our fellow citizens as enacting a 6-year successor to the 1998 Transportation Equity Act for the 21st Century, TEA–21. Simply put, enacting a highway bill this year will create jobs, reduce congestion and cut down on highway fatalities in every city and town across the country.

Debate on this bill is long overdue, as TEA–21 originally expired on September 30, 2003, and thus it has been necessary to extend these programs until the end of February. The primary reason for this delay was that the Senate was unable to come to an agreement on how to raise the necessary revenue to provide the $311 billion in funding for highways and transit over 6 years that 79 Senators—myself included—voted for as part of the fiscal year 2004 budget resolution.

As such, I was pleased to have been able to support, as a member of the Senate Finance Committee, a revenue package that I feel will break the logjam on this issue and allow us to move forward on enacting a comprehensive, 6 year surface transportation bill this year. The Finance Committee bill, which was adopted on February 2 by a vote of 17 to 4, generates the Senate 6-year funding level without raising the Federal gasoline tax, resorting to tax-credit bonds or negatively impacting the general fund.

Like many of my colleagues, I would have serious concerns about any financing proposals that would raise taxes on American consumers and small businesses, or that would require massive general fund transfers for transportation programs. I commend Chairman GRASSLEY and Senator BAUCUS for navigating through these challenges on highway financing and increasing the likelihood that Congress will get the job done this year.

We have a big job to do in a small amount of time. It is critically important to our State Departments of Transportation that we enact a 6-year bill as soon as possible. States are clamoring for a comprehensive highway bill because, in addition to the funding they stand to get, a full reauthorization allows them to plan for the future. Without such a long-term bill, major projects—including many in my home State—simply cannot go forward. It is regrettable that Congress did not complete its work in 2003 by reauthorizing these programs. Thus, we must seize this opportunity and fulfill our duty now—another 6-month delay is simply not acceptable.

As we debate the appropriate level of spending in this bill, let us not lose sight of the fact that our country's transportation funding needs are simply staggering. If we want to start improving—let alone maintaining—the current system of highways, bridges, and transit infrastructure in this country, overall Federal surface transportation spending must reach at least $75 billion annually by fiscal year 2009, according to a 2002 Department of Transportation's, DOT, Conditions and Performance report. The bill before us today provides $255 billion for highways and $56.5 billion transit over six years. To put those numbers into context, they translate into an average annual Federal investment of $51.8 billion per year through 2009 under SAFETEA—still far short of the figured cited by DOT needed to improve our country's transportation infrastructure.

While the DOT's 2002 report gives us an idea of the funding levels needed nationwide to enhance our transportation system, I wanted to speak for a moment on the funding needs of my home State of Maine. The Maine highway system is the most important facet of a transportation network that serves the largest State in the northeastern United States, and totals 22,612 road miles, which includes 367 miles of interstate highways. And as a State with an abundance of islands, rivers, lakes and streams, the State of Maine maintains an extraordinary number of bridges, including 3,564 highway bridges with at least a 10-foot span.

Today, Maine's highway system is carrying an ever-growing volume of vehicles. Highway use has increased from about 7.5 billion vehicle miles in 1980 to more than 13 billion vehicle miles traveled, VMT, in 2000. The Maine Department of Transportation's, MDOT, Twenty Year Transportation Plan projects that VMT will grow by 18 percent, to about 16 billion VMT, by the year 2020.

Put simply, the most pressing issue facing this extensive transportation system is its age. As MDOT's Twenty Year Plan puts it:

> Our most dramatic challenge is that our infrastructure is aging. Roads, bridges . . . and other facilities that were built decades ago are now reaching, or have surpassed, their life expectancies. In many cases, this translates into the reality that repairs and rehabilitation are no longer appropriate; the time has come for many replacement and reconstruction projects. This is especially true for a significant number of major bridges around the State, some of which offer the only practical and cost-effective method for crossing rivers and other bodies of water.

Given the challenges facing the State in maintaining its transportation infrastructure, and given that a good road system is absolutely critical to economic development and job creation in both rural and urban areas of Maine, I am pleased with the projected funding for Maine in the formula section of S. 1072. Over the 6-year life of the Senate bill, Maine will receive $1.169 billion in highway funding, an increase of $292 million, or 33.4 percent, from Maine's 1998 TEA–21 funding. This funding increase is particularly critical when considering that during the last reauthorization in 1998, when the average State increase was 40 percent, Maine received only a 17 percent increase.

I commend Chairmen INHOFE and BOND, and Senators JEFFORDS and REID

for their careful consideration and hard work on these formulas. In doing so, they have recognized that Maine, as the largest State in New England in terms of landmass, but with a relatively low population density, simply needs all the help it can get from the Federal Government with the costs of maintaining the national highway system

While I am certainly optimistic about the funding Maine will receive under the EPW Committee's proposed formulas, I also intend to fight for ''high priority project'' funding for several Maine road and bridge projects that are in dire need of Federal support. These important projects include the replacement of the 72-year-old Waldo-Hancock Bridge over the Penobscot River; the Aroostook North-South Highway project to connect the northern part of my State with the terminus of I–95 at Houlton; an East-West Highway running from Calais, ME, to the New Hampshire border that will address the woeful state of east-west connectivity in Maine; and the Gorham bypass, a vital congestion mitigation project in southern Maine.

While first-class roads are important for economic development, safe roads are just as essential to the quality of life of our citizens. As such, during the reauthorization process I intend to raise an issue of utmost importance to Maine: that of keeping heavy trucks off of our local roads. Safety must be the No. 1 priority on our roads and highways, and I have long been concerned that the existing interstate weight limits in my State have the perverse impact of forcing trucks onto State and local secondary roads that were never designed to handle heavy commercial trucks safely. These State and local routes are narrow roads with narrow lanes, and rotaries, with frequent pedestrian crossings and school zones.

Federal law attempts to provide uniform truck weight limits—80,000 pounds—on the interstate system, but the fact is there are a myriad of exemptions and grandfathering provisions. Furthermore, interstate highways have safety features specifically designed for heavy truck traffic, whereas the narrow, winding State and local roads do not.

Because of these long-standing safety concerns, MDOT has spent the last several years studying the potential impacts of waiving the Federal weight limits throughout the State. The preliminary results of their study clearly show the wisdom of allowing heavy trucks to travel on the interstate system rather than local roads. Specifically, MDOT estimates that waiving Federal weight limits would result in three fewer truck crashes in Maine every year. In addition to the safety benefits, waiving weight limits would save MDOT between $1 million and $1.65 million every year on pavement costs, and approximately $300,000 per year on bridge rehabilitation costs. Overall, when considering safety and road construction costs, the economic benefit to the State and Maine citizens would be between $1.6 million and $2.3 million annually.

The safety and economic benefits of getting heavy trucks off of Maine local roads and onto the interstate are enormous. As such, I have filed an amendment to the highway bill that would simply direct the Secretary of Transportation to establish a 3-year pilot program to improve commercial motor vehicle safety in the State of Maine. Specifically, the measure would direct the Secretary, during this period, to waive Federal vehicle weight limitations on certain commercial vehicles weighing over 80,000 pounds using the interstate system within Maine, permitting the State to set the weight limit. In addition, it would provide for the waiver to become permanent unless the Secretary determines it has resulted in an adverse impact on highway safety. I believe this is a measured, responsible approach to a very serious public safety issue.

I am aware that the current truck weight limit impacts different States in different ways, but for Maine, at the heart of the issue is a simple question: Do we want heavy trucks on the highway, where they belong, or on local roads running right through the heart of our communities? I hope to work with the chair and ranking member of the EPW Committee to address this issue as we consider the highway bill.

Another priority of mine during TEA–21 reauthorization process, as a member of the Senate Committee on Commerce, Science and Transportation, is the issue of our country's intercity passenger rail system. Until December 2001, Maine was one of only a handful of States in the continental United States not served by passenger rail service. I am proud that after a decade of hard work and negotiations, Maine has become a member of the Amtrak family—with service from Boston to Portland, Maine. The State of Maine is also working on plans to upgrade the Boston-Portland line to a high-speed rail service, and also may extend the line even further north in the future.

In June 2003, the Commerce Committee—with my support—voted to consider Amtrak reauthorization and TEA–21 reauthorization together. Since then, I have been working with a bipartisan coalition of Senators to make that proposition a reality, including Senators HUTCHISON, HOLLINGS, and CARPER. Rail is a part of our surface transportation system, and I will fight to make sure that a rail title is included in the final highway legislation sent to the President. Simply put, including a passenger and freight rail title in this bill will build on the existing foundation of passenger rail in Maine and further connect my State to the Nation's transportation system—a prospect about which I am very excited.

I conclude by saying that another reason I support the legislation we are considering today is because it is not just a roads bill, or a transit bill, or a safety bill, it is also a jobs bill. The Department of Transportation estimates that every $1 billion in new Federal investment creates more than 47,500 jobs. The funding in the Senate EPW comprehensive 6-year bill of $255 billion will create approximately 2 million new jobs nationwide, and will create or sustain almost 57,000 highway-related jobs in my home State of Maine. The economic stimulus this bill will provide is reason alone to enact it as soon as possible.

I am pleased that the Senate is poised to complete consideration of this legislation. I look forward to working my colleagues with a sense of urgency over the next few days on enacting a comprehensive 6-year surface transportation bill this year.

BUDGET PROCESS REFORM

Mr. CONRAD. Mr. President, this amendment contains provisions that are within the jurisdiction of the Budget Committee, on which I serve as ranking member. Specifically, it amends the Budget Enforcement Act, establishing spending levels for highways and mass transit for fiscal years 2004 through 2009. It also expresses the sense of the Senate that comprehensive budget enforcement measures should be enacted this year, addressing discretionary spending, mandatory spending, revenues, and all areas of the Federal budget.

This bill is not the proper vehicle for considering budget process reform. All of the members of the Budget Committee—including those who will not be conferees on the bill pending before us—deserve the opportunity to weigh in on discretionary spending caps, pay-as-you-go, and other budget enforcement. Those issues should not be presented to the Senate without having been considered by the Budget Committee. They therefore have no place on this bill.

Mr. NICKLES. I agree that the pending transportation bill is not the place to consider budget enforcement provisions within the Budget Committee's jurisdiction. Even though the budget enforcement provisions in this bill are meaningless in the absence of other process measures, I did not support their inclusion. Enacting statutory budget enforcement this year will require bipartisan cooperation, and the most appropriate way to ensure that is to consider these issues through the regular order. I will work closely with the Senator from North Dakota to make sure all Senate Budget Committee members have an opportunity to provide input on these issues.

Mr. FRIST. I concur with the chairman of the Budget Committee and agree with the sentiments expressed by the Committee's Ranking Member. Indeed the provisions in this legislation establishing transportation spending categories are somewhat meaningless unless we enact broader enforcement tools. Those broader enforcement tools

should be addressed separate and apart from this legislation.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. COLEMAN). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate now proceed to a period of morning business with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

HONORING OUR ARMED FORCES

CORPORAL JUAN C. CABRALBANUELOS

Mr. HATCH. Mr. President, these truly are ''the times that try men's souls'' and challenge our resolve as a Nation. Today, it is with profound regret that I stand to pay tribute to a true patriot of liberty who gave his life so that others may live in freedom. His name was Juan C. Cabralbanuelos and he was a soldier in the U.S. Army.

Many have stood in this chamber to reflect on the loss that our Nation has felt and the price that it has paid to remain free. Today, I stand to remember one who was a citizen of another nation, one who loved the United States and freedom so much, he was willing to give his life to preserve an idea: freedom. He truly deserves the honor of being called an American patriot.

Coporal Cabralbanuelos leaves behind a wife Anita and two sons ages seven and one. To them, I know that nothing that I say here will temper your grief. But know this: your loss will not go unnoticed and unrecognized, your fellow Americans now and always will stand behind you and support you through the trying times ahead.

And so another name has been added to Utah's List of Honor: Corporal Juan Carlos Cabralbanuelos. He joins an illustrious list that includes Specialist David J. Goldberg, US Army Reserve; Captain Nathan S. Dalley, West Point graduate and a member of the Army's 1st Armored Division; staff Sergeant James W. Cawley, United States Marine Corps Reserve; Staff Sergeant Nino D. Livaudais of the Army's Ranger Regiment; Randall S. Rehn, of the Army's 3rd Infantry Division; Sergeant Mason D. Whetstone of the United States Army; and former Special Forces soldier Brett Thorpe.

Their names and the service they performed is something that I shall never forget. I shall always honor them and their families.

SPECIALIST JUSTIN A. SCOTT

Mr. BUNNING. Mr. President, today I will take the opportunity to honor the service of Spec. Justin A. Scott of Bellevue, KY. His death while performing his duty to this country is a great loss to us all.

On January 29, 2004, Justin and 11 other soldiers were investigating a cache of weapons about a hundred miles short of Bagram Air Base in Afghanistan. Suddenly, there was an explosion and Justin and seven other soldiers were killed. I offer my sincerest condolences to Spec. Scott's family and loved ones.

His service with the 87th Infantry Regiment of the 10th Mountain Division at Ft. Drum, NY, was exemplary and duly appreciated. As one of the U.S. Senators from Kentucky, I know that Spec. Scott served as a fine example of what it means to be a true patriot and an American of the highest caliber.

We are humbled and honored by the sacrifice Spec. Scott has made. His loss reminds us of the heavy cost exacted for our freedom. We must remember that the American way of life has been made possible by the bravery of men and women like Spec. Scott. When freedom has been challenged many like him have answered the call to arms. We must never forget that.

DAVID KAY'S SENATE TESTIMONY

Mr. KYL. Mr. President, there has been a great deal of focus on the recent Senate testimony of David Kay, the former head of the Iraq Survey Group. Unfortunately, most media reports have highlighted only those statements by Dr. Kay that might be used to criticize the administration. They have largely ignored Dr. Kay's assertions that Iraq was more dangerous than we even realized prior to the war, that Saddam Hussein clearly intended to continue developing weapons of mass destruction, and other statements which contradict the false notion that the administration ''hyped'' intelligence on Iraq.

I thought it would be beneficial for the American people to have a chance to read Dr. Kay's entire testimony, including his edifying exchanges with members of the Senate Armed Services Committee.

I therefore ask unanimous consent that his entire testimony be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

HEARING, SENATE ARMED SERVICES COMMITTEE, JANUARY 28, 2004

(Joined in progress due to committee hearing room audio system).

WARNER: . . . a further report—and I stress a further report—from Dr. David Kay on his efforts and the efforts of the team which he was privileged to work with, known as ISG. He served as the special adviser to the director of Central Intelligence in determining the status of weapons of mass destruction and related programs in Iraq.

After assuming this position last July, Dr. Kay made his initial interim official report to this committee on October 3rd. As members of the committee are aware, Dr. Kay has stepped down from this position and has been succeeded by Mr. Charles A. Duelfer, a former colleague and member of the U.N. Special Commission with Dr. Kay, who has been appointed by Director Tenet to continue this important mission.

I met with Mr. Duelfer the day before yesterday and we just momentarily met with him in the Intel Committee room.

Dr. Kay volunteered—and I emphasize that—volunteered to resume his public service, worked diligently for six months in Iraq under difficult and often dangerous conditions, and just concluded his work last week and reported to the director of Central Intelligence.

I thank you and I thank your wife for public service.

Working with General Dayton and the Iraq Survey Group, ISG, your mission was to search for all facts—repeat, all facts—relevant to the many issues about Iraq weapons of mass destruction and related programs. You initiated what was and continues—I emphasize continues—to be a very difficult, complex mission that, in you own words, is yet to be completed.

As you cautioned us when you took up this post in July, patience is required to ensure we complete a thorough assessment of this important issue.

In this hearing today we hope to receive your assessment of what has been accomplished to date—I repeat, to date—and what in your professional judgment remains to be done by the ISG. It is far too early to reach any final judgments or conclusions.

In recent days, I mentioned, I met with both General Dayton, I've met extensively with your over the recess period, and Mr. Duelfer, and received the assurance of Dayton and Duelfer that they will be prepared to present to the Congress a second official interim report of the ISG group in the time frame of late March.

WARNER: It is crucial that the important work of the ISG group go on. Thus far the findings have been significant.

Dr. Kay has stated that, although we have not found evidence of large stockpiles of WMD, or forward-deployed weapons, the ISG group have made the following evidence as a part of their record that will be forthcoming: first, evidence of Saddam Hussein's intent to pursue WMD programs on a large scale; actual ongoing chemical and biological research programs; an active program to use the deadly chemical ricin as a weapon, a program that was interrupted only by the start of the war in March; and evidence of missile programs; and evidence that in all probability they were going to build those weapons to incorporate in the warheads, what we know not for sure, but certainly the possibility of weapons of mass destruction; evidence that Saddam Hussein was attempting to reconstitute his fledgling nuclear program as late as 2001; and, most important, evidence that clearly indicates Saddam Hussein was conducting a wide range of activities in clear contravention of the United Nations resolutions.

As you recently stated, Dr. Kay—and I quote you—''It was reasonable to conclude that Iraq posed an imminent threat. What we learned during the inspection made Iraq a more dangerous place potentially than, in fact, we thought it was even before the war,'' end quote.

WARNER: Further, you said on NBC's ''Today Show'' on Tuesday that it was, quote, ''absolutely prudent for the U.S. to go to war.''

Dr. Kay, I concur in those conclusions. I believe a real and growing threat has been eliminated and a coalition of nations acted prudently in the cause of freedom. I'd be interested if you concur in my conclusions.

While some have asserted that the president and his senior advisers may have exaggerated or manipulated prewar intelligence on Iraq's WMD programs, Dr. Kay reached the following conclusion, which I think is different.

As you stated recently, quote, ''We have to remember that this view of Iraq (prewar assessment of WMD capabilities) was held during the Clinton administration and did not change in the Bush administration. It is not a political got-you issue. Often estimates are different than reality. The important thing is when they differ to understand why,'' end quote.

That's precisely why I called this meeting, Dr. Kay, to continue the work of this committee in developing a body of fact from which reasonable people, at the conclusion of that collection of facts, can reach their own objective thoughts and conclusions. It's been a difficult process but the ISG work is not completed.

Now, you have stated that you believe there did not exist large stockpiles of biological and chemical weapons. But I hope that you will, in your testimony, indicate that since work is not completed, since Iraq is as big as California and Baghdad approximates the sprawling territory of Los Angeles, that we could find caches and reserves of weapons of mass destruction, chemical or biological or even further evidence about their nuclear program.

WARNER: We also would hope that you'd address the question of whether or not Saddam Hussein had some kind of, quote, ''breakout capability'' for quickly producing chemical or biological weapons, and was this not a basis for constituting a conclusion that there was an imminent threat from Saddam Hussein and his military?

Why were the Iraq WMD records systemically looted or destroyed? And why do scientists in custody today continue not to be forthcoming if there was nothing to hide or nothing substantial existed?

The work of the Iraq Survey Group has shown that Saddam Hussein had WMD intentions, had WMD programs that did survive, and did outwit for 12 years the United National Security Council and the resolutions—indeed, the inspections, in large measure.

If ultimately, the findings of the Iraq Survey Group do differ from the prewar assessments of our intelligence community, differ from assessments of the United Nations, differ from assessments of intelligence services of many other nations, indeed that is cause for concern. But we are not there yet in terms of the totality of fact on which to draw such serious conclusions.

Today and tomorrow, our policy-makers must be able to rely on the intelligence they are provided. The safety and security of the men and women of the armed forces are dependent on intelligence and, indeed, the security of our Nation.

So collectively, all of us—the Congress, the executive branch and other nations—we must vigorously continue to pursue the collection of the facts, as the ISC is doing, and upon that completion, then draw our conclusions and take such corrective measures as may be necessary.

WARNER: As we speak, over 1,400 individuals—military and civilian—are on the ground in Iraq seeking the facts about Iraq's WMD programs. I have confidence in the commitment and the ability of General Dayton, Mr. Duelfer, your successor, and representatives from our coalition partners to complete this mission. They have some of the best and brightest of our military and our intelligence community to complete this task. And Congress has provided the necessary means, a very substantial appropriation of recent.

We remain committed to providing the resources that are necessary for the completion of the ISG work.

Dr. Kay, I thank you for your public service once again.

BELARUSIAN AUTHORITIES CONTINUE TO STIFLE DEMOCRACY

Mr. CAMPBELL. Mr. President, as co-chairman of the Commission on Security and Cooperation in Europe, I want to update colleagues on developments in the Republic of Belarus, a country with the poorest human rights record of any country in Europe today. In the last year, Belarusian dictator Lukashenka's assault on civil society has steadily intensified, with the liquidation of NGOs, violence against opposition activists, and repression of the independent media and trade unions. The situation in Belarus continues its downward spiral with daily reports of growing repression and new human rights violations.

Since the beginning of the still relatively new year, NGOs such as the Belarusian Language Society and the Belarusian Helsinki Committee have stepped up harassment. The Minsk City Court has ordered the liquidation of the Independent Association of Legal Research. Leaders of the opposition ''Five Plus'' bloc, who are in Washington this week, were recently detained and searched by customs officials at the Polish-Belarusian border. The officials were reportedly looking for printed, audio or video materials that could ''damage the political and economic interests of the country.'' Human rights activists or independent journalists such as Natalya Kolyada, Nina Davydowskaya, Iryna Makavetskaya, Aksana Novikava and Aleksandr Silitsky continue to be subjected to threats, detentions or heavy fines. Others, including activists of the youth group ZUBR, have been arrested for holding an unauthorized picket demanding a thorough investigation of the disappearances of three democratic opposition members Yuri Zakharenka, Victor Gonchar, Anatoly Krasovsky, and journalist Dmitri Zavadsky.

Independent media outlets also continue to feel the wrath of the powers that be, including libel proceedings against Narodnaya Volya, Belarus' largest independent daily; the confiscation of Asambleya, a bulletin of the Assembly of the Belarusian Democratic NGOs; the refusal by the Belarusian Postal Service to distribute the independent newspaper Regionalniye Novosti; the confiscation of copies, in the town of Smorgon, of the independent newspaper, Mestnaya Gazeta; and the censoring of the independent newspaper Volnaya Hlybokaye in the Vitebsk region. Several Jewish cemeteries are being destroyed, Baptist congregations are being fined and Krishna followers detained.

In an unusual step, the International Labor Organization, ILO, has established a commission of inquiry—only the eleventh time in the body's 84-year history—to examine violations of trade union rights in Belarus. Meanwhile, the Parliamentary Assembly of the Council of Europe's Committee on Legal Affairs and Human Rights unanimously ratified a report on political disappearances in Belarus. The just-released report severely criticizes the Belarusian authorities, stating that ''steps were taken at the highest level of the State actively to cover up the . . . disappearances'' of several high-profile members of the opposition in 1999 to 2000 and that senior Belarusian officials may be involved.

Last year I introduced the Belarus Democracy Act of 2003, S. 700, which is designed to help promote democratic development, human rights and rule of law in the Republic of Belarus, as well as encourage the consolidation and strengthening of Belarus' sovereignty and independence.

While some might be tempted to dismiss Belarus as an anomaly, the stakes are too high and the costs too great to ignore. It is important for us to stay the course and support Belarus in becoming a genuine European state, in which respect for human rights and democracy is the norm and in which the long-suffering Belarusian people are able to overcome the legacy of dictatorship—past and present. The Belarus Democracy Act—which enjoys bipartisan support—is an important, concrete way to exhibit our support. I urge colleagues to support this measure and look forward to timely consideration of the Belarus Democracy Act.

AMERICAN HOSTAGES IN COLOMBIA

Mr. DODD. Mr. President, it has been almost a year since three Americans—Marc Gonsalves, Keith Stansell, and Thomas Howes—were taken hostage by the Revolutionary Armed Forces of Colombia, FARC. The presence of American hostages in Colombia is deeply troubling, and one can only imagine the struggles and trials that these three brave individuals have had to endure since their plane crashed in the Colombian jungle last year on February 13. I rise today to again call attention to their plight and urge the Bush administration and Colombian Government to do everything possible to gain their release.

There is no higher priority than finding a way to bring these three Americans home safely, and I know that all of our prayers remain with them and their families during these difficult times. For the families of Marc, Keith, and Tom, this past year has been a heart wrenching experience. I have a special interest in the fate of Marc Gonsalves, whose mother, Jo Rosano, is a Connecticut resident. Marc's father, George Gonsavales, is also a resident of our State.

At every opportunity, I have worked to bring about the release of these three Americans. Indeed, over the last

8 months whenever I have met with Colombian President Uribe or other Colombian officials, I have urged them to make every effort to gain their release. President Uribe indicated to me that the Colombian military continues every day to search for them and that these efforts will not cease until they are found.

In addition, during a hearing last fall of the Senate Foreign Relations Committee, I urged the now-serving United States Ambassador to Colombia, William Wood, to make their rescue his highest priority. He pledged to do so and has kept me informed of developments in this matter. I have also continually urged the Bush administration to provide all means of assistance, including technological assistance, to bring about the safe rescue of Marc, Keith, and Tom. It is my understanding that the administration continues to work with Colombian authorities to locate them.

Certainly, their rescue will not be easy. However, I have to believe that more can be done. This must be the highest of priorities. The airing last year of the videotape showing them in captivity only further highlights the importance of this effort.

The families of Marc, Keith, and Tom will find no rest until their sons, husbands, fathers, and brothers return home safely. I will be meeting with Jo Rosano tomorrow, when she, along with other family members of the hostages, come to Washington, DC on the anniversary of this tragic incident to urge United States policymakers not to forget their family members in captivity.

And I will tell her what I have said here today: that we must make every effort and we must leave no stone unturned in our search. As Americans, Marc, Keith, and Tom are also our sons—they are members of our extended American family. For my part, I pledge to continue to do everything possible to ensure their speedy release and safe return. I urge the Bush administration and Colombian Government to do the same. We must not rest until they are all home safely.

LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

One such crime occurred in Honolulu, HI, in August 1998. A heterosexual man was found dead in a public shower. He had been brutally killed by a group of teenagers because they thought he was gay.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

ADDITIONAL STATEMENTS

CELEBRATING THE ''SEUSSENTENNIAL''

• Mrs. BOXER. Mr. President, each year on March 2 thousands of schools and millions of children take part in Read Across America, the National Education Association's annual celebration of reading and literacy. The date is no accident: March 2 is the birthday of Theodor Seuss Geisel, better known as Dr. Seuss.

As much as anyone in the past century, Dr. Seuss helped children learn to love reading by making it fun and exciting. In my frequent visits to classrooms and afterschool programs, I often read to young children, and I have found that Dr. Seuss is their favorite author.

His books are read and treasured everywhere—particularly in California, where he spent most of his adult life. In 1948, he bought an old observation tower in La Jolla, CA. For the rest of his life, The Tower was his residence and workshop. Every morning, Ted Geisel would walk into his studio, lock the door, and become Dr. Seuss. Drawing on his extensive collection of hats—inspired by ''The 500 Hats of Bartholomew Cubbins''—Dr. Seuss would put on a ''thinking cap'' and get to work.

The books that came out of The Tower—including ''The Cat in the Hat,'' ''Green Eggs and Ham,'' ''If I Ran the Zoo,'' ''Horton Hears a Who,'' ''And to Think That I Saw It on Mulberry Street,'' ''How the Grinch Stole Christmas,'' and ''Oh, the Places You'll Go!''—are among the best-known and best-loved classics of children's literature.

Dr. Seuss inspired Read Across America because he opened the door to literacy for generations of children by engaging them with gentle humor and fantasy.

The 2004 Read Across America is extra-special because it is the ''Seussentennial''—Dr. Seuss's 100th birthday. The celebration has already begun in schools and community centers across America, where kids are making giant birthday cards, collecting hats, and, of course, reading lots of good books.

As we approach the ''Seussentennial,'' I invite children and grownups everywhere to celebrate the joy of reading by honoring a great American author and educator, Theodor Seuss Geisel.•

HONORING R. LEWIS SHAW

• Mr. GRAHAM of South Carolina. Mr. President, I wish to recognize the accomplishments of one of my constituents, R. Lewis Shaw and to commend him for his tenure as deputy commissioner for environmental quality control at the South Carolina Department of Health and Environmental Control as he leaves after 33 years of service.

Lewis began his career with the department as the district director for the Wateree district office, and later served as chief of the Bureau of Water Supply. Lewis was promoted to deputy commissioner of environmental quality control in 1984 and has provided exemplary leadership since that time. Under Lewis's leadership, the environmental quality control programs have grown to keep pace with national and State initiatives and are considered by the United States Environmental Protection Agency to be among the best State environmental programs in the Nation.

Lewis has also been active in shaping national environmental policy over the past two decades by serving on numerous national committees, often as chairman, which advise both the Environmental Protection Agency and the United States Congress. He has on several occasions presented testimony to both House and Senate committees regarding the impact of proposed Federal environmental legislation on individual States. Lewis has earned the respect of his counterparts in other States and has served as president of their national association known as the Environmental Council of the States. Lewis is currently the longest serving State environmental program director in the Nation.

A graduate of the University of South Carolina with a degree in chemical engineering, Lewis also earned a graduate degree in environmental engineering from Clemson University, and is a registered professional engineer in South Carolina. Lewis is married to the former Judy Brown and has two children, Jason Shaw and April Shaw McCaskill.

I invite you to join me in thanking R. Lewis Shaw for his service and dedication to the natural resources and the citizens of the State of South Carolina.•

A LIVING LEGACY

• Mr. SMITH. Mr. President, I rise today to honor one of Oregon's unsung heroes, Jim Willis. For many years, Mr. Willis has dedicated his life to assisting and enriching the lives of countless Oregonians. His story should serve as an inspiration to us all as we try to make our country a better place.

He was raised in California and attended the University of California at Santa Cruz. Upon graduation he was accepted for graduate school of the prestigious University of California at Berkeley, yet he never had the opportunity to complete his degree when his father became ill. Willis returned to be with his father in Bishop, CA, where he worked as the Education Department director for the Owens Valley Paiute Tribes. The experience set the tone for

a long career in tribal and educational organizations.

Willis arrived to Roseburg, OR, in the early 1980s, continuing his work at Umpqua Community College in the Student Services department, and later at Rogue Community College as a financial aid officer, helping hundreds of young adults explore their career opportunities. After leaving his mark on the education arena, he decided to serve local American Indian tribes in their quest of cultural restoration and economic self-sufficiency.

In 1982, Willis began working with the Confederated Tribes of Siletz Indians, ultimately becoming general manager of the Confederated Tribes of Grand Ronde. His long and distinguished career in Oregon tribal government was illustrious and renowned throughout the State. He is well respected in tribal and State government circles. Willis was appointed to the Oregon State Board of Higher Education in 1993, where he served an important role until he stepped down in 2001. He was pivotal in the rise in prominence of our State Universities.

Currently, Willis is winning a hard-fought battle with cancer. I join with countless others in honoring his courage as he fights to overcome this devastating disease. We all look forward to the day that Jim Willis returns to help improve our great State of Oregon.●

IN MEMORY OF SCOTT HOFFMAN

● Mr. BEN NELSON. Mr. President, today I would like to share with my colleagues and the nation a tribute to a friend of mine from Nebraska.

On Sunday, February 8, 2004, Scott Hoffman of McCook, NE, passed away. His family lost a loving husband and father. I lost a friend and trusted member of my staff. And the State of Nebraska lost a proud native son and someone who embodied the attributes often used to describe our State—strong, hard working, caring and deeply invested in his community.

We are deeply saddened by the tragic loss of our coworker and friend. Our thoughts and prayers are with Scott's wife Darcey, their sons Christian and Stephen, his daughter Danae, and the entire Hoffman family.

Scott was a devoted family man, a dedicated public servant and a true friend. Scott seemed to always have his finger on the pulse of Southwest Nebraska. There isn't a community or a cause that isn't familiar with Scott's work advocating for the entire region.

Back when I was considering running in the 2000 Senate elections, I visited the local paper, the McCook Gazette, for an editorial board meeting. Scott was a member of the newspaper staff at the time. After the meeting he walked me out to the car and asked if he could join my campaign staff. We hired him and that was one of the best decisions I made.

Scott had a knack for working with people. He could as easily communicate with members of the press or a chamber of commerce as with elementary school students. He would walk into a room and be able to get disparate people to work together—a talent few have and fewer still can master. This ability made him an asset, not just to my office—and I am grateful he was a member of my team—but to the entire State of Nebraska. Scott always knew our primary concern is the welfare of Nebraska and he spent his time working on behalf of Nebraska's interests.

Scott's work on behalf of Nebraska was well respected and only recently did I learn that community officials sought out Scott to lead the McCook Economic Development Corporation. Scott, in his typical fashion, told the leaders that he was doing what he wanted to do and wasn't seeking a change. That loyalty was a defining characteristic of Scott Hoffman and he applied it to his job, his church, his family, his friends and his community.

His legacy can be measured in the outpouring of support his family has received in recent days. The community of McCook was there for Scott in the hours after he was reported missing. Over two hundred volunteers, including members of McCook Senior High's football and track teams, joined more than thirty first responders in the search for Scott. Although that search ultimately came to a tragic end, the dedication of these rescuers underscores Scott's connection to his community.

And the community of McCook was there again for Scott's family when news spread that he had passed. The letters, phone calls and testaments to Scott have poured in from Nebraskans across the State and as far away as Africa. It is overwhelming, but comforting, because we know that although Scott is gone, he will not be forgotten. In his 33 years, he has left his mark in McCook and his friends and neighbors will ensure that his memory lives on.

Scott was a good friend to many in the McCook area and across Nebraska, including me, Diane and everyone on my staff. He will be missed and remembered fondly by all who knew him, especially those of us who had the pleasure of working with him. Personally, I am going to miss his advice, his hard work on behalf of Nebraska, and most of all, the friendship I was so fortunate to share with him. He will be deeply missed by all of us.

A friend of Scott's at the McCook Gazette wrote this week of Scott that he "spent his time well." His activities on his last day with us bear that out. He took his sons Christian and Stephen sledding. He went grocery shopping for his family. He took his beloved dogs for a walk. In some ways it seems that he was called from this life at a moment of great peace, having fulfilled his duties to protect and provide for his family. His loss leaves us with unanswered questions but also fills us with the satisfaction of knowing Scott loved us, and was loved in return. And that is what makes life fulfilling.

I ask that two articles in tribute to Scott from his hometown paper the McCook Gazette be printed in their entirety in the RECORD.

The documents follow:

[From the McCook Daily Gazette, Feb. 10, 2004]

MONDAY BRINGS WORST FEARS, BEST MEMORIES

While the example of his life burns brightly in our minds, we need to find fitting ways to pay tribute to the memory of Scott Hoffman.

In some form—either through a monument, an award, a scholarship or another appropriate means—we need to come up with a lasting memorial to eulogize Scott and to create an inspiration for generations to come.

Because, in his 33 years of life, this dynamic young man showed us the importance of getting involved, staying involved and remaining faithful to your family, your church, your job and your community.

Scott Hoffman did all that . . . and much more. As you have already heard on radio and television and read on the front page of the newspaper, the search for Scott ended tragically Monday afternoon when his body was found by a diver in the Huck Finn Pond at Barnett Park.

With the discovery our worst fears were realized. While we mourn, we also give praise for the life Scott lived.

To give illustrations of how highly he was held in esteem, we offer two recent examples. First, following a recent speech which Scott gave on Sen. Ben Nelson's behalf, a member of the news media addressed Scott, "You are very well spoken and very focused on the issues. Would you consider running for office yourself?" Then, late in 2003, Scott was asked, privately, to consider entering his name in application for the director's position with the McCook Economic Development Corp.

In both cases, politely and humbly, Scott declined. "I'm where I want to be and I am doing what I want to do," is the best way to summarize his answers. He appreciated the opportunities, but remained dedicated, devoted and satisfied with the course his life was taking.

We don't find that kind of steadfast loyalty nearly enough in these times. You could see the love and respect for Scott shine through Monday evening in radio and television interviews with his good friend, Kerry Ferguson; the Gazette editor, Bruce Crosby; and Red Willow County Sheriff, Gene Mahon.

They were more than Scott's co-workers and officials with whom he worked. They were Scott's friends, as were so many others in this region, this State, and—increasingly through his work with Sen. Nelson—this Nation.

It is both important and appropriate that we remember Scott Hoffman. He served us and shared with us during his 33 years of life. In times to come, we need to cherish his memory and be uplifted by his example through a lasting memorial.

[From the McCook Daily Gazette, Feb. 10, 2004]

A GUY WHO SPENT HIS TIME WELL

(By Bruce Crosby)

Scott Hoffman took his two sons, Christian, 9, and Stephen, 6, sledding Sunday afternoon.

He went to the grocery store for his wife, Darcey, and carried the food into the kitchen.

''I guest I'll take the dogs for a run,'' he said, heading out the door with their three pets.

I've written before about my late stepmother, Alyce, who always said, ''I'd rather wear out, than rust out.''

She lived by that saying, spending her time caring for her family—offering advice to her often bewildered stepson—volunteering for her church and community, almost to the end, at the of 83.

I wish Scott would have had the same chance. As it was, he spent his last Sunday the way he spent most of his spare time—taking care of those he loved.

Scott deserved another 50 years, at least as much as any of us do. He was just hitting his stride when he was called from this life Sunday afternoon, at the age of 33.

Maybe his memory will help us make the right choices when it comes to how we spend our precious days on earth.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 1:23 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 264. Concurrent resolution authorizing and requesting the President to issue a proclamation to commemorate the 200th anniversary of the birth of Constantino Brumidi.

H. Con. Res. 357. Concurrent resolution permitting the use of the rotunda of the Capitol for a ceremony to award a Congressional Gold Medal to Dr. Dorothy Height.

H. Con. Res. 358. Concurrent resolution authorizing the printing of ''History of the United States Capitol'' as a House document.

H. Con. Res. 359. Concurrent resolution permitting the use of the rotunda of the Capitol for a ceremony as part of the commemoration of the days of remembrance of victims of the Holocaust.

At 7:02 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 361. Concurrent resolution providing for a conditional adjournment of the House of Representatives and a conditional recess or adjournment of the Senate.

MEASURES PLACED ON THE CALENDAR

The following bills were read the second time, and placed on the calendar:

S. 2061. A bill to improve women's health access to health care services and provide improved medical care by reducing the excessive burden the liability system places on the delivery of obstetrical and gynecological services.

S. 2062. A bill to amend the procedures that apply to consideration of interstate class actions to assure fairer outcomes for class members and defendants, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–6253. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report of D.C. Act 15–311, ''Distracted Driving Safety Act of 2004''; to the Committee on Governmental Affairs.

EC–6254. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report of D.C. Act 15–312, ''Police and Firemen's Service Longevity Amendment Act of 2004''; to the Committee on Governmental Affairs.

EC–6255. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report of D.C. Act 15–313, ''Henry Kennedy Memorial Tennis Courts Designation Act of 2004''; to the Committee on Governmental Affairs.

EC–6256. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report of D.C. Act 15–315, ''Closing of a Public Square 2848 and of a Portion of Kenyon Street, N.W., S.O. 03–411, Act of 2004''; to the Committee on Governmental Affairs.

EC–6257. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report of D.C. Act 15–314, ''Extension of the Time Period for Disposition of a Property Located at 2341 4th Street, NE., Amendment Act of 2004''; to the Committee on Governmental Affairs.

EC–6258. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report of D.C. Act 15–331, ''Medical Support Establishment and Enforcement Amendment Act of 2004''; to the Committee on Governmental Affairs.

EC–6259. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report of D.C. Act 15–332, ''Neighborhood Investment Act of 2004''; to the Committee on Governmental Affairs.

EC–6260. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report of D.C. Act 15–333, ''Water and Sewer Authority Collections Clarification Amendment Act of 2004''; to the Committee on Governmental Affairs.

EC–6261. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report of D.C. Act 15–334, ''Closing of a Public Alley in Square 316, S.O . 03–2973, Act of 2004''; to the Committee on Governmental Affairs .

EC–6262. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report of D.C. Act 15–336, ''Documents Administrative Cost Assessment Temporary Amendment Act of 2004''; to the Committee on Governmental Affairs.

EC–6263. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report of D.C. Act 15–335, ''Prevention of Premature Release of Mentally Incompetent Defendants Temporary Amendment Act of 2004''; to the Committee on Governmental Affairs.

EC–6264. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report of D.C. Act 15–294, ''Board of Veterinary Examiners Amendment Act of 2004''; to the Committee on Governmental Affairs.

EC–6265. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report of D.C. Act 15–296, ''Health Care Privatization Rulemaking Amendment Act of 2004''; to the Committee on Governmental Affairs.

EC–6266. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report of D.C. Act 15–295, ''Traffic Adjudication Appeal Fee Amendment Act of 2004''; to the Committee on Governmental Affairs.

EC–6267. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report of D.C. Act 15–297, ''Closing of a Portion of Jewett Street, NW., S.O. 98–272, Act of 2004''; to the Committee on Governmental Affairs.

EC–6268. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report of D.C. Act 15–298, ''Closing of Portions of the Alley System in Square 2868, S.O. 01–4094, Act of 2004''; to the Committee on Governmental Affairs.

EC–6269. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report of D.C. Act 15–299, ''Washington Convention Center Authority Term Limit Amendment Act of 2004''; to the Committee on Governmental Affairs.

EC–6270. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report of D.C. Act 15–300, ''Electric Standard Offer Service Amendment Act of 2004''; to the Committee on Governmental Affairs.

EC–6271. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report of D.C. Act 15–301, ''Closing of Public Alleys in Square 2672, S.O. 03–757, Act of 2004''; to the Committee on Governmental Affairs.

EC–6272. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report of D.C. Act 15–302, ''Office of Administrative Hearings Independence Preservation Temporary Amendment Act of 2004''; to the Committee on Governmental Affairs.

EC–6273. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report of D.C. Act 15–303, ''Interim Disability Assistance Temporary Amendment Act of 2004''; to the Committee on Governmental Affairs.

EC–6274. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report of D.C. Act 15–304, ''Child and Youth, Safety and Health Omnibus Temporary Amendment Act of 2004''; to the Committee on Governmental Affairs.

EC–6275. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report of D.C. Act 15–305, ''Bonus Depreciation Decoupling Temporary Act of 2004''; to the Committee on Governmental Affairs.

EC–6276. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report of D.C. Act 15–306, ''Estate and Inheritance Tax Clarification Temporary Act of 2004''; to the Committee on Governmental Affairs.

EC–6277. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report of D.C. Act 15–308, ''Crispus Attucks Development Corporation Real Property Tax Exemption and Equitable Real Property Tax Relief Assistance Temporary Act of 2004''; to the Committee on Governmental Affairs.

EC–6278. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report of D.C. Act 15–307, ''Help America Vote Temporary Amendment Act of 2004''; to the Committee on Governmental Affairs.

EC–6279. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report of D.C. Act 15–309, ''Washington Convention Center Authority Advisory Committee Continuity Temporary Act of 2004''; to the Committee on Governmental Affairs.

EC–6280. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report of D.C. Act 15–310, ''Southeast Neighborhood House Real Property Tax Exemption and Equitable Real Property Tax Relief Temporary Act of 2004''; to the Committee on Governmental Affairs.

EC–6281. A communication from the General Counsel, Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the report of a nomination for the position of Administrator, Office of Management and Budget, received on February 10, 2004; to the Committee on Governmental Affairs.

EC–6282. A communication from the Inspector General, Railroad Retirement Board, the budget justification for the Office of Inspector General, Railroad Retirement Board; to the Committee on Governmental Affairs.

EC–6283. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–316, ''Initiative Measure No. 62 Applicability and Fiscal Impact Temporary Amendment Act of 2004''; to the Committee on Governmental Affairs.

EC–6284. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Cold Treatment of Fruits'' (Doc. No. 02–071–2) received on February 10, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6285. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Befenazate; Pesticide Tolerances for Emergency Exemptions'' (FRL#7335–6) received on February 4, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6286. A communication from the Principal Deputy, Office of the Under Secretary of Defense for Personnel and Readiness, transmitting, pursuant to law, a report of the approval of the wearing of the insignia of major general; to the Committee on Armed Services.

EC–6287. A communication from the Principal Deputy, Office of the Under Secretary of Defense for Personnel and Readiness, transmitting, pursuant to law, a report of the approval of the wearing of the insignia of brigadier general for several officers; to the Committee on Armed Services.

EC–6288. A communication from the Principal Deputy Under Secretary of Defense for Policy, Department of Defense, transmitting, pursuant to law, the Department's Report on Activities and Assistance under Cooperative Threat Reduction Programs; to the Committee on Armed Services.

EC–6289. A communication from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Unique Item Identification and Valuation'' (DFARS Case 2003–D081) received on January 20, 2004; to the Committee on Armed Services.

EC–6290. A communication from the Under Secretary of Defense, Comptroller, Department of Defense, transmitting, pursuant to law, the report of a multiyear procurement for E–2C aircraft for fiscal year 2004 through 2007; to the Committee on Armed Services.

EC–6291. A communication from the Acting Chief Executive Officer, Corporation for National and Community Service, transmitting, pursuant to law, the report of a violation of the Antideficiency Act that occurred in Treasury Account 95X8267; to the Committee on Appropriations.

EC–6292. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Airbus Model A319, A320, A321 Series Airplanes Doc. No. 2001–NM–120'' (RIN2120–AA64) received on February 10, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6293. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Fokker F28 Mark 0070 and 0100 Series Airplanes Doc. No. 2002–NM–252'' (RIN2120–AA64) received on February 10, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6294. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Bombardier Model CL600–2B19 Airplanes Doc. No. 2002–NM–112'' (RIN2120–AA64) received on February 10, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6295. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Kidde Aerospace Part Number 898052 Hand Held Halon Fire Extinguishers; Doc. No. 2003–CE–19'' (RIN2120–AA64) received on February 10, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6296. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: BAE Systems Limited Model BAE 146 and Avro 146–RJ Series Airplanes Doc. No. 2002–NM–144'' (RIN2120–AA64) received on February 10, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6297. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Pratt and Whitney JT9D–7R4 Series Turbofan Engines Doc. No. 2003–NE–01'' (RIN2120–AA64) received on February 10, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6298. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 767–200, 300, and 300F Series Airplanes Doc. No. 2002–NM–152'' (RIN2120–AA64) received on February 10, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6299. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class W Airspace: Anthony, KS Doc. No. 03–ACE–92'' (RIN2120–AA66) received on February 10, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6300. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace: Fort Scott, KS Doc. No. 03–ACE–98'' (RIN2120–AA66) received on February 10, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6301. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace: Benton, KS Doc. No. 03–ACE–94'' (RIN2120–AA66) received on February 10, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6302. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace: Independence, IA Doc. No. 03–ACE–90'' (RIN2120–AA66) received on February 10, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6303. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace: Iowa Falls Doc. No. 03–ACE–09'' (RIN2120–AA66) received on February 10, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6304. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace: Marysville, KS Doc. No. 03–ACE–99'' (RIN2120–AA66) received on February 10, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6305. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace: Beloit, KS Doc. No. 03–ACE–93'' (RIN2120–AA66) received on February 10, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6306. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace: Chanute, KS Doc. No. 03–ACE–95'' (RIN2120–AA66) received on February 10, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6307. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace: Clay Center, KS Doc. No. 03–ACE–96'' (RIN2120–AA66) received on February 10, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6308. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation,

transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace: Colby, KS Doc. No. 03–ACE–97'' (RIN2120–AA66) received on February 10, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6309. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E2 Airspace; and Modification of Class E5 Airspace; Hutchinson, KS Doc. No. 03–ACE–79'' (RIN2120–AA66) received on February 10, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6310. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Eurocopter Deutschland Model MBB Bk 117 A–1, A–3, A–4, B–1, B–2, and C–1 Helicopters'' (RIN2120–AA66) received on February 10, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6311. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Eurocopter France Model AS344E, F, F1, F2, and N Helicopters; Doc. No. 2003–SW–24'' (RIN2120–AA66) received on February 10, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6312. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures; Miscellaneous Amendments (3); Amdt. No. 3087'' (RIN2120–AA65) received on February 10, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6313. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Bombardier Model C1 600–2B19 Airplanes Doc. No. 2003–NM–0262'' (RIN2120–AA66) received on February 10, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6314. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Empresa Brasileira de Aeronautica Model EMB135, and 145 Series Airplanes Doc. No. 2002–NM–330'' (RIN2120–AA66) received on February 10, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6315. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Gulfstream Model G–V Series Airplanes Doc. No. 2003–NM–275'' (RIN2120–AA66) received on February 10, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6316. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Dassault Model Falcon 900EX Series Airplanes Doc. No. 2003–NM–276'' (RIN2120–AA66) received on February 10, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6317. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Augusta SpA Model A109E Helicopters; Doc. No. 2003–SW–28'' (RIN2120–AA66) received on February 10, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6318. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Bombardier Model CL 600 JA11 (CL–600), CL–600 2A12 (CL601), and CL–600 2B16 (CL601–3A, CL 601–3R, and CL–604) Series Airplanes Doc. No. 2001–NM–267'' (RIN2120–AA66) received on February 10, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6319. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Dassault Model Falcon 2000 and 900 EX and Dassault Model Mystere-Falcon 900 Series Airplanes Doc. No. 2002–NM–231'' (RIN2120–AA66) received on February 10, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6320. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: McDonnell Douglas Model 717–200 Airplanes; Doc. No. 2003–NM–55'' (RIN2120–AA66) received on February 10, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6321. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Empresa Brasileira de Aeronautica Model EMB 120 Series Airplanes Doc. No. 2002–NM–87'' (RIN2120–AA66) received on February 10, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6322. A communication from the Director, Fish and Wildlife Service, Department of the Interior, and the Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, a report relative to the Atlantic Striped Bass Conservation Act; to the Committee on Commerce, Science, and Transportation.

EC–6323. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled ''Weighted Average Interest Rate Update Notice'' (Notice 2004–14) received on February 10, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6324. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report relative to a study on the effects of Motor Carrier Safety Assistance Program grant reductions; to the Committee on Commerce, Science, and Transportation.

EC–6325. A communication from the Assistant Secretary of the Interior, Bureau of Land Management, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Permits for Recreation on Public Lands'' (RIN1004–AD45) received on February 10, 2004; to the Committee on Energy and Natural Resources.

EC–6326. A communication from the Administrator, Energy Information Administration, Department of Energy, transmitting, a copy of the Administration's report relative to greenhouse gas emissions; to the Committee on Energy and Natural Resources.

EC–6327. A communication from the Assistant General Counsel for Regulatory Law, Office of Procurement and Assistance Policy, Department of Energy, transmitting, pursuant to law, the report of a rule entitled ''Acquisition Regulations; Conditional Payment of Fee, Profit, and Other Incentives'' (RIN1991–AB54) received on January 20, 2004; to the Committee on Energy and Natural Resources.

EC–6328. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Montana; Thompson Falls PM10 Nonattainment Area Control Plan Final Rule'' (FRL#7609–1) received on February 4, 2004; to the Committee on Environment and Public Works.

EC–6329. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Revisions to Update the 1-Hour Ozone Maintenance Plan for the Reading Area (Berks County) Final Rule'' (FRL#7616–6) received on February 4, 2004; to the Committee on Environment and Public Works.

EC–6330. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; West Virginia; MOBILE6-Based Motor Vehicle Emission Budgets for Greenbrier County and the Charleston, Huntington, and Parkersburg 1-Hour Ozone Maintenance Areas Direct Final Rule'' (FRL#7612–9) received on February 4, 2004; to the Committee on Environment and Public Works.

EC–6331. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans Tennessee: Knox County Maintenance Plan Update Direct Final Rule'' (FRL#7616–2) received on February 4, 2004; to the Committee on Environment and Public Works.

EC–6332. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans; Connecticut; Motor Vehicle Emissions Budgets for 2005 and 2007 Using MOBILE6.2 for the Connecticut Portion of the New York-Northern New Jersey-Long Island Nonattainment Area and for 2007 for the Greater Connecticut Nonattainment Area Final Rule'' (FRL#7618–8) received on February 4, 2004; to the Committee on Environment and Public Works.

EC–6333. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of State Implementation Plans; Michigan'' (FRL#7617–7) received on February 4, 2004; to the Committee on Environment and Public Works.

EC–6334. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Redesignation and Approval of Ohio Implementation Plan'' (FRL#7616–4) received on February 4, 2004; to the Committee on Environment and Public Works.

EC–6335. A communication from the Chair, Environmental Protection Agency, transmitting, pursuant to law, a report entitled ''Superfund Five Year Review Report to Congress''; to the Committee on Environment and Public Works.

EC–6336. A communication from the Secretary of the Interior, transmitting, pursuant to law, a report relative to the Perkins County Rural Water System; to the Committee on Environment and Public Works.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. VOINOVICH:

S. 2064. A bill to increase the minimum and maximum rates of basic pay payable to administrative law judges, and for other purposes; to the Committee on Governmental Affairs.

By Mr. JOHNSON (for himself and Mr. MCCAIN):

S. 2065. A bill to restore health care coverage to retired members of the uniformed services, and for other purposes; to the Committee on Armed Services.

By Ms. SNOWE:

S. 2066. A bill to authorize appropriations to the Secretary of Commerce for the Magnuson-Stevens Fishery Conservation and Management Act for fiscal years 2004, 2005, 2006, 2007, and 2008, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mrs. BOXER (for herself and Mrs. FEINSTEIN):

S. 2067. A bill to withdraw the Los Padres National Forest in California from location, entry, and patent under mining laws, and for other purposes; to the Committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. CAMPBELL (for himself, Ms. MURKOWSKI, Mrs. LINCOLN, Mrs. MURRAY, Ms. LANDRIEU, Mr. BIDEN, Mr. BUNNING, Mr. DORGAN, Mr. JOHNSON, and Mr. FITZGERALD):

S. Res. 298. A resolution designating May 2004 as ''National Cystic Fibrosis Awareness Month''; to the Committee on the Judiciary.

By Mr. CAMPBELL (for himself, Mr. SPECTER, Mr. DEWINE, Ms. MURKOWSKI, Mr. AKAKA, Mr. INHOFE, Mr. ALLEN, and Mr. DORGAN):

S. Res. 299. A resolution recognizing, and supporting efforts to enhance the public awareness of, the social problem of child abuse and neglect; to the Committee on the Judiciary.

By Mr. GRAHAM of Florida (for himself and Mr. MCCAIN):

S. Res. 300. A resolution expressing the sense of the Senate on project earmarking in surface transportation Acts; to the Committee on Environment and Public Works.

By Mr. SPECTER:

S. Res. 301. A resolution honoring the 30th anniversary of Congressman Murtha's service; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 596

At the request of Mr. ENSIGN, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 596, a bill to amend the Internal Revenue Code of 1986 to encourage the investment of foreign earnings within the United States for productive business investments and job creation.

S. 846

At the request of Mr. SMITH, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 846, a bill to amend the Internal Revenue Code of 1986 to allow a deduction for premiums on mortgage insurance, and for other purposes.

S. 884

At the request of Ms. LANDRIEU, the name of the Senator from Missouri (Mr. BOND) was added as a cosponsor of S. 884, a bill to amend the Consumer Credit Protection Act to assure meaningful disclosures of the terms of rental-purchase agreements, including disclosures of all costs to consumers under such agreements, to provide certain substantive rights to consumers under such agreements, and for other purposes.

S. 1010

At the request of Mr. HARKIN, the names of the Senator from Washington (Mrs. MURRAY) and the Senator from Louisiana (Ms. LANDRIEU) were added as cosponsors of S. 1010, a bill to enhance and further research into paralysis and to improve rehabilitation and the quality of life for persons living with paralysis and other physical disabilities.

S. 1277

At the request of Mr. BIDEN, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 1277, a bill to amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to provide standards and procedures to guide both State and local law enforcement agencies and law enforcement officers during internal investigations, interrogation of law enforcement officers, and administrative disciplinary hearings, to ensure accountability of law enforcement officers, to guarantee the due process rights of law enforcement discipline, accountability, and due process laws.

At the request of Mr. GRAHAM of South Carolina, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 1277, supra.

S. 1298

At the request of Mr. AKAKA, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 1298, a bill to amend the Farm Security and Rural Investment Act of 2002 to ensure the humane slaughter of non-ambulatory livestock, and for other purposes.

S. 1630

At the request of Mrs. CLINTON, the names of the Senator from Connecticut (Mr. DODD) and the Senator from Michigan (Mr. LEVIN) were added as cosponsors of S. 1630, a bill to facilitate nationwide availability of 2–1–1 telephone service for information and referral services, and for other purposes.

S. 1703

At the request of Mr. SMITH, the names of the Senator from Arkansas (Mrs. LINCOLN) and the Senator from Indiana (Mr. BAYH) were added as cosponsors of S. 1703, a bill to amend the Internal Revenue Code of 1986 to provide a credit against income tax for expenditures for the maintenance of railroad tracks of Class II and Class III railroads.

S. 2016

At the request of Mrs. FEINSTEIN, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 2016, a bill to provide for infant crib safety, and for other purposes.

S. 2035

At the request of Mr. GRAHAM of South Carolina, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of S. 2035, a bill to amend title 10, United States Code, to revise the age and service requirements for eligibility to receive retired pay for non-regular service; to expand certain authorities to provide health care benefits for Reserves and their families, and for other purposes.

S. 2056

At the request of Mr. BROWNBACK, the names of the Senator from Alaska (Mr. STEVENS), the Senator from Mississippi (Mr. LOTT), the Senator from Illinois (Mr. FITZGERALD) and the Senator from Oklahoma (Mr. INHOFE) were added as cosponsors of S. 2056, a bill to increase the penalties for violations by television and radio broadcasters of the prohibitions against transmission of obscene, indecent, and profane language.

S. CON. RES. 8

At the request of Ms. COLLINS, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. Con. Res. 8, a concurrent resolution designating the second week in May each year as ''National Visiting Nurse Association Week''.

S. CON. RES. 81

At the request of Mrs. FEINSTEIN, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. Con. Res. 81, a concurrent resolution expressing the deep concern of Congress regarding the failure of the Islamic Republic of Iran to adhere to its obligations under a safeguards agreement with the International Atomic Energy Agency and the engagement by Iran in activities that appear to be designed to develop nuclear weapons.

S. RES. 294

At the request of Mr. MCCAIN, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. Res. 294, a resolution designating January 2004 as '' National Mentoring Month''.

AMENDMENT NO. 2286

At the request of Mrs. CLINTON, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of amendment No. 2286 proposed to S. 1072, a bill to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

AMENDMENT NO. 2296

At the request of Mr. FITZGERALD, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of amendment No. 2296 intended to be

proposed to S. 1072, a bill to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Ms. SNOWE:

S. 2066. A bill to authorize appropriations to the Secretary of Commerce for the Magnuson-Stevens Fishery Conservation and Management Act for fiscal years 2004, 2005, 2006, 2007, and 2008, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Ms. SNOWE. Mr. President, I rise today to introduce the Fishery Conservation and Management Act Amendments of 2004. This bill would reauthorize the Magnuson-Stevens Fisheries Conservation and Management Act, as amended by the 1996 Sustainable Fisheries Act, and update fisheries policy to better satisfy the ever-changing needs of our Nation's fish stocks and fishing communities.

In 1976, the year in which the Magnuson-Stevens Act was written, our commercial fisheries were in grave danger of being exploited beyond their ability to recover. Passage of the Act has provided a more balanced approach in fulfilling our economic needs by also promoting responsible conservation and stewardship of our resources. Even as it sought to provide better management for the Nation's resources as a whole, this law recognized that our fisheries have vastly different regional problems. The result was the creation of a regional management council in each of the country's eight major marine fisheries. These councils, with substantial input from the local community, are responsible for creating the management plans by which their fish stocks are regulated by the National Marine Fisheries Services. This structure has been vital in allowing the active stakeholders in each region to provide meaningful input to the management process.

Since the enactment of this legislation, domestic offshore catches have increased so dramatically that our fisheries now add billions of dollars to the Nation's economy every year, according to the National Marine Fisheries Service. Because of this increase in fishing harvests and the pressure to fish more than could be sustained, in 1996 Congress passed the Sustainable Fisheries Act to amend and enhance the Magnuson-Stevens Act. The new amendments included new guidelines for conservation of both targeted fisheries and bycatch, or incidentally-caught fish and other marine life. The Act required that overfished stocks be rebuilt within a 10 year timeframe. In addition, the provisions added a requirement for the protection of all essential fish habitat for each fishery.

The overarching goal of the Sustainable Fisheries Act was to ensure prosperity for all United States fisheries by ending overfishing and rebuilding depleted stocks. This goal, and the means for achieving it, are as important today as they were in 1996. I supported the Act, because I saw in it great potential for sustaining fishing communities and the stocks upon which they depend.

In the nearly 8 years since we last renewed and reauthorized the Magnuson-Stevens Act, however, we have witnessed both prosperity and degradation in different fisheries affected by this law. According to the National Marine Fisheries Service's Annual Report in 2003, certain fisheries have thrived; for example, sea scallops on Georges Bank have increased 20-fold from 1994 to 2002, silver hake in the Northeast was declared fully rebuilt in 2002, and recovery of dozens of other stocks is well underway. The National Marine Fisheries Services' most recent survey of young Georges Bank haddock indicates a population boom with the potential to be the largest ever recorded, putting that fishery well on the road to its recovery goal. Conversely, other fisheries have not fared as well, as demonstrated by the fact that overfishing commenced in 13 U.S. fisheries between 1997 and 2002.

As Chair of the Oceans, Fisheries, and Coast Guard Subcommittee of the Commerce Committee, I have sought answers as to why the Magnuson-Stevens Act has apparently worked well for some fisheries, but not others. Representing a state with scores of fishing communities and thousands of fisheries workers, I understand the great importance of making sure that our federal fisheries laws are working for all of our Nation's fisheries.

In seeking these answers, during the 106th Congress I traveled across the country and held a series of hearings on the Magnuson-Stevens Act. In Washington, D.C. Maine, Louisiana, Alaska, Washington, and Massachusetts, I heard official testimony from over 70 witnesses. Our subcommittee received hundreds of comments, views, and recommendations from federal and state officials, regional council chairmen and members, other fisheries managers, commercial and recreational fishermen, members of the conservation community, and many others interested in fisheries management.

What the subcommittee learned during these hearing—and which continues to be reinforced by more recent fisheries events, comments, and recommendations—is that most of the shortcomings in our federal fisheries policy are products of how the Magnuson-Stevens Act has been interpreted and applied to real-life fisheries problems. While the underpinnings of the Act are sound, it has become clear that implementation of the Act has often been inconsistent with Congressional intent. That is the primary challenge before us today: to clarify how the goals of conservation and management can be achieved for our Nation's fisheries, and ensure effective implementation of the Act.

What we need is a federal fisheries policy that can be interpreted and applied in ways that recognize and respond to the unique conditions facing each individual fishery. Of the hundreds of fisheries occurring around our Nation's coastline, no two are exactly alike. The conservation measures that work in one fishery cannot always be transferred to another. The Magnuson-Stevens act must express enough flexibility to accommodate these variations, so that managers can craft unique, innovative solutions based on the conditions and needs of the fish stocks and fishing communities in question.

I first attempted to address these issues when I introduced S. 2832, the Magnuson-Stevens Reauthorization Act of 2000, as well as bills authorizing national standards for fishing quota systems. During the last several years, the need for these amendments—as well as new amendments to meet evolving fisheries needs—has only intensified. It is this fact that underlies the bill I introduce today, the Fishery Conservation and Management Act Amendments of 2004.

This bill contains several specific measures for enhancing management flexibility. First and foremost, this bill would repeal the 10-year timeline for rebuilding fish stocks and the unnecessarily-rigid measures that stem from it. This provision of the Sustainable Fisheries Act is not based on fish population dynamics, but instead imposes a stringent and arbitrary time-frame inappropriate for the diverse needs of each individual fishery. This bill would replace it with a system that allows a more adaptive approach for determining harvest rates. I am proposing that fishing mortality rates simply be limited to the maximum sustainable yield that a stock can produce in any given year. This fishing rate would not permit overfishing; it would allow stocks to rebuild over time to a level that achieves ecosystem balance.

Another new proposal in this bill would improve managers' ability to fairly distribute access to distant-water fish stocks. As is now occurring in the New England groundfishery, fishermen from different states are unevenly impacted by management measures that treat them as if they are all from the same state. Currently, fishermen who live farther away from healthy fish stocks need to expend their extremely limited number of permitted days-at-sea simply steaming to and from these stocks, while those who live closer to the stocks can spend more of their days-at-sea actually fishing. I am proposing that regional fishery management councils analyze these impacts and, if necessary, take action to eliminate such inequities.

Other key features of this Magnuson-Stevens Act reauthorization would address essential fish habitat and areas of particular concern; authorizations for cooperative research, capacity reduction, and fishing quota systems; and

language to improve social and ecological impact assessments, data and information management, public meeting notices, and scientific peer reviews. Individually and collectively, the provisions in this bill present a way forward in improving federal fisheries management. This bill preserves the goal and intent of the Magnuson-Stevens Act, yet it enhances the abilities of managers and fishermen to apply it in a way that can better achieve the Act's objectives and actually achieve sustainability in our fisheries.

Finally, I would like to thank all those fishermen, managers, scientists, and special interest groups that contributed ideas and information to the long process of developing this reauthorization bill. Their countless contributions serve as invaluable pieces to a very complex puzzle, and I am confident that our efforts will improve the state of federal fisheries management.

I look forward to receiving additional fisheries policy comments and recommendations in the weeks and months ahead, including those from the U.S. Commission on Ocean Policy, and I encourage my colleagues throughout Congress to take action in support of this Magnuson-Stevens reauthorization effort. Through our collective efforts, sustainable fisheries in the United States can and will become a reality.

By Mrs. BOXER (for herself and Mrs. FEINSTEIN):

S. 2067. A bill to withdraw the Los Padres National Forest in California from location, entry, and patent under mining laws, and for other purposes; to the Committee on Energy and Natural Resources.

Mrs. BOXER. Mr. President, I am introducing legislation today that would ban oil and gas drilling in the Los Padres National Forest. Congresswoman CAPPS is introducing this legislation in the House of Representatives.

Despite strong local opposition to drilling in the forest, the Forest Service released a Draft Environmental Impact Statement in October 2001 that recommended opening up additional lands in the forest to oil and gas exploration. By failing to consider the irreparable harm these activities would cause to the forest's resources and the recreational opportunities available to both nearby residents and tourists, the Forest Service's proposal is shortsighted and misguided.

The opening of the spectacular, unspoiled lands in Los Padres National Forest to oil and gas drilling threatens one of California's most pristine places. Los Padres National Forest provides habitat for various threatened and endangered wildlife species, including the endangered California condor. Also within the Los Padres National Forest are unexplored archeological sites that contain Native American historical artifacts. These could be damaged or destroyed by oil and gas development.

Los Padres National Forest provides a variety of recreational opportunities, such as fishing, hiking, hunting, and backpacking. These activities would be hindered by new oil and gas exploration and development, as streams and trails are contaminated by runoff and sedimentation and as air pollution is increased.

This legislation is a critical step toward protecting the irreplaceable natural and cultural resources of the Los Padres National Forest. I encourage my colleagues to support this legislation.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 298—DESIGNATING MAY 2004 AS ''NATIONAL CYSTIC FIBROSIS AWARENESS MONTH''

Mr. CAMPBELL (for himself, Ms. MURKOWSKI, Mrs. LINCOLN, Mrs. MURRAY, Ms. LANDRIEU, Mr. BIDEN, Mr. BUNNING, Mr. DORGAN, Mr. JOHNSON, and Mr. FITZGERALD) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 298

Whereas cystic fibrosis, characterized by chronic lung infections and digestive disorders, is a fatal lung disease;

Whereas cystic fibrosis is 1 of the most common genetic diseases in the United States and 1 for which there is no known cure;

Whereas more than 10,000,000 Americans are unknowing carriers of the cystic fibrosis gene;

Whereas 1 of every 3,500 babies born in the United States is born with cystic fibrosis;

Whereas newborn screening for cystic fibrosis has been implemented by 11 States and facilitates early diagnosis and treatment which improves health and longevity;

Whereas approximately 30,000 people in the United States have cystic fibrosis, many of them children;

Whereas the average life expectancy of an individual with cystic fibrosis is in the early thirties, an improvement from a life expectancy of 10 years in the 1960s, but still unacceptably short;

Whereas prompt, aggressive treatment of the symptoms of cystic fibrosis can extend the lives of people who have the disease;

Whereas recent advances in cystic fibrosis research have produced promising leads in gene, protein, and drug therapies beneficial to people who have the disease;

Whereas this innovative research is progressing faster and is being conducted more aggressively than ever before, due in part to the establishment of a model clinical trials network by the Cystic Fibrosis Foundation; and

Whereas education of the public on cystic fibrosis, including the symptoms of the disease, increases knowledge and understanding of cystic fibrosis and promotes early diagnosis: Now, therefore, be it

Resolved, That the Senate—

(1) designates May 2004 as ''National Cystic Fibrosis Awareness Month'';

(2) requests that the President issue a proclamation—

(A) designating the month of May 2004 as ''National Cystic Fibrosis Awareness Month''; and

(B) calling on the people of the United States to promote awareness of cystic fibrosis and actively participate in support of research to control or cure cystic fibrosis, by observing the month with appropriate ceremonies and activities; and

(3) supports the goals of—

(A) increasing the quality of life for individuals with cystic fibrosis by promoting public knowledge and understanding in a manner that will result in earlier diagnoses;

(B) encouraging increased resources for research; and

(C) increasing levels of support for people who have cystic fibrosis and their families.

Mr. CAMPBELL. Mr. President, today I am submitting a resolution recognizing the month of May, 2004, as National Cystic Fibrosis Awareness Month. I am pleased to be joined by nine of my colleagues who are original cosponsors of the resolution. We are hopeful that greater awareness of cystic fibrosis (CF) will lead to a cure.

The resolution is similar to one which I submitted last year, S. Res. 98, declaring a National Cystic Fibrosis Awareness Week, which was agreed to by unanimous consent on September 25, 2003. Since then, I have received input from the National Cystic Fibrosis Foundation (CFF) and the National Cystic Fibrosis Awareness Committee and have updated the information accordingly.

Cystic fibrosis is one of the most common fatal genetic diseases in the United States and there is no known cure. It affects approximately 30,000 children and adults in the United States. As recently as 25 years ago, most children born with cystic fibrosis died in early childhood and few survived to their teenage years.

Today, the average life expectancy of an individual with cystic fibrosis is in the early thirties, an improvement from a life expectancy of 10 years in the 1960s, but still unacceptably short. The difference stems from productive research which has led to an understanding of the way cystic fibrosis causes life-threatening damage and to the development of preventive techniques and treatments.

While there is no cure, early detection and prompt treatment can significantly improve and extend the lives of those with CF. My home state of Colorado was one of the first States to require CF screening for newborns. Happily, many more States are now performing this simple test.

And, since the discovery of the defective CF gene in 1989, CF research has greatly accelerated. I am proud that Colorado is home to the University of Colorado Health Sciences Center, including the Children's Hospital, the National Jewish Medical and Research Center and the Anschutz Centers for Advanced Medicine, all of which are actively involved in CF research and care. The Children's Hospital is one of a number of innovative Therapeutics Development Centers nationwide performing cutting edge clinical research to develop new treatments for CF.

Currently, the CF Foundation oversees potential CF products in its drug development pipeline, including those

in clinical trials. In addition, small pilot trials and large clinical studies are carried out in the CF Foundation-accredited care centers across the United States. Organizations such as the Cystic Fibrosis Research, Inc. also sponsor studies for treatment of the disease. Efforts such as these throughout the nation are providing a greater quality of life for those who have CF. We applaud these efforts.

While I am encouraged by the CF research in Colorado and elsewhere, more needs to be done. I believe we can increase the quality of life for individuals with Cystic Fibrosis by promoting public knowledge and understanding of the disease in a manner that will result in earlier diagnoses, more fund raising efforts for research, and increased levels of support for those who have CF and their families.

Therefore, I urge my colleagues to act on this resolution so we can move another step closer to eradicating this disease.

SENATE RESOLUTION 299—RECOGNIZING, AND SUPPORTING EFFORTS TO ENHANCE THE PUBLIC AWARENESS OF, THE SOCIAL PROBLEM OF CHILD ABUSE AND NEGLECT

Mr. CAMPBELL (for himself, Mr. SPECTER, Mr. DEWINE, Ms. MURKOWSKI, Mr. AKAKA, Mr. INHOFE, Mr. ALLEN, and Mr. DORGAN) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 299

Whereas each year in the United States approximately 3,000,000 reports of suspected or known child abuse and neglect, involving 5,000,000 children, are made to child protective service agencies;

Whereas 588,000 children are unable to live safely with their families and are placed in foster homes and institutions;

Whereas it is estimated that every year in the United States more than 1,200 children, 85 percent of whom are under the age of 6 years, of whom 44 percent are under the age of 1 year, lose their lives as a direct result of abuse and neglect;

Whereas this tragic social problem results in human and economic costs through crime and delinquency, drug and alcohol abuse, domestic violence, and welfare dependency; and

Whereas Childhelp USA has initiated a Day of Hope to be observed on Wednesday, April 7, 2004, during Child Abuse Prevention Month, to focus public awareness on child abuse and neglect: Now, therefore, be it

Resolved, That—

(1) it is the sense of the Senate that—

(A) all Americans should keep the victims of child abuse and neglect in their thoughts and prayers;

(B) all Americans should seek to break the cycle of child abuse and neglect and to give victimized children hope for the future; and

(C) the faith community, nonprofit organizations, and volunteers across America should recommit themselves and mobilize their resources to assist abused and neglected children; and

(2) the Senate—

(A) supports the goals and ideas of the Day of Hope, which will be observed on April 7, 2004, as part of Child Abuse Prevention Month; and

(B) commends the individuals working on behalf of abused and neglected children throughout the United States.

Mr. CAMPBELL. Mr. President, today I am submitting a resolution declaring Wednesday, April 7, 2004, as a National Day of Hope dedicated to remembering the victims of child abuse and neglect and recognizing Childhelp USA for initiating such a day. I am pleased to be joined in this effort by my colleagues Senators SPECTER, DEWINE, MURKOWSKI, INHOFE, ALLEN, DORGAN, and AKAKA who are original cosponsors of the resolution.

This resolution is similar to one I submitted last year, S. Res. 52, which passed the Senate by unanimous consent on March 26, 2004. It expresses the sense of Congress that we must break the cycle of child abuse and neglect by mobilizing all our resources including the faith community, non-profit organizations and volunteers.

The resolution also recognizes Childhelp USA, one of our oldest national organizations dedicated to meeting the needs of abused and neglected children. Childhelp and many other non-profits or faith-based organizations nationwide are performing a vital service to these children that they would not have otherwise, and they are to be commended for their efforts.

More than 3 million children are reported as suspected victims of child abuse and neglect each year. That is 3 million children too many. And, it is estimated that more than 1,200 children lose their lives as a direct result of abuse and neglect every year. That is not acceptable. We must do something to change these disturbing statistics.

I know first-hand the importance of having help when it is needed. The National Day of Hope Resolution calls on each of us to renew our duty and responsibility to the vulnerable children and families caught in the cycle of child abuse and neglect.

While we are encouraged by the efforts of many organizations nationwide, more needs to be done. That is why we urge our colleagues to act quickly on this resolution so we can move another step closer to erasing the horror of child abuse from our nation's history.

SENATE RESOLUTION 300—EXPRESSING THE SENSE OF THE SENATE ON PROJECT EARMARKING IN SURFACE TRANSPORTATION ACTS

Mr. GRAHAM of Florida (for himself and Mr. MCCAIN) submitted the following resolution; which was referred to the Committee on Environment and Public Works:

S. RES. 300

Whereas the House of Representatives adopted a rule in 1914 stating that it shall not be in order for any bill providing general legislation in relation to roads to contain any provision for any specific road;

Whereas diverting funds to low-priority earmarks diminishes the ability of States and local communities to set their own priorities and address their own mobility problems;

Whereas the General Accounting Office has reported that demonstration projects reviewed were not considered by State and regional transportation officials as critical to their transportation needs and that over half of the projects reviewed were not included in State and local transportation plans;

Whereas some earmarks have nothing to do with transportation and may worsen congestion by diverting scarce resources from higher priorities;

Whereas the Surface Transportation Assistance Act of 1982 (96 Stat. 2097) contained 10 earmarks at a cost of $385,925,000;

Whereas the Surface Transportation and Uniform Relocation Assistance Act of 1987 (101 Stat. 132) contained 157 projects at a cost of $1,416,000,000;

Whereas the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 1914) contained 538 projects at a cost of $6,082,873,000;

Whereas the Transportation Equity Act for the 21st Century (112 Stat. 107) contained 1,851 projects at a cost of $9,359,850,000;

Whereas annual transportation appropriations acts show the same trend in increasing earmarking of projects;

Whereas the funding earmarked for many projects does not cover the full cost of the project and requires State and local communities to cover the unfunded costs; and

Whereas funding of earmarked projects can have a dramatic effect on the rate of return that a State receives on its contributions to the Federal Highway Trust Fund: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 should not include project earmarks;

(2) if earmarked projects are included, the projects should be included within the funding that a State would otherwise receive so as not to penalize other States; and

(3) any earmarked projects should be included in the funding equity provisions of the next surface transportation Act so that the projects do not adversely affect the rate of return that a State receives from its contributions to the Highway Trust Fund.

SEANTE RESOLUTION 301—HONORING THE 30TH ANNIVERSARY OF CONGRESSMAN MURTHA'S SERVICE

Mr. SPECTER submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 301

Whereas John ''Jack'' Murtha, during 5 decades of service to our Nation, has been an exemplar of dedication, drive, sacrifice, and patriotism;

Whereas John Murtha left Washington and Jefferson College after only 1 year of study to join the Marine Corps during the Korean War out of a sense of obligation to his country;

Whereas John Murtha ran a small business in Johnstown, Pennsylvania while starting a family with his wife, Joyce, and attending the University of Pittsburgh on the GI Bill;

Whereas he volunteered in Vietnam in 1966–67, already in his mid-30s;

Whereas in 1974, he became the first combat Vietnam veteran elected to Congress, representing the 12th Congressional District of Pennsylvania;

Whereas he continuously works to attract and keep jobs in and around his District and

to develop essential sewer, water, and transportation infrastructure;

Whereas in his position as a senior member of the House Appropriations Committee, he is a national leader on defense, health care, and social issues and uses his position to benefit Pennsylvania, the region, and the people;

Whereas he founded the House Steel Caucus and regularly defends our steel industry from unfair imports; and

Whereas he has been 1 of the strongest advocates for children, seniors, and veterans: Now, therefore, be it

Resolved,

SECTION 1. CONGRATULATION AND COMMENDATION.

The Senate—

(1) honors the lifelong commitment of John Murtha to the ideals of our Nation;

(2) recognizes John Murtha's exceptional dedication to his constituents, to the State of Pennsylvania, and to the United States; and

(3) congratulates John Murtha on 30 years of superior service in the United States Congress.

SEC. 2. TRANSMISSION OF ENROLLED RESOLUTION.

The Secretary of the Senate shall transmit an enrolled copy of this resolution to Congressman John Murtha.

Mr. SPECTER. Mr. President, I rise to honor one of our most dedicated and patriotic colleagues—and a fellow Pennsylvanian—Congressman JOHN MURTHA, on the 30th anniversary of his service in the United States House of Representatives.

JACK MURTHA, during five decades of service to our Nation, has been an exemplar of dedication, drive, sacrifice and patriotism. He left Washington and Jefferson College after only one year of study to join the Marine Corps during the Korean War. Returning home, he ran a small business in Johnstown while starting a family with his wife, Joyce, and attending the University of Pittsburgh on the GI Bill. But his country called again and JACK MURTHA volunteered in Vietnam in 1966–67, already in his mid-30s.

In 1974, he became the first combat Vietnam veteran elected to Congress, representing the 12th Congressional District of Pennsylvania.

JACK MURTHA has worked tirelessly to attract and keep jobs in and around his District and to develop essential sewer, water and transportation infrastructure. As a senior member of the House Appropriations Committee, he has established himself as a national leader on defense, health-care and social issues. He founded the House Steel Caucus and regularly defends our steel industry from unfair imports, and has been one of the strongest advocates in Congress for children, seniors and veterans.

I hope my colleagues will join me in honoring JACK MURTHA for his lifelong commitment to the ideals of our Nation; for his exceptional dedication to his constituents, to the State of Pennsylvania and to our country; and for 30 years of superior service in the United States Congress.

AMENDMENTS SUBMITTED AND PROPOSED

SA 2297. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table.

SA 2298. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2299. Mr. BINGAMAN (for himself and Mr. CRAIG) submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2300. Mr. BINGAMAN (for himself, Mr. ROBERTS, and Mr. DOMENICI) submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2301. Mrs. MURRAY (for herself, Ms. COLLINS, Mrs. BOXER, Ms. CANTWELL, Mrs. CLINTON, Mr. COCHRAN, Mr. CORZINE, Mr. EDWARDS, Mr. KENNEDY, Ms. MIKULSKI, Ms. MURKOWSKI, Mr. SCHUMER, Ms. SNOWE, and Mr. STEVENS) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2302. Mr. BAYH (for himself, Mr. DURBIN, Mr. LUGAR, Mr. KOHL, and Mr. FITZGERALD) submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2303. Mr. LAUTENBERG submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2304. Mr. LAUTENBERG submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2305. Mr. LAUTENBERG (for himself, Mr. DEWINE, Mr. DORGAN, and Mr. CORZINE) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2306. Mr. LAUTENBERG (for himself, Mr. DEWINE, and Mr. CORZINE) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2307. Ms. LANDRIEU submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2308. Mr. CORZINE submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2309. Mr. CORZINE (for himself and Mr. LAUTENBERG) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2310. Mr. CORZINE submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2311. Mrs. CLINTON (for herself, Mr. BINGAMAN, Mr. BYRD, Mr. DODD, Mr. SARBANES, Mr. CORZINE, Mr. LIEBERMAN, Mr. ROCKEFELLER, Mr. HARKIN, and Ms. STABENOW) proposed an amendment to the bill S. 1072, supra.

SA 2312. Mr. CORZINE submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2313. Mr. ALLARD submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2314. Mr. CAMPBELL (for himself and Mr. INOUYE) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2315. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2316. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2317. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2318. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2319. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2320. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2321. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2322. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2323. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2324. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2325. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2326. Mr. BINGAMAN (for himself and Mr. DOMENICI) submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2327. Mr. BOND proposed an amendment to amendment SA 2311 proposed by Mrs. CLINTON (for herself, Mr. BINGAMAN, Mr. BYRD, Mr. DODD, Mr. SARBANES, Mr. CORZINE, Mr. LIEBERMAN, Mr. ROCKEFELLER, Mr. HARKIN, and Ms. STABENOW) to the bill S. 1072, supra.

SA 2328. Mr. DEWINE submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2329. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2330. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2331. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2332. Mr. HARKIN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2333. Mr. HARKIN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2334. Mrs. CLINTON submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2335. Mrs. DOLE submitted an amendment intended to be proposed by her to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2336. Mr. COLEMAN (for himself and Mr. DAYTON) submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2337. Mr. COLEMAN (for himself and Mr. DAYTON) submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2338. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2339. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2340. Mr. TALENT (for himself, Mr. WYDEN, Mr. CORZINE, and Mr. COLEMAN) submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2341. Mr. TALENT (for himself and Mr. WYDEN) submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2342. Mr. TALENT (for himself, Mr. ALLEN, and Mr. BURNS) submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2343. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2344. Mr. DAYTON submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2345. Mr. DAYTON submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2346. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2347. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2348. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2349. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2350. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2351. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2352. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2353. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2354. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2355. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2356. Mr. CORNYN (for himself and Mrs. HUTCHISON) submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2357. Mr. CORNYN (for himself and Mrs. HUTCHISON) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2358. Mr. CORNYN (for himself and Mrs. HUTCHISON) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2359. Mr. CORNYN (for himself and Mrs. HUTCHISON) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2360. Mr. CORNYN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2361. Mr. CORNYN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2362. Mr. CORNYN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2363. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2364. Mr. SCHUMER submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2365. Mr. DORGAN submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2366. Mr. DORGAN submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2367. Mr. AKAKA submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2368. Mr. GRASSLEY (for himself and Mr. BAUCUS) submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2369. Mr. GRASSLEY (for himself and Mr. BAUCUS) submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2370. Ms. SNOWE (for herself and Ms. COLLINS) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2371. Ms. SNOWE (for herself and Ms. COLLINS) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2372. Ms. SNOWE submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2373. Ms. SNOWE submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2374. Ms. SNOWE (for herself, Mr. NELSON, of Florida, Ms. COLLINS, Mr. GRAHAM, of Florida, and Mr. JOHNSON) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2375. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2376. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2377. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2378. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2379. Mr. MCCAIN (for himself and Mr. HOLLINGS) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2380. Mr. MCCAIN (for himself and Mr. HOLLINGS) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2381. Mr. MCCAIN (for himself and Mr. HOLLINGS) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2382. Mr. MCCAIN (for himself and Mr. HOLLINGS) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2383. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2384. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2385. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2386. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2387. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2388. Mrs. HUTCHISON (for herself, Mr. KYL, Mr. LEVIN, Mr. GRAHAM, of Florida, Mr. MCCAIN, Ms. STABENOW, and Mrs. FEINSTEIN) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2389. Mrs. HUTCHISON submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2390. Mrs. HUTCHISON submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2391. Mrs. HUTCHISON submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2392. Mr. BURNS submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2393. Mr. BURNS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2394. Mr. DAYTON submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2395. Mr. MCCAIN (for himself and Mr. HOLLINGS) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2396. Mr. DEWINE submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2397. Mr. CAMPBELL (for himself and Mr. INOUYE) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2398. Mr. CAMPBELL (for himself and Mr. INOUYE) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2399. Mr. GRASSLEY (for himself and Mr. BAUCUS) submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2400. Mr. GRASSLEY (for himself and Mr. BAUCUS) submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2401. Mr. STEVENS (for himself and Mr. INOUYE) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2402. Mr. THOMAS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2403. Mr. HOLLINGS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2404. Mr. HOLLINGS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2405. Mr. HOLLINGS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2406. Mr. INHOFE submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2407. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2408. Mr. FITZGERALD (for himself and Mr. DURBIN) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2409. Mrs. BOXER (for herself, Mr. DODD, and Mrs. FEINSTEIN) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2410. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2411. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2412. Mr. INHOFE submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2413. Mr. INHOFE submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2414. Mr. NICKLES submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2415. Mr. BURNS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2416. Mr. BAYH (for himself, Mr. LUGAR, and Mrs. CLINTON) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2417. Mr. HARKIN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2418. Mr. CARPER submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2419. Mr. CARPER submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2420. Mr. CARPER submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2421. Mr. CARPER submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2422. Mr. CARPER submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2423. Mr. CARPER submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2424. Mr. ROCKEFELLER submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2425. Mr. LOTT submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2426. Mr. DASCHLE submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2427. Mr. DASCHLE submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2428. Mr. DASCHLE submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2429. Mr. DASCHLE submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2430. Mr. DORGAN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2431. Mr. GRAHAM, of Florida submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2432. Mr. GRAHAM, of Florida submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2433. Mr. GRAHAM, of Florida submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2434. Mr. GRAHAM, of Florida submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2435. Mr. GRAHAM, of Florida submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2436. Mr. GRAHAM, of Florida submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2437. Mr. GRAHAM, of Florida submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2438. Mr. GRAHAM, of Florida submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2439. Mr. GRAHAM, of Florida submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2440. Mr. GRAHAM, of Florida submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2441. Ms. STABENOW (for herself and Mr. LEVIN) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2442. Mr. SARBANES (for himself, Ms. MIKULSKI, and Mr. ALLEN) submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2443. Mr. DODD (for himself and Mr. LIEBERMAN) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2444. Mr. DODD (for himself and Mr. LIEBERMAN) submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2445. Mr. DODD (for himself and Mr. LIEBERMAN) submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2446. Mr. STEVENS (for himself and Mr. INOUYE) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2447. Mr. BURNS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2448. Mr. BURNS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2449. Mr. BURNS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2450. Mr. BURNS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2451. Mr. BURNS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2452. Mr. CONRAD submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2453. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2454. Mr. LEVIN (for himself and Ms. STABENOW) submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2455. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2456. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2457. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2458. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2459. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2460. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2461. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2462. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2463. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2464. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2465. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2466. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2467. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2468. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2469. Mr. BOND submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2470. Mr. BYRD submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2471. Mr. BYRD submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2472. Mr. CHAFEE submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2473. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2474. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2475. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2476. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2477. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2478. Mr. BOND submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2479. Mr. REED submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2480. Mrs. LINCOLN (for herself and Mr. MILLER) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2481. Mr. CARPER submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2482. Mr. TALENT (for himself and Mr. WYDEN) submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2483. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2484. Mr. LIEBERMAN (for himself and Mr. DODD) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2485. Mr. HOLLINGS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2486. Mr. LIEBERMAN (for himself and Mr. DODD) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2487. Mr. SPECTER submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2488. Mr. SPECTER submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2489. Mr. WARNER submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2490. Mr. WARNER submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2491. Mrs. MURRAY (for herself, Ms. COLLINS, Mrs. BOXER, Ms. CANTWELL, Mrs. CLINTON, Mr. COCHRAN, Mr. CORZINE, Mr. EDWARDS, Mrs. FEINSTEIN, Mr. KENNEDY, Mr. LAUTENBERG, Ms. MIKULSKI, Ms. MURKOWSKI, Mr. SCHUMER, Ms. SNOWE, and Mr. STEVENS) submitted an amendment intended to be proposed by her to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2492. Mrs. MURRAY (for herself, Ms. COLLINS, Mrs. BOXER, Ms. CANTWELL, Mrs. CLINTON, Mr. COCHRAN, Mr. CORZINE, Mr. EDWARDS, Mrs. FEINSTEIN, Mr. KENNEDY, Mr. LAUTENBERG, Ms. MIKULSKI, Ms. MURKOWSKI, Mr. SCHUMER, Ms. SNOWE, and Mr. STEVENS) submitted an amendment intended to be proposed by her to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2493. Mr. CARPER submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2494. Mr. REED submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2495. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2496. Mr. LIEBERMAN submitted an amendment intended to be proposed to

amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2497. Mr. LIEBERMAN (for himself and Mr. DODD) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2498. Ms. MURKOWSKI (for herself and Mr. STEVENS) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2499. Ms. MURKOWSKI (for herself and Mr. STEVENS) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2500. Ms. MURKOWSKI (for herself, Mr. INHOFE, Mr. STEVENS, and Mr. CAMPBELL) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2501. Mr. SPECTER submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2502. Mr. BOND submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2503. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2504. Ms. MURKOWSKI submitted an amendment intended to be proposed by her to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2505. Mr. BUNNING submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2506. Mr. BUNNING submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2507. Mr. PRYOR (for himself and Mrs. LINCOLN) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2508. Mr. SMITH submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2509. Mr. SMITH submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2510. Mr. GRAHAM, of Florida (for himself and Mr. NELSON, of Florida) submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2511. Mr. DASCHLE submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2512. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2513. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2514. Mr. GRASSLEY (for himself and Mr. BAUCUS) submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2515. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2516. Mr. MILLER submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2517. Mr. MILLER submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2518. Mr. MILLER submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2519. Mr. MILLER submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2520. Mr. MILLER submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2521. Mr. MILLER submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2522. Mr. KOHL submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2523. Mr. LEAHY submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2524. Mr. LEAHY submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2525. Mr. LEAHY submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2526. Mr. JOHNSON submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2527. Mr. HOLLINGS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2528. Mr. HOLLINGS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2529. Mr. HOLLINGS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2530. Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2531. Mr. CRAPO (for himself, Mr. THOMAS, and Mr. ENZI) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2532. Mr. SHELBY submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2533. Mr. SHELBY submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2534. Mr. SHELBY submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2535. Ms. CANTWELL submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2536. Ms. CANTWELL submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2537. Ms. CANTWELL submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2538. Ms. CANTWELL submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2539. Ms. CANTWELL submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2540. Ms. CANTWELL submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2541. Mr. SMITH submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2542. Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2543. Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2544. Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2545. Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2546. Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2547. Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2548. Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2549. Mr. GRASSLEY (for himself and Mr. BAUCUS) submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2550. Mr. THOMAS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2551. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2552. Mr. WYDEN (for himself and Mr. TALENT) submitted an amendment intended to be proposed to amendment SA 2341 submitted by Mr. TALENT (for himself and Mr. WYDEN) and intended to be proposed to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2553. Mr. WYDEN (for himself and Mr. TALENT) submitted an amendment intended to be proposed to amendment SA 2340 submitted by Mr. TALENT (for himself, Mr. WYDEN, Mr. CORZINE , and Mr. COLEMAN) and intended to be proposed to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2554. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2555. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2556. Mr. KOHL submitted an amendment intended to be proposed to amendment SA 2302 submitted by Mr. BAYH (for himself, Mr. DURBIN, Mr. LUGAR, Mr. KOHL, and Mr. FITZGERALD) and intended to be proposed to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2557. Ms. STABENOW (for herself and Mr. LEVIN) submitted an amendment intended to be proposed to amendment SA 2441 submitted by Ms. STABENOW (for herself and Mr. LEVIN) and intended to be proposed to the amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 2297. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. LIMITATION ON THE APPLICATION OF THE DAVIS-BACON ACT.

The provisions of subchapter IV of chapter 31 of title 40, United States Code (40 U.S.C. 3141 et seq.), commonly known as the Davis-Bacon Act, shall not apply to projects that receive funding under this Act (or an amendment made by this Act).

SA 2298. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

In the blank in the appropriate clause in section 510(a)(4)(B) of title 23, United States Code (as added by section 2101(a)), insert ''the Southwest Bridge Research Center, comprising New Mexico State University and the Oklahoma Transportation Center''.

SA 2299. Mr. BINGAMAN (for himself and Mr. CRAIG) submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 733, strike lines 6 through 10 and insert the following:

wildlife;

''(xvii) installation and maintenance of signs (including fluorescent, yellow-green signs) at pedestrian-bicycle crossings and in school zones; or

''(xviii) if the State in which the lanes are located certifies to the Secretary that the upgrading of the lanes will provide a safety benefit, upgrading to 4 lanes portions of rural, 2-lane highways that have high accident rates and that are on—

''(I) the National Highway System; or

''(II) a high priority corridor identified under section 1105(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2032).

SA 2297. Mr. BINGAMAN (for himself, Mr. ROBERTS, and Mr. DOMENICI) submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. SOUTHWEST PASSAGE INITIATIVE FOR REGIONAL AND INTERSTATE TRANSPORTATION.

Section 1105(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2032) is amended by adding at the end the following:

''(45) The corridor extending from the point on the border between the United States and Mexico in the State of Texas at which United States Route 54 begins, along United States Route 54 through the States of Texas, New Mexico, Oklahoma, and Kansas, and ending in Wichita, Kansas, to be known as the 'Southwest Passage Initiative for Regional and Interstate Transportation Corridor' or 'SPIRIT Corridor'.''.

SA 2301. Mrs. MURRAY (for herself and Ms. COLLINS, Mrs. BOXER, Ms. CANTWELL, Mrs. CLINTON, Mr. COCHRAN, Mr. CORZINE, Mr. EDWARDS, Mr. KENNEDY, Ms. MIKULSKI, Ms. MURKOWSKI, Mr. SCHUMER, Ms. SNOWE, and Mr. STEVENS) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 39, line 1, strike ''$2,000,000,000'' and insert ''$1,328,000,000''.

On page 39, line 6, strike ''$38,000,000'' and insert ''$150,000,000''.

Beginning on page 80, strike line 7 and all that follows through page 81, line 3, and insert the following:

SEC. 1204. CONSTRUCTION OF FERRY BOATS AND FERRY TERMINAL AND MAINTENANCE FACILITIES; COORDINATION OF FERRY CONSTRUCTION, MAINTENANCE, AND OPERATION.

(a) IN GENERAL.—Section 147 of title 23, United States Code, is amended to read as follows:

''§ 147. Construction of ferry boats and ferry terminal and maintenance facilities; coordination of ferry construction, maintenance, and operation

''(a) DEFINITIONS.—In this section:

''(1) INSTITUTE.—The term 'Institute' means the National Ferry Transportation Institute established under subsection (d).

''(2) OFFICE.—The term 'Office' means the Ferry Joint Program Office established under subsection (c).

''(b) CONSTRUCTION OF FERRY BOATS AND FERRY TERMINAL AND MAINTENANCE FACILITIES.—

''(1) IN GENERAL.—The Secretary shall carry out a program for construction of ferry boats and ferry terminal and maintenance facilities in accordance with section 129(c).

''(2) FEDERAL SHARE.—The Federal share of the cost of construction of ferry boats and ferry terminals and maintenance facilities under this subsection shall be 80 percent.

''(3) ALLOCATION OF FUNDS.—The Secretary shall give priority in the allocation of funds under this subsection to those ferry systems, and public entities responsible for developing ferries, that—

''(A) carry the greatest number of passengers and vehicles;

''(B) carry the greatest number of passengers in passenger-only service; or

''(C) provide critical access to areas that are not well-served by other modes of surface transportation.

''(c) FERRY JOINT PROGRAM OFFICE.—

''(1) ESTABLISHMENT.—The Secretary shall establish an office, to be known as the 'Ferry Joint Program Office'—

''(A) to coordinate Federal programs affecting ferry boat and ferry facility construction, maintenance, and operations; and

''(B) to promote ferry service as a component of the transportation system of the United States.

''(2) RESPONSIBILITIES.—The Office shall—

''(A) coordinate ferry and ferry-related programs (including policy)—

''(i) within the Department of Transportation (including the Federal Highway Administration, the Federal Transit Administration, the Maritime Administration, and the Bureau of Transportation Statistics); and

''(ii) with the Department of Homeland Security and other Federal and State agencies, as appropriate; and

''(B) with respect to the administration of ferry and ferry-related programs—

''(i) ensure resource accountability;

''(ii) provide strategic leadership for ferry research, development, testing, and deployment; and

''(iii) promote ferry transportation as a means to reduce social, economic, and environmental costs associated with traffic congestion.

''(d) NATIONAL FERRY DATABASE.—

''(1) IN GENERAL.—Using the results of the study under section 1207(c) of the Transportation Equity Act for the 21st Century (23 U.S.C. 129 note; 112 Stat. 185), the Secretary shall—

''(A) maintain a national ferry database, which shall contain current information regarding—

''(i) ferry systems, routes, and vessels;

''(ii) passengers and vehicles carried;

''(iii) funding sources; and

''(iv) such other matters as the Secretary determines to be appropriate; and

''(B) in accordance with paragraph (2), update the database and results of the study, as appropriate.

''(2) UPDATED DATABASE.—The Secretary shall update the national ferry database—

''(A) with respect to the initial updated version, not later than 1 year after the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003; and

''(B) with respect to subsequent updated versions, every 2 years thereafter.

''(3) PUBLIC ACCESSIBILITY.—The Secretary shall ensure that the national ferry database is easily accessible to the public.

''(e) NATIONAL FERRY TRANSPORTATION INSTITUTE.—

''(1) ESTABLISHMENT.—Not later than 1 year after the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003, the Secretary shall

make grants to an institution of higher education to establish an institute to be known as the 'National Ferry Transportation Institute'.

''(2) ADMINISTRATION.—The Secretary shall develop and administer the Institute in cooperation with—

''(A) the Department of Transportation;

''(B) State transportation departments and State agencies;

''(C) public ferry transportation authorities;

''(D) private ferry operators;

''(E) ferry boat builders;

''(F) ferry employees;

''(G) other institutions of higher education; and

''(H) research institutes.

''(3) FUNCTIONS.—The Institute shall—

''(A) conduct research and recommend development activities on methods of improving ferry transportation programs in the United States, including methods of reducing wake and providing alternative propulsion;

''(B) develop and conduct training programs for ferry system employees, Federal employees, and other individuals, as appropriate, on recent developments, techniques, and procedures pertaining to the construction and operation of ferries;

''(C) encourage and assist collaborative efforts by public and private entities to preserve, improve, and expand the use of ferries as a mode of transportation; and

''(D) preserve, use, and display historical information about the use of ferries in the United States and in foreign countries.

''(4) LOCATION.—In selecting the location for the Institute, the Secretary shall consider, with respect to the region in which the Institute is to be located—

''(A) the importance of public and private ferries to the transportation system of the region, including both regional travel and long-range travel and service to isolated communities;

''(B) the historical importance of ferry transportation to the region;

''(C) the history and diversity of the maritime community of the region, including ferry construction and repair and other shipbuilding activities;

''(D) the anticipated growth of ferry service and ferry boat building in the region;

''(E) the availability of public-private collaboration in the region; and

''(F) the presence of nationally recognized research colleges and universities in the region.

''(5) REPORT.—Not later than 1 year after the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003, and annually thereafter, the Secretary shall submit to Congress a report that describes the activities of the Institute under, and the progress in carrying out, this section.

''(6) FUNDING.—The Secretary may authorize the acceptance and expenditure of funding provided to the Institute by public and private entities.

''(f) SET-ASIDE.—Of the amounts made available under section 1101(a)(14) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003, $112,000,000 for each of fiscal years 2004 through 2009 shall be made available to carry out this section.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 129(c) of title 23, United States Code, is amended—

(A) in the matter preceding paragraph (1), by inserting ''and maintenance'' after ''terminal''; and

(B) in paragraph (3), by inserting ''or maintenance'' after ''terminal'' each place it appears.

(2) The analysis for subchapter I of chapter 1 of title 23, United States Code, is amended by striking the item relating to section 147 and inserting the following:

''147. Construction of ferry boats and ferry terminal and maintenance facilities.''.

(3) Section 1064 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2005) is repealed.

SA 2302. Mr. BAYH (for himself, Mr. DURBIN, Mr. LUGAR, Mr. KOHL, and Mr. FITZGERALD) submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. ADJUSTMENT OF EQUITY BONUS PROGRAM TO REFLECT TAX PAYMENTS RELATING TO ETHANOL.

(a) IN GENERAL.—Subsection (d) of section 105 of title 23, United States Code, (as amended by section 1104) is amended to read as follows:

''(d) LIMITATION ON ADJUSTMENTS.—

''(1) IN GENERAL.—Except as provided in paragraphs (2) and (3) of subsection (c), no State shall receive, for any fiscal year, additional amounts under subsection (a)(1) if—

''(A) the total apportionments of the State for the fiscal year for the programs specified in subsection (a)(2); exceeds

''(B) the sum of—

''(i) the percentage of the average, for the period of fiscal years 1998 through 2003, of the annual apportionments of the State for all programs specified in subsection (b)(2), as specified in paragraph (2); and

''(ii) an amount which is equivalent to—

''(I) the amount equal to the number of gallons of gasohol sold within the State during fiscal years 1996 through 2001 multiplied by the excess of the tax rate applicable for a gallon of gasoline over the tax rate applicable for a gallon of gasohol for such years; plus

''(II) an amount equal to the number of gallons of gasohol sold within the State during fiscal years 1996 through 2001 multiplied by the amount of the tax rate applicable to a gallon of gasohol which is not deposited into the Highway Trust Fund with respect to each such year.

''(2) PERCENTAGES.—The percentages referred to in paragraph (1)(B)(i) are—

''(A) for fiscal year 2004, 120 percent;

''(B) for fiscal year 2005, 130 percent;

''(C) for fiscal year 2006, 134 percent;

''(D) for fiscal year 2007, 137 percent;

''(E) for fiscal year 2008, 145 percent; and

''(F) for fiscal year 2009, 250 percent.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply as if made by section 1104 of this Act.

SA 2303. Mr. LAUTENBERG submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 175, strike line 18 and all that follows through page 179, line 13, and insert the following:

''(4) EFFECT ON OTHER REVIEWS.—

''(A) IN GENERAL.—For the purpose of compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and any other law requiring an agency that is not the lead agency to determine or consider a project purpose or project need, such an agency acting, permitting, or approving under, or otherwise applying, Federal law with respect to a project shall adopt the determination of purpose and need for the project made by the lead agency.

''(B) CONFLICT.—

''(i) IN GENERAL.—In the case of a conflict described in clause (ii), the Governor of a State, the lead agency, the project sponsor, or the cooperating agency shall promptly convene a meeting with representatives of the relevant cooperating agencies, the lead agency, the project sponsor, and the Governor to resolve the conflict.

''(ii) CONFLICT SITUATIONS.—A conflict in clause (i) is a situation in which—

''(I) after the cooperating agency has commented, a conflict arises between a cooperating agency and the lead agency regarding the objectives in the statement of purpose of, and need for, a project; and

''(II) the cooperating agency demonstrates that the ability of the cooperating agency to enforce a law (including a regulation) would be impaired if the objectives were not modified.

''(5) SAVINGS.—Nothing in this subsection preempts or interferes with any power, jurisdiction, responsibility, or authority of an agency under applicable law (including regulations) with respect to a project.

''(6) CONTENTS.—

''(A) IN GENERAL.—The statement of purpose and need shall include a clear statement of the objectives that the proposed project is intended to achieve.

''(B) EFFECT ON EXISTING STANDARDS.—Nothing in this subsection shall alter existing standards for defining the purpose and need of a project.

''(7) FACTORS TO CONSIDER.—The lead agency shall ensure that the following factors and documents are considered in determining the purpose of, and need for, a project:

''(A) Transportation plans and related planning documents developed through the statewide and metropolitan transportation planning process under sections 134 and 135.

''(B) Land use plans adopted by units of State, local, or tribal government (or, in the case of Federal land, by the applicable Federal land management agencies).

''(C) Economic development plans adopted by—

''(i) units of State, local, or tribal government; or

''(ii) established economic development planning organizations or authorities.

''(D) Environmental protection plans, including plans for the protection or treatment of—

''(i) air quality;

''(ii) water quality and runoff;

''(iii) habitat needs of plants and animals;

''(iv) threatened and endangered species;

''(v) invasive species;

''(vi) historic properties; and

''(vii) other environmental resources.

''(E) Any publicly available plans or policies relating to the national defense, national security, or foreign policy of the United States.

''(g) DEVELOPMENT OF PROJECT ALTERNATIVES.—

''(1) IN GENERAL.—With respect to the environmental review process for a project, the alternatives shall be determined in accordance with this subsection.

''(2) AUTHORITY.—The lead agency shall determine the alternatives to be considered for a project.

''(3) INVOLVEMENT OF COOPERATING AGENCIES AND THE PUBLIC.—

''(A) IN GENERAL.—Before determining the alternatives for a project, the lead agency shall solicit for 30 days and consider any relevant comments on the proposed alternatives received from the public and cooperating agencies.

''(B) ALTERNATIVES.—The lead agency shall consider—

''(i) alternatives that meet the objectives in the purpose and need statement for the project;

''(ii) alternatives that satisfy most of the objectives in the purpose and need statement for the project but that are more protective of public health and the environment than other alternatives; and

''(iii) the alternative of no action.

''(C) EFFECT ON EXISTING STANDARDS.—Nothing in this subsection shall alter the existing standards for determining the range of alternatives.

''(4) EFFECT ON OTHER REVIEWS.—

''(A) IN GENERAL.—Any other agency acting under or applying Federal law with respect to a project shall consider only the alternatives determined by the lead agency.

''(B) CONFLICT.—

''(i) IN GENERAL.—In the case of a conflict described in clause (ii), the Governor of a State, the lead agency, the project sponsor, or the cooperating agency shall promptly convene a meeting with representatives of the relevant cooperating agencies, the lead agency, the project sponsor, and the Governor to resolve the conflict.

''(ii) CONFLICT SITUATIONS.—A conflict in clause (i) is a situation in which—

''(I) after the cooperating agency has commented, a conflict arises between a cooperating agency and the lead agency regarding the objectives in the statement of purpose of, and need for, a project; and

''(II) the cooperating agency demonstrates that the ability of the cooperating agency to enforce a law (including a regulation) would be impaired if the objectives were not modified.

''(5) SAVINGS.—Nothing in this subsection preempts or interferes with any power, jurisdiction, responsibility, or authority of an agency under applicable law (including regulations) with respect to a project.

''(6) FACTORS TO CONSIDER.—The lead agency shall ensure that the following factors and documents are considered in determining the purpose of, and need for, a project:

SA 2304. Mr. LAUTENBERG submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following new section:

SEC. . MULTI-STATE INTELLIGENT TRANSPORTATION SYSTEM OPERATIONS.

(a) IN GENERAL.—The Secretary shall encourage regional operating organizations, in multi-state, metropolitan areas having multiple metropolitan planning organizations, to promote regional coordination and cooperation in the efficient, safe, and secure operation of regional transportation systems; and, to implement these regional programs in a manner consistent with the needs of the public safety community.

(b) TRANSCOM'S INTELLIGENT TRANSPORTATION SYSTEM PROJECTS.—The Secretary shall make annual grants of $9 million to TRANSCOM for funding the capital costs as well as the annual operations and maintenance costs of intelligent transportation system (ITS) projects, in the New Jersey/New York/Connecticut metropolitan region. These ITS projects shall also assist the public safety community by providing comprehensive transportation for responding to major regional incidents and by supporting evacuation planning for natural and man-made emergencies.

SA 2305. Mr. LAUTENBERG (for himself, Mr. DEWINE, Mr. DORGAN, and Mr. CORZINE) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 137, strike line 10 and insert the following:

SEC. 1403. HIGHER-RISK IMPAIRED DRIVERS.

On page 137, line 11, insert ''(a) LICENSE SUSPENSION DEFINITION.—'' before ''Section''.

On page 138, between lines 2 and 3, insert the following:

(b) OTHER DEFINITIONS.—Section 164 of title 23, United States Code, is further amended—

(1) by striking subsection (a)(5) and inserting the following:

''(5) HIGHER-RISK IMPAIRED DRIVER LAW.—

''(A) IN GENERAL.—The term 'higher-risk impaired driver law' means a State law that provides, as a minimum penalty, that an individual described in subparagraph (B) shall—

''(i) receive a driver's license suspension for not less than 1 year;

''(ii) have the motor vehicle driven at the time of arrest impounded or immobilized for not less than 90 days and for the remainder of the license suspension period require the installation of a certified alcohol ignition interlock device on the vehicle;

''(iii) be subject to an assessment by a certified substance abuse official of the State that assesses the individual's degree of abuse of alcohol and assigned to a treatment program or impaired driving education program as determined by the assessment;

''(iv) be imprisoned for not less than 10 days, have an electronic monitoring device for not less than 100 days, or be assigned to a DUI/DWI specialty facility for not less than 30 days;

''(v) be fined a minimum of $1,000, with the proceeds of such funds to be used by the State or local jurisdiction for impaired driving related prevention, enforcement, and prosecution programs, or for the development or maintenance of a tracking system of offenders driving while impaired;

''(vi) if the arrest resulted from involvement in a crash, pay court-mandated restitution to the victims of the crash;

''(vii) be placed on probation by the court for a period of not less than 2 years;

''(viii) if diagnosed with a substance abuse problem, during the first year of the probation period referred to in clause (vii), attend a treatment program for a period of 12 consecutive months sponsored by a State certified substance abuse treatment agency and meet with a case manager at least once each month; and

''(ix) be required by the court to attend a victim impact panel, if such a panel is available.

''(B) INDIVIDUALS TO WHOM PENALTIES APPLY.—An individual is described in this subparagraph if that individual—

''(i) is convicted of a second or subsequent offense for driving while intoxicated or driving under the influence within a minimum of 10 consecutive years;

''(ii) is convicted of driving while intoxicated or driving under the influence with a blood alcohol concentration of 0.15 percent or greater; or

''(iii) is convicted of a driving-while-suspended offense if the suspension was the result of a conviction for driving under the influence.'';

(2) by adding at the end of subsection (a) the following:

''(6) SPECIAL DUI/DWI FACILITY.—The term 'special DUI/DWI facility' means a facility that houses and treats offenders arrested for driving while impaired and allows such offenders to work or attend school.

''(7) VICTIM IMPACT PANEL.—The term 'victim impact panel' means a group of impaired driving victims who speak to offenders about impaired driving for the purpose of trying to change attitudes and behaviors in order to deter impaired driving recidivism,''; and

(3) by striking subsection (b) and inserting the following:

''(b) IMPOSITION OF HIGHER-RISK IMPAIRED DRIVING LAW REQUIREMENT.—

''(1) IN GENERAL.—Notwithstanding any provision of section 104 to the contrary, as a condition of receiving the full amount of funds apportioned to a State under paragraphs (1), (3), and (4) of section 104(b), a State shall enact and enforce a higher-risk impaired driver law.

''(2) ENFORCEMENT BY WITHHOLDING FUNDS.—On October 1st of the following fiscal years, the Secretary shall withhold the applicable percentage of the amount required to be apportioned for Federal-aid highways to a State on that date under each of paragraphs (1), (3), and (4) of section 104(b) if the State has not enacted or is not enforcing a higher-risk impaired driver law:

''(A) For fiscal year 2008, the applicable percentage is 2 percent.

''(B) For fiscal year 2009, the applicable percentage is 4 percent.

''(C) For fiscal year 2010, the applicable percentage is 6 percent.

''(D) For fiscal year 2011, the applicable percentage is 8 percent.''.

SA 2306. Mr. LAUTENBERG (for himself, Mr. DEWINE, and Mr. CORZINE) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. TERMINATION OF DETERMINATIONS OF GRANDFATHER RIGHTS.

(a) IN GENERAL.—Section 127 of title 23, United States Code, is amended by adding at the end the following:

''(h) GRANDFATHER RIGHTS.—

''(1) GENERAL RULE.—After the 270th day following the date of enactment of this subsection, a State may not allow, on a segment of the Interstate System, the operation of a vehicle or combination (other than a longer combination vehicle) exceeding an Interstate weight limit unless the operation is specified on the list published under paragraph (2).

''(2) LIST OF VEHICLES AND COMBINATIONS.—

''(A) PROCEEDING.—Not later than 60 days after the date of enactment of this subsection, the Secretary shall initiate a proceeding to determine and publish a list of vehicles and combinations (other than longer combination vehicles), otherwise exceeding an Interstate weight limit, that the Department of Transportation, any other Federal agency, or a State has determined on or before June 1, 2003, could be lawfully operated within such State—

''(i) on July 1, 1956;

''(ii) in the case of the overall gross weight of any group of 2 or more consecutive axles, on the date of enactment of the Federal-Aid Highway Amendments of 1974; or

''(iii) under a special rule applicable to a State under subsection (a).

''(B) LIMITATIONS.—

''(i) ACTUAL AND LAWFUL OPERATIONS REQUIRED.—An operation of a vehicle or combination may be included on the list published under subparagraph (A) only if the vehicle or combination was in actual and lawful operation in the State on a regular or periodic basis on or before June 1, 2003.

''(ii) STATE AUTHORITY NOT SUFFICIENT.—An operation of a vehicle or combination may not be included on the list published under subparagraph (A) on the basis that a State law or regulation could have authorized the operation of the vehicle or combination at some prior date by permit or otherwise.

''(C) PUBLICATION OF FINAL LIST.—Not later than 270 days after the date of enactment of this subsection, the Secretary shall publish a final list of vehicles and combinations described in subparagraph (A).

''(3) LIMITATION ON STATUTORY CONSTRUCTION.—This subsection does not prevent a State from reducing the gross vehicle weight limitation, the single and tandem axle weight limitations, or the overall maximum gross weight on a group of 2 or more consecutive axles applicable to portions of the Interstate System in the State for operations on the list published under paragraph (2)(C) but in no event may any such reduction result in a limitation that is less than an Interstate weight limit.

''(4) APPLICABILITY OF EXISTING REQUIREMENTS.—All vehicles and combinations included on the list published under paragraph (2) shall be subject to all routing-specific, commodity-specific, and weight-specific designations in force in a State on June 1, 2003.

''(5) INTERSTATE WEIGHT LIMIT DEFINED.—In this subsection, the term 'Interstate weight limit' means the 80,000 pound gross vehicle weight limitation, the 20,000 pound single axle weight limitation (including enforcement tolerances), the 34,000 pound tandem axle weight limitation (including enforcement tolerances), and the overall maximum gross weight (including enforcement tolerances) on a group of 2 or more consecutive axles produced by application of the formula in subsection (a).''.

(b) CONFORMING AMENDMENT.—The fourth sentence of section 127(a) of title 23, United States Code, is amended by striking ''the State determines''.

SEC. ___. NONDIVISIBLE LOAD PROCEEDING.

Section 127 of title 23, United States Code, is further amended by adding at the end the following:

''(i) NONDIVISIBLE LOADS.—

''(1) PROCEEDING.—Not later than 60 days after the date of enactment of this subsection, the Secretary shall initiate a proceeding to define the term 'vehicles and loads which cannot be easily dismantled or divided' as used in subsection (a) and section 31112 of title 49.

''(2) LIST OF COMMODITIES.—

''(A) IN GENERAL.—The definition developed under paragraph (1) shall include a list of commodities (or classes or types of commodities) that do not qualify as nondivisible loads.

''(B) LIMITATION.—The list of commodities developed under paragraph (1) shall not be interpreted to be a comprehensive list of commodities that do not qualify as nondivisible loads.

''(3) REGULATIONS.—Not later than 270 days after the date of enactment of this subsection, the Secretary shall issue final regulations setting forth the determination of the Secretary made under paragraph (1). The Secretary shall update the regulations as necessary.

''(4) APPLICABILITY.—Regulations issued under paragraph (2) shall apply to all vehicles and loads operating on the National Highway System.

''(5) STATE REQUIREMENTS.—A State may establish any requirement that is not inconsistent with regulations issued under paragraph (2).

''(6) STATEMENT OF POLICY.—The purpose of this subsection is to promote conformity with Interstate weight limits to preserve publicly funded infrastructure and protect motorists by limiting maximum vehicle weight on key portions of the Federal-aid highway system.''.

SEC. ___. WAIVERS OF WEIGHT LIMITATIONS DURING PERIODS OF NATIONAL EMERGENCY.

Section 127 of title 23, United States Code, is further amended by adding at the end the following:

''(j) WAIVERS DURING PERIODS OF NATIONAL EMERGENCY.—

''(1) IN GENERAL.—Notwithstanding any other provision of this section or section 126, the Secretary, in consultation with the Secretary of Defense, may waive or limit the application of any vehicle weight limit established under this section or section 126 with respect to a highway route during a period of national emergency in order to respond to the effects of the national emergency.

''(2) APPLICABILITY.—Emergency limits established under paragraph (1) shall preempt any inconsistent State vehicle weight limits.''.

SEC. ___. VEHICLE WEIGHT LIMITATIONS—NATIONAL HIGHWAY SYSTEM.

(a) IN GENERAL.—Title 23, United States Code, is amended by inserting after section 125 the following:

''§ 126. Vehicle weight limitations—National Highway System

''(a) NON-INTERSTATE HIGHWAYS ON NHS.—

''(1) IN GENERAL.—After the 270th day following the date of enactment of this section, any Interstate weight limit that applies to vehicles and combinations (other than longer combination vehicles) operating on the Interstate System in a State under section 127 shall also apply to vehicles and combinations (other than longer combination vehicles) operating on non-Interstate segments of the National Highway System in such State, unless such segments are subject to lower State weight limits as provided for in subsection (d).

''(2) EXISTING HIGHWAYS.—

''(A) IN GENERAL.—Notwithstanding paragraph (1), in the case of a non-Interstate segment of the National Highway System that is open to traffic on June 1, 2003, a State may allow the operation of any vehicle or combination (other than a longer combination vehicle) on such segment that the Secretary determines under subsection (b) could be lawfully operated on such segment on June 1, 2003.

''(B) APPLICABILITY OF STATE LAWS AND REGULATIONS.—All operations described in subparagraph (A) shall continue to be subject to all State statutes, regulations, limitations and conditions, including routing-specific, commodity-specific, and configuration-specific designations and all other restrictions, in force on June 1, 2003.

''(3) NEW HIGHWAYS.—Subject to subsection (d)(1), the gross vehicle weight limitations and axle loading limitations applicable to all vehicles and combinations (other than longer combination vehicles) on a non-Interstate segment of the National Highway System that is not open to traffic on June 1, 2003, shall be the Interstate weight limit.

''(b) LISTING OF VEHICLES AND COMBINATIONS.—

''(1) IN GENERAL.—The Secretary shall initiate a proceeding to determine and publish a list of vehicles and combinations (other than longer combination vehicles), otherwise exceeding an Interstate weight limit, that could be lawfully operated on a non-Interstate segment of the National Highway System on June 1, 2003.

''(2) REQUIREMENTS.—In publishing a list of vehicles and combinations under paragraph (1), the Secretary shall identify—

''(A) the gross vehicle weight limitations and axle loading limitations in each State applicable, on June 1, 2003, to vehicles and combinations (other than longer combination vehicles) on non-Interstate segments of the National Highway System; and

''(B) operations of vehicles and combinations (other than longer combination vehicles), exceeding State gross vehicle weight limitations and axle loading limitations identified under subparagraph (A), which were in actual and lawful operation on a regular or periodic basis (including seasonal operations) on June 1, 2003.

''(3) LIMITATION.—An operation of a vehicle or combination may not be included on the list published under paragraph (1) on the basis that a State law or regulation could have authorized such operation at some prior date by permit or otherwise.

''(4) PUBLICATION OF FINAL LIST.—Not later than 270 days after the date of enactment of this section, the Secretary shall publish a final list of vehicles and combinations described in paragraph (1).

''(5) UPDATES.—The Secretary shall update the list published under paragraph (1) as necessary to reflect new designations made to the National Highway System.

''(c) APPLICABILITY OF LIMITATIONS.—The limitations established by subsection (a) shall apply to any new designation made to the National Highway System and remain in effect on those non-Interstate highways that cease to be designated as part of the National Highway System.

''(d) LIMITATIONS ON STATUTORY CONSTRUCTION.—

''(1) STATE ENFORCEMENT OF MORE RESTRICTIVE WEIGHT LIMITS.—This section does not prevent a State from maintaining or imposing a weight limitation that is more restrictive than the Interstate weight limit on vehicles or combinations (other than longer combination vehicles) operating on a non-Interstate segment of the National Highway System.

''(2) STATE ACTIONS TO REDUCE WEIGHT LIMITS.—This section does not prevent a State from reducing the State's gross vehicle weight limitation, single or tandem axle weight limitations, or the overall maximum gross weight on 2 or more consecutive axles on any non-Interstate segment of the National Highway System.

''(e) LONGER COMBINATION VEHICLES.—

''(1) PROHIBITION.—

''(A) IN GENERAL.—After the 270th day following the date of enactment of this section, a longer combination vehicle may continue to operate on a non-Interstate segment of the National Highway System only if the operation of the longer combination vehicle configuration type was authorized by State officials pursuant to State statute or regulation on June 1, 2003, and in actual and lawful operation on a regular or periodic basis (including seasonal operations) on or before June 1, 2003.

''(B) APPLICABILITY OF STATE LAWS AND REGULATIONS.—All operations described in subparagraph (A) shall continue to be subject to all State statutes, regulations, limitations and conditions, including routing-specific, commodity-specific, and configuration-specific designations and all other restrictions, in force on June 1, 2003.

''(2) LISTING OF VEHICLES AND COMBINATIONS.—

''(A) IN GENERAL.—Not later than 60 days after the date of enactment of this section, the Secretary shall initiate a proceeding to determine and publish a list of longer combination vehicles that could be lawfully operated on non-Interstate segments of the National Highway System on June 1, 2003.

''(B) LIMITATION.—A longer combination vehicle may not be included on the list published under subparagraph (A) on the basis that a State law or regulation could have authorized the operation of such vehicle at some prior date by permit or otherwise.

''(C) PUBLICATION OF FINAL LIST.—Not later than 270 days after the date of enactment of this section, the Secretary shall publish a final list of longer combination vehicles described in subparagraph (A).

''(D) UPDATES.—The Secretary shall update the list published under subparagraph (A) as necessary to reflect new designations made to the National Highway System.

''(3) LIMITATION ON STATUTORY CONSTRUCTION.—This subsection does not prevent a State from further restricting in any manner or prohibiting the operation of a longer combination vehicle; except that such restrictions or prohibitions shall be consistent with the requirements of section 127 of this title and sections 31112 through 31114 of title 49, United States Code.

''(f) MODEL SCHEDULE OF FINES.—

''(1) IN GENERAL.—The Secretary, in consultation with the States, shall establish a model schedule of fines to be assessed for violations of this section.

''(2) PURPOSE.—The purpose of the schedule of fines shall be to ensure that fines are sufficient to deter violations of the requirements of this section and to permit States to recover costs associated with damages caused to the National Highway System by the operation of such vehicles.

''(3) ADOPTION BY STATES.—The Secretary shall encourage but not require States to adopt the schedule of fines.

''(g) DEFINITIONS.—In this section, the following definitions apply:

''(1) INTERSTATE WEIGHT LIMIT.—The term 'Interstate weight limit' has the meaning given such term in section 127(h).

''(2) LONGER COMBINATION VEHICLE.—The term 'longer combination vehicle' has the meaning given such term in section 127(d).''.

(b) ENFORCEMENT OF REQUIREMENTS.—Section 141(a) of title 23, United States Code, is amended—

(1) by striking ''the Federal-aid primary system, the Federal-aid urban system, and the Federal-aid secondary system, including the Interstate System'' and inserting ''the National Highway System, including the Interstate System,''; and

(2) by striking ''section 127'' and inserting ''sections 126 and 127''.

(c) CONFORMING AMENDMENT.—The analysis for title 23, United States Code, is amended by inserting after the item relating to section 125 the following:

''126. Vehicle weight limitations—National Highway System.''.

SA 2307. Ms. LANDRIEU submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE VII—MEASURES TO CONSERVE PETROLEUM

SEC. 7001. REDUCTION OF DEPENDENCE ON IMPORTED PETROLEUM.

(a) REPORT.—

(1) IN GENERAL.—Not later than February 1, 2005, and annually thereafter, the President shall submit to Congress a report, based on the most recent edition of the Annual Energy Outlook published by the Energy Information Administration, assessing the progress made by the United States toward the goal of reducing dependence on imported petroleum sources by 2014.

(2) CONTENTS.—The report under subsection (a) shall—

(A) include a description of the implementation, during the previous fiscal year, of provisions under existing law relating to domestic crude petroleum production;

(B) assess the effectiveness of those provisions in meeting the goal described in paragraph (1); and

(C) describe the progress in developing and implementing measures under subsection (b).

(b) MEASURES TO REDUCE IMPORT DEPENDENCE THROUGH INCREASED DOMESTIC PETROLEUM CONSERVATION.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the President shall develop and implement measures to conserve petroleum in end-uses throughout the economy of the United States sufficient to reduce total demand for petroleum in the United States by 1,000,000 barrels per day from the amount projected for calendar year 2014 in the reference case contained in the report of the Energy Information Administration entitled ''Annual Energy Outlook 2004''.

(2) CONTENTS.—The measures under paragraph (1) shall be designed to ensure continued reliable and affordable energy for consumers.

(3) IMPLEMENTATION.—The measures under paragraph (1) shall be implemented under existing authorities of appropriate Federal executive agencies identified by the President.

SA 2308. Mr. CORZINE submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 762, between lines 12 and 13 insert the following new paragraph:

''(6) The costs of operating programs that impound the vehicle of an individual arrested as an impaired operator of a motor vehicle for not less than 12 hours after the operator is arrested.

SA 2309. Mr. CORZINE (for himself and Mr. LAUTENBERG) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 389, between lines 15 and 16, insert the following:

SEC. 18____. IMPOUNDING VEHICLES OF INTOXICATED ARRESTEES.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1814(a)), is amended by adding at the end the following:

''§ 176. Impounding vehicles of intoxicated arrestees

''(a) DEFINITION OF MOTOR VEHICLE.—In this section, the term 'motor vehicle' means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public highways, but does not include a vehicle operated only on a rail.

''(b) WITHHOLDING OF APPORTIONMENTS FOR NONCOMPLIANCE.—

''(1) FISCAL YEAR 2005.—The Secretary shall withhold 5 percent of the amount required to be apportioned to any State under each of paragraphs (1), (3), and (4) of section 104(b) on October 1, 2004, if the State does not meet the requirements of paragraph (3) on that date.

''(2) SUBSEQUENT FISCAL YEARS.—The Secretary shall withhold 10 percent of the amount required to be apportioned to any State under each of paragraphs (1), (3), and (4) of section 104(b) on October 1, 2005, and on October 1 of each fiscal year thereafter, if the State does not meet the requirements of paragraph (3) on that date.

''(3) REQUIREMENTS.—A State meets the requirements of this paragraph if the State has enacted and is enforcing a law that is substantially provides for each of the following:

''(A) If a person has been arrested for public intoxication, the arresting law enforcement agency shall impound the vehicle that the person was operating at the time of arrest.

''(B) A vehicle impounded pursuant to this subparagraph shall be impounded for a period of 12 hours after the time of arrest or until such later time as the arrestee claiming the vehicle meets the conditions for release under subparagraph (D).

''(C) A vehicle impounded pursuant to this subparagraph may be released to a person other than the arrestee prior to the end of the impoundment period only if—

''(i) the vehicle is not owned or leased by the person under arrest and the person who owns or leases the vehicle claims the vehicle and meets the conditions for release under subparagraph (D); or

''(ii) the vehicle is owned or leased by the arrestee, the arrestee gives permission to another person, who has acknowledged in writing receipt of the statement to operate the vehicle and the conditions for release under subparagraph (D).

''(D) A vehicle impounded pursuant to this subparagraph shall not be released unless the person claiming the vehicle—

''(i) presents a valid operator's license, proof of ownership or lawful authority to operate the vehicle, and proof of valid motor vehicle insurance for that vehicle;

''(ii) is able to operate the vehicle in a safe manner and would not be in violation driving while intoxicated laws; and

''(iii) meets any other conditions for release established by the law enforcement agency.

''(E) A law enforcement agency impounding a vehicle pursuant to this subparagraph is authorized to charge a reasonable fee for towing and storage of the vehicle. The law enforcement agency is further authorized to retain custody of the vehicle until that fee is paid.

''(c) PERIOD OF AVAILABILITY; EFFECT OF COMPLIANCE AND NONCOMPLIANCE.—

''(1) PERIOD OF AVAILABILITY OF WITHHELD FUNDS.—Any funds withheld under subsection (b) from apportionment to any State shall remain available until the end of the fourth fiscal year following the fiscal year for which the funds are authorized to be appropriated.

''(2) APPORTIONMENT OF WITHHELD FUNDS AFTER COMPLIANCE.—If, before the last day of the period for which funds withheld under subsection (b) from apportionment are to remain available for apportionment to a State under paragraph (1), the State meets the requirements of subsection (a)(3), the Secretary shall, on the first day on which the State meets the requirements, apportion to

the State the funds withheld under subsection (b) that remain available for apportionment to the State.

''(3) PERIOD OF AVAILABILITY OF SUBSEQUENTLY APPORTIONED FUNDS.—

''(A) IN GENERAL.—Any funds apportioned under paragraph (2) shall remain available for expenditure until the end of the third fiscal year following the fiscal year in which the funds are so apportioned.

''(B) TREATMENT OF CERTAIN FUNDS.—Any funds apportioned under paragraph (2) that are not obligated at the end of the period referred to in subparagraph (A) shall be allocated equally among the States that meet the requirements of subsection (a)(3).

''(4) EFFECT OF NONCOMPLIANCE.—If, at the end of the period for which funds withheld under subsection (b) from apportionment are available for apportionment to a State under paragraph (1), the State does not meet the requirements of subsection (a)(3), the funds shall be allocated equally among the States that meet the requirements of subsection (a)(3).''.

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1814(c)), is amended by adding at the end the following:

''176. Impounding vehicles of impounded arrestees.''.

SA 2310. Mr. CORZINE submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 389, between lines 15 and 16, insert the following:

SEC. 18___. MOBILE TELEPHONE USE WHILE OPERATING MOTOR VEHICLES.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1814(a)), is amended by adding at the end the following:

''§ 176. Mobile telephone use while operating motor vehicles

''(a) DEFINITION OF MOTOR VEHICLE.—In this section, the term 'motor vehicle' means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public highways, but does not include a vehicle operated only on a rail.

''(b) WITHHOLDING OF APPORTIONMENTS FOR NONCOMPLIANCE.—

''(1) FISCAL YEAR 2005.—The Secretary shall withhold 5 percent of the amount required to be apportioned to any State under each of paragraphs (1), (3), and (4) of section 104(b) on October 1, 2004, if the State does not meet the requirements of paragraph (3) on that date.

''(2) SUBSEQUENT FISCAL YEARS.—The Secretary shall withhold 10 percent of the amount required to be apportioned to any State under each of paragraphs (1), (3), and (4) of section 104(b) on October 1, 2005, and on October 1 of each fiscal year thereafter, if the State does not meet the requirements of paragraph (3) on that date.

''(3) REQUIREMENTS.—

''(A) IN GENERAL.—A State meets the requirements of this paragraph if the State has enacted and is enforcing a law that prohibits an individual from using a mobile telephone (other than a mobile telephone used as described in subparagraph (B)) while operating a motor vehicle, except in the case of an emergency or other exceptional circumstance (as determined by the State).

''(B) HANDS-FREE DEVICES.—A State law described in subparagraph (A) may permit an individual operating a motor vehicle to use a mobile telephone with a device that permits hands-free operation of the telephone if the State determines that such use does not pose a threat to public safety.

''(c) PERIOD OF AVAILABILITY; EFFECT OF COMPLIANCE AND NONCOMPLIANCE.—

''(1) PERIOD OF AVAILABILITY OF WITHHELD FUNDS.—Any funds withheld under subsection (b) from apportionment to any State shall remain available until the end of the fourth fiscal year following the fiscal year for which the funds are authorized to be appropriated.

''(2) APPORTIONMENT OF WITHHELD FUNDS AFTER COMPLIANCE.—If, before the last day of the period for which funds withheld under subsection (b) from apportionment are to remain available for apportionment to a State under paragraph (1), the State meets the requirements of subsection (a)(3), the Secretary shall, on the first day on which the State meets the requirements, apportion to the State the funds withheld under subsection (b) that remain available for apportionment to the State.

''(3) PERIOD OF AVAILABILITY OF SUBSEQUENTLY APPORTIONED FUNDS.—

''(A) IN GENERAL.—Any funds apportioned under paragraph (2) shall remain available for expenditure until the end of the third fiscal year following the fiscal year in which the funds are so apportioned.

''(B) TREATMENT OF CERTAIN FUNDS.—Any funds apportioned under paragraph (2) that are not obligated at the end of the period referred to in subparagraph (A) shall be allocated equally among the States that meet the requirements of subsection (a)(3).

''(4) EFFECT OF NONCOMPLIANCE.—If, at the end of the period for which funds withheld under subsection (b) from apportionment are available for apportionment to a State under paragraph (1), the State does not meet the requirements of subsection (a)(3), the funds shall be allocated equally among the States that meet the requirements of subsection (a)(3).''.

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1814(c)), is amended by adding at the end the following:

''176. Mobile telephone use while operating motor vehicles.''.

SA 2311. Mrs. CLINTON (for herself, Mr. BINGAMAN, Mr. BYRD, Mr. DODD, Mr. SARBANES, Mr. CORZINE, Mr. LIEBERMAN, Mr. ROCKEFELLER, Mr. HARKIN, and Ms. STABENOW) proposed an amendment to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. ___. SENSE OF THE SENATE CONCERNING THE OUTSOURCING OF AMERICAN JOBS.

(a) FINDINGS.—The Senate finds that—

(1) the President's Chairman of the Council of Economic Advisors recently described the outsourcing of American jobs overseas ''as a good thing'' and said, ''outsourcing is just a new way of doing international trade'';

(2) the President's economic policies have either failed to address or exacerbated the loss of manufacturing jobs that our country has experienced over the last 3 years;

(3) American families are facing an economy with the fewest jobs created since the Great Depression;

(4) 2,900,000 private sector jobs have been lost since January 2001, including 2,800,000 manufacturing jobs;

(5) on several occasions the Senate has supported reforming our tax laws to eliminate policies that make it cheaper to move jobs overseas; and

(6) job creation is essential to the economic stability of the United States and the Administration should pursue policies that serve as an engine for economic growth, higher wage jobs, and increased productivity.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the Senate should—

(1) oppose any efforts to encourage the outsourcing of American jobs overseas; and

(2) adopt legislation providing for a manufacturing tax incentive to encourage job creation in the United States and oppose efforts to make it cheaper to send jobs overseas.

SA 2312. Mr. CORZINE submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 724, strike line 19 and all that follows through page 725, line 2, and insert the following:

(A) by redesignating clause (6) as clause (8);

(B) by inserting after ''involving school buses,'' at the end of clause (5) the following: ''(6) to reduce aggressive driving and to educate drivers about defensive driving, (7) to reduce accidents resulting from fatigued and distracted drivers, including distractions arising from the use of electronic devices in vehicles,''; and

(C) by inserting ''aggressive driving, distracted driving,'' after ''school bus accidents,''.

On page 731, between lines 12 and 13, insert the following:

''(5) RESEARCH ON DISTRACTED, INATTENTIVE, AND FATIGUED DRIVERS.—In conducting research under subsection (a)(3), the Secretary shall carry out not less than 10 demonstration projects to evaluate new and innovative means of combatting traffic system problems caused by distracted, inattentive, or fatigued drivers. The demonstration projects shall be in addition to any other research carried out under this subsection.

On page 770, between lines 7 and 8, insert the following:

''(2) DATA ON USE OF ELECTRONIC DEVICES.—The model data elements required under paragraph (1) shall include data elements, as determined appropriate by the Secretary in consultation with the States and with appropriate elements of the law enforcement community, on the impact on traffic safety of the use of electronic devices while driving.

On page 770, line 8, strike ''(2)'' and insert ''(3)''.

On page 770, line 19, strike ''(3)'' and insert ''(4)''.

On page 770, line 23, strike ''(4)'' and insert ''(5)''.

SA 2313. Mr. ALLARD submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of section 3032 insert the following:

SEC. 3032. EMPLOYEE PROTECTIVE ARRANGEMENTS.

Section 5333 is amended—

(1) in subsection (a), by striking ''(a) PREVAILING WAGES REQUIREMENT.—''; and

(2) by striking subsection (b).

SA 2314. Mr. CAMPBELL (for himself and Mr. INOUYE) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 20, between lines 6 and 7, insert the following:

''(____) INDIAN LAND.—The term 'Indian land' means—

''(A) any land located within the boundaries of an Indian reservation, pueblo, or rancheria;

''(B) any land not located within the boundaries of an Indian reservation, pueblo, or rancheria, the title to which is held—

''(i) in trust by the United States for the benefit of an Indian tribe;

''(ii) by an Indian tribe, subject to restriction by the United States against alienation; or

''(iii) by a dependent Indian community; and

''(C) land conveyed as part of an original conveyance to a Native Corporation in accordance with the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).

''(____) INDIAN RESERVATION.—The term 'Indian reservation' includes—

''(A) an Indian reservation in existence as of the date of enactment of the Indian Tribal Surface Transportation Improvement Act of 2003;

''(B) a public domain Indian allotment;

''(C) a former reservation in the State of Oklahoma;

''(D) a parcel of land conveyed as part of an original conveyance to a Native Corporation in accordance with the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.); and

''(E) a dependent Indian community located within the borders of the United States, regardless of whether the community is located—

''(i) on original or acquired territory of the community; or

''(ii) within or outside the boundaries of any particular State.

On page 20, after line 25, add the following:

''(____) INDIAN TRIBE.—The term 'Indian tribe' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

On page 31, between lines 15 and 16, insert the following:

''(____) TRIBAL TRANSPORTATION FACILITY.—The term 'tribal transportation facility' means any transportation-related project, facility, or physical infrastructure for an Indian tribe that is funded under this title.

Beginning on page 321, strike line 14 and all that follows through page 323, line 10, and insert the following:

''(B) FUNDING.—

''(i) RESERVATION OF FUNDS.—Notwithstanding any other provision of law, there is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) $15,000,000 for each of fiscal years 2004 through 2009 to carry out planning, design, engineering, preconstruction, construction, and inspection of projects to replace,''; and

(B) by adding at the end the following:

''(ii) AVAILABILITY.—Funds made available to carry out this subparagraph—

''(I) shall be available for obligation in the same manner as if the funds were apportioned under chapter 1; and

''(II) shall not be available to the Bureau of Indian Affairs to pay administrative costs.''; and

(5) by adding at the end the following:

''(f) ADMINISTRATION OF INDIAN RESERVATION ROADS.—

''(1) CONTRACT AUTHORITY.—

''(A) IN GENERAL.—Notwithstanding any other provision of law, for any fiscal year, not more than 6 percent of the contract authority amounts made available from the Highway Trust Fund to the Bureau of Indian Affairs under this title shall be used to pay the administrative expenses of the Bureau for the Indian reservation roads program (including the administrative expenses relating to individual projects that are associated with the program).

''(B) AVAILABILITY.—Amounts made available to pay administrative expenses under subparagraph (A) shall be made available to an Indian tribal government, on the request of the government, to be used for the associated administrative functions assumed by the Indian tribe under contracts and agreements entered into under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b et seq.).

''(2) HEALTH AND SAFETY ASSURANCES.—Notwithstanding any other provision of law, an Indian tribe or tribal organization may commence road and bridge construction under the Transportation Equity Act for the 21st Century (Public Law 105–178) or its successor Act of Congress that is funded through a contract or agreement under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b et seq.) if the Indian tribe or tribal organization—

''(A) provides assurances in the contract or agreement that the construction will meet or exceed applicable health and safety standards;

''(B) obtains the advance review of the plans and specifications from a licensed professional that has certified that the plans and specifications meet or exceed the applicable health and safety standards; and

''(C) provides a copy of the certification under subparagraph (B) to the Assistant Secretary for Indian Affairs.''.

On page 389, between lines 15 and 16, insert the following:

SEC. 18____. INDIAN TRIBAL SURFACE TRANSPORTATION.

(a) FUNDING FOR INDIAN RESERVATION ROADS PROGRAM.—Section 1101(a)(8) of the Transportation Equity Act for the 21st Century (112 Stat. 112) is amended by striking subparagraph (A) and inserting the following:

''(A) INDIAN RESERVATION ROADS.—

''(i) IN GENERAL.—Subject to clause (ii), for Indian reservation roads under section 204 of that title—

''(I) $330,000,000 for each of fiscal years 2004 through 2005;

''(II) $425,000,000 for each of fiscal years 2006 through 2007; and

''(III) $550,000,000 for each of fiscal years 2008 through 2009.

''(ii) MAINTENANCE.—Of the amounts made available for each fiscal year under clause (i), not less than $50,000,000 shall be used—

''(I) to maintain roads on Indian land; and

''(II) to maintain tribal transportation facilities serving Indian communities.''.

(b) OBLIGATION CEILING.—Section 1102(c)(1) of the Transportation Equity Act for the 21st Century (23 U.S.C. 104 note; 112 Stat. 116) is amended—

(1) by striking ''distribute obligation'' and inserting the following: ''distribute—

''(A) obligation'';

(2) by inserting ''and'' after the semicolon at the end; and

(3) by adding at the end of the following:

''(B) for each of fiscal years 2004 through 2009, any amount of obligation authority made available for Indian reservation road bridges under section 202(d)(4), and for Indian reservation roads under section 204, of title 23, United States Code.''.

(c) TRIBAL CONTRACTING DEMONSTRATION PROJECT.—

(1) IN GENERAL.—Section 202(d)(3) of title 23, United States Code, is amended by adding at the end the following:

''(C) FEDERAL LANDS HIGHWAY PROGRAM DEMONSTRATION PROJECT.—

''(i) IN GENERAL.—The Secretary shall establish a demonstration project under which all funds made available under this chapter for Indian reservation roads and for highway bridges located on Indian reservation roads as provided for in subparagraph (A) shall be made available, on the request of an affected Indian tribal government, to the Indian tribal government for use in carrying out, in accordance with the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b et seq.), contracts and agreements for the planning, research, engineering, and construction described in that subparagraph.

''(ii) EXCLUSION OF AGENCY PARTICIPATION.—In accordance with subparagraph (B), all funds for Indian reservation roads and for highway bridges located on Indian reservation roads to which clause (i) applies shall be paid without regard to the organizational level at which the Federal lands highway program has previously carried out the programs, functions, services, or activities involved.

''(iii) SELECTION OF PARTICIPATING TRIBES.—

''(I) PARTICIPANTS.—

''(aa) IN GENERAL.—In addition to those Indian tribes or tribal organizations already contracting or compacting for any Indian reservation road function or program, for each fiscal year, the Secretary may select up to 15 Indian tribes from the applicant pool described in subclause (II) to participate in the demonstration project carried out under clause (i).

''(bb) CONSORTIA.—Two or more Indian tribes that are otherwise eligible to participate in a program or activity to which this title applies may form a consortium to be considered as a single Indian tribe for the purpose of becoming part of the applicant pool under subclause (II).

''(cc) FUNDING.—An Indian tribe participating in the pilot program under this subparagraph shall receive funding in an amount equal to the sum of the funding that the Indian tribe would otherwise receive in accordance with the funding formula established under the other provisions of this subsection, and an additional percentage of that amount equal to the percentage of funds withheld during the applicable fiscal year for the road program management costs of the Bureau of Indian Affairs under subsection (f)(1).

''(II) APPLICANT POOL.—The applicant pool described in this subclause shall consist of each Indian tribe (or consortium) that—

''(aa) has successfully completed the planning phase described in subclause (IV);

''(bb) has requested participation in the demonstration project under this subparagraph through the adoption of a resolution or other official action by the tribal governing body; and

''(cc) has demonstrated financial stability and financial management capability in accordance with subclause (III) during the 3-fiscal-year period immediately preceding the fiscal year for which participation under this subparagraph is being requested.

''(III) CRITERIA FOR DETERMINING FINANCIAL STABILITY AND FINANCIAL MANAGEMENT CAPACITY.—For the purpose of subclause (II), evidence that, during the 3-year period referred

to in subclause (II)(cc), an Indian tribe had no uncorrected significant and material audit exceptions in the required annual audit of the Indian tribe's self-determination contracts or self-governance funding agreements with any Federal agency shall be conclusive evidence of the required stability and capability.

''(IV) PLANNING PHASE.—

''(aa) IN GENERAL.—An Indian tribe (or consortium) requesting participation in the demonstration project under this subparagraph shall complete a planning phase that shall include legal and budgetary research and internal tribal government and organization preparation.

''(bb) ELIGIBILITY.—A tribe (or consortium) described in item (aa) shall be eligible to receive a grant under this subclause to plan and negotiate participation in a project described in that item.

''(V) REPORT TO CONGRESS.—Not later than September 30, 2006, the Secretary shall prepare and submit to Congress a report describing the implementation of the demonstration project and any recommendations for improving the project.''.

(2) CONFORMING AMENDMENTS.—

(A) Section 4 of the Indian Self-Determination andEducation Assistance Act (25 U.S.C. 450b(i)) is amended by striking subsection (i) and inserting the following:

''(i) SECRETARY.—Except as otherwise provided, the term 'Secretary' means any 1 or more of the following, as appropriate:

''(1) The Secretary of Health and Human Services.

''(2) The Secretary of the Interior.

''(3) The Secretary of Transportation.''

(B) Section 401 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 458aa) is amended—

(i) by striking ''The Secretary'' and inserting ''(a) IN GENERAL.—The Secretary''; and

(ii) by adding at the end the following:

''(b) SECRETARY OF TRANSPORTATION.—Notwithstanding any other provision of law, the Secretary of Transportation may enter into self-governance compacts and annual funding agreements with Indian tribes and tribal organizations to carry out tribal transportation programs (including transit programs) authorized under title 23 or 49, United States Code, in accordance with the terms, conditions, and procedures of this Act (including regulations promulgated under this Act (part 1000 of title 25 Code of Federal Regulations)).''.

(d) INDIAN RESERVATION ROAD PLANNING.—Section 204(j) of title 23, United States Code, is amended in the first sentence by striking ''2 percent'' and inserting ''5 percent''.

(e) ALASKA NATIVE VILLAGE TRANSPORTATION PROGRAM.—Section 204 of title 23, United States Code (as amended by section 1816), is amended by adding at the end the following:

''(p) ALASKA NATIVE VILLAGE TRANSPORTATION PROGRAM.—

''(1) DEFINITIONS.—In this subsection:

''(A) COMMISSION.—The term 'Commission' means the Alaska Native Transportation Commission established under paragraph (4)(A).

''(B) NATIVE.—The term 'Native' has the meaning given the term in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602).

''(C) NATIVE AUTHORITY.—The term 'Native authority' means a governing board of a Regional Corporation, a regional Native nonprofit entity, a tribal government, or an alternative regional entity that is designated by the Secretary as a Native regional transportation authority under paragraph (3)(A).

''(D) NATIVE VILLAGE.—The term 'Native village' has the meaning given the term in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602).

''(E) PROGRAM.—The term 'program' means the Alaska Native village transportation program established under paragraph (2).

''(F) REGION.—The term 'region' means a region in the State specified in section 11(b)(1) of the Alaska Native Claims Settlement Act (43 U.S.C 1610(b)(1)).

''(G) REGIONAL CORPORATION.—The term 'Regional Corporation' has the meaning given the term in section 2 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602).

''(H) STATE.—The term 'State' means the State of Alaska.

''(2) ESTABLISHMENT.—The Secretary shall establish an Alaska Native village transportation program to pay the costs of planning, design, construction, and maintenance of road and other surface transportation facilities identified in accordance with this section.

''(3) ALASKA NATIVE REGIONAL TRANSPORTATION AUTHORITIES.—

''(A) DESIGNATION.—The Secretary shall designate a Native authority for each region.

''(B) RESPONSIBILITIES.—A Native authority shall, with respect to each Native village or region, as appropriate, covered by the Native authority—

''(i) prepare—

''(I) a regional transportation plan for the Native village; and

''(II) a comprehensive transportation plan for the region;

''(ii) prioritize and select projects to be funded with amounts made available under this section for the region;

''(iii) coordinate transportation planning with other regions, the State, and other governmental entities; and

''(iv) ensure that transportation projects under this section are constructed and implemented.

''(4) ALASKA NATIVE TRANSPORTATION COMMISSION.—

''(A) ESTABLISHMENT.—As soon as practicable after the date of enactment of this subsection, the Secretary shall establish a commission, to be known as the 'Statewide Alaska Native Transportation Commission', consisting of 1 representative selected from each Native authority designated by the Secretary under paragraph (3)(A).

''(B) DUTIES.—The Commission shall—

''(i) allocate funds made available under this section among regions in accordance with paragraph (5);

''(ii) coordinate transportation planning among the regions, the State, and other governmental entities; and

''(iii) facilitate transportation projects involving 2 or more regions.

''(5) ALLOCATION OF FUNDING.—

''(A) FISCAL YEAR 2004.—Funds made available for the program for fiscal year 2004 shall be allocated to each region by the Secretary as follows:

''(i) 50 percent of the funds shall be allocated based on the proportion that—

''(I) the Native population of Native villages in the region; bears to

''(II) the Native population of all Native villages in the State.

''(ii) 50 percent of the funds shall be allocated as equally as practicable among all Native villages in the region.

''(B) FISCAL YEAR 2005 AND SUBSEQUENT FISCAL YEARS.—Funds made available for the program for fiscal year 2005 and each fiscal year thereafter shall be allocated among regions by the Commission, in accordance with a formula to be developed by the Commission after taking into consideration—

''(i) the health, safety, and economic needs of each region for transportation infrastructure, as identified through the regional planning process;

''(ii) the relative costs of construction in each region; and

''(iii) the extent to which transportation projects for each region are ready to proceed to design and construction.

''(6) TRIBAL CONTRACTING.—Funds allocated among regions under this subsection may be contracted or compacted in accordance with the Indian Self Determination and Education Assistance Act (25 U.S.C. 450b et seq.).

''(7) MATCHING FUNDS.—Notwithstanding any other provision of law, funds made available under this subsection may be used to pay a matching share required for receipt of any other Federal funds that would further a purpose for which allocations under this section are made.

''(8) MAINTENANCE.—

''(A) IN GENERAL.—At the request of a Native authority or Native village, the Secretary may increase an amount of funds provided under this subsection for a construction project by an additional amount equal to 100 percent of the total cost of construction of the project, as determined by the Secretary.

''(B) USE OF RETAINED FUNDS.—An increase in funds provided under subparagraph (A) for a construction project shall be retained, and used only, for future maintenance of the construction project.''.

(f) INDIAN RESERVATION ROAD SAFETY PROGRAM.—

(1) IN GENERAL.—Chapter 4 of title 23, United States Code, is amended by adding at the end the following:

''SEC. 412. INDIAN RESERVATION ROAD SAFETY PROGRAM.

''(a) PROGRAM.—

''(1) IN GENERAL.—The Secretary shall carry out a program to provide to eligible Indian tribes (as determined by the Secretary) competitive grants for use in establishing tribal transportation safety programs on—

''(A) Indian reservations; and

''(B) other land under the jurisdiction of an Indian tribe.

''(2) USE OF FUNDS.—Funds from a grant provided under paragraph (1) may be used to carry out a project or activity—

''(A) to prevent the operation of motor vehicles by intoxicated individuals;

''(B) to promote increased seat belt use rates;

''(C) to eliminate hazardous locations and conditions on, or hazardous sections or elements of—

''(i) a public road;

''(ii) a public surface transportation facility;

''(iii) a publicly-owned bicycle or pedestrian pathway or trail; or

''(iv) a traffic calming measure;

''(D) to eliminate hazards relating to railway-highway crossings; or

''(E) to increase transportation safety by any other means, as determined by the Secretary.

''(b) FEDERAL SHARE.—The Federal share of the cost of carrying out the program under this section shall be 100 percent.

''(c) FUNDING.—Notwithstanding any other provision of law, there are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section—

''(1) $6,000,000 for each of fiscal years 2004 and 2005; and

''(2) $9,000,000 for each of fiscal years 2006 through 2009.''.

(2) CONFORMING AMENDMENT.—The analysis for chapter 4 of title 23, United States Code, is amended by inserting after the item relating to section 411 the following:

''412. Indian reservation road safety program.''.

(g) INDIAN RESERVATION RURAL TRANSIT PROGRAM.—Section 5311 of title 49, United

States Code, is amended by adding at the end the following:

''(k) INDIAN RESERVATION RURAL TRANSIT PROGRAM.—

''(1) IN GENERAL.—The Secretary shall establish and carry out a program to provide competitive grants to Indian tribes to establish rural transit programs on reservations or other land under the jurisdiction of the Indian tribes.

''(2) AMOUNT OF GRANTS.—The amount of a grant provided to an Indian tribe under subparagraph (A) shall be based on the need of the Indian tribe, as determined by the Secretary of Transportation.

''(3) AUTHORIZATION OF FUNDING.—For each of fiscal years 2004 through 2009, of the amount made available under section 5338, $15,000,000 shall be made available to carry out this subsection.''.

(h) COMMERCIAL VEHICLE DRIVING TRAINING PROGRAM.—

(1) DEFINITIONS.—In this section:

(A) COMMERCIAL VEHICLE DRIVING.—The term ''commercial vehicle driving'' means the driving of—

(i) a vehicle that is a tractor-trailer truck; or

(ii) any other vehicle (such as a bus or a vehicle used for the purpose of construction) the driving of which requires a commercial license.

(B) SECRETARY.—The term ''Secretary'' means the Secretary of Labor.

(2) GRANTS.—The Secretary shall provide grants, on a competitive basis, to entities described in paragraph (3)(A) to support programs providing training and certificates leading to the licensing of Native Americans with respect to commercial vehicle driving.

(3) ELIGIBILITY.—To be eligible to receive a grant under paragraph (1), an entity shall—

(A) be a tribal college or university (as defined in section 316(b)(3) of the Higher Education Act (20 U.S.C. 1059(b)(3)); and

(B) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(4) PRIORITY.—In providing grants under paragraph (1), the Secretary shall give priority to grant applications that—

(A) propose training that exceeds proposed minimum standards for training tractor-trailer drivers of the Department of Transportation;

(B) propose training that exceeds the entry level truck driver certification standards set by the Professional Truck Driver Institute; and

(C) propose an education partnership with a private trucking firm, trucking association, or similar entity in order to ensure the effectiveness of the grant program under this section.

(5) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $5,000,000 for the period of fiscal years 2004 through 2009.

SA 2315. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Strike title V and insert the following:

TITLE V—HIGHWAY REAUTHORIZATION AND EXCISE TAX SIMPLIFICATION

SEC. 5000. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This title may be cited as the ''Highway Reauthorization and Excise Tax Simplification Act of 2004''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

Subtitle A—Trust Fund Reauthorization

SEC. 5101. EXTENSION OF AUTHORIZATION FOR USE OF TRUST FUNDS FOR OBLIGATIONS UNDER TEA-21.

(a) HIGHWAY TRUST FUND.—

(1) IN GENERAL.—Paragraph (1) of section 9503(c) is amended—

(A) in the matter before subparagraph (A), by striking ''2004'' and inserting ''2005'',

(B) by striking ''or'' at the end of subparagraph (E),

(C) by striking the period at the end of subparagraph (F) and inserting '', or'',

(D) by inserting after subparagraph (F), the following new subparagraph:

''(G) authorized to be paid out of the Highway Trust Fund under the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004.'', and

(E) in the matter after subparagraph (G), as added by subparagraph (D), by striking ''Surface Transportation Extension Act of 2003'' and inserting ''Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004''.

(2) MASS TRANSIT ACCOUNT.—Paragraph (3) of section 9503(e) is amended—

(A) in the matter before subparagraph (A), by striking ''2004'' and inserting ''2005'',

(B) by striking ''or'' at the end of subparagraph (C),

(C) by striking the period at the end of subparagraph (D) and inserting '', or'',

(D) by inserting after subparagraph (D), the following new subparagraph:

''(E) the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004,'', and

(E) in the matter after subparagraph (E), as added by subparagraph (D), by striking ''Surface Transportation Extension Act of 2003'' and inserting ''Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004''.

(3) EXCEPTION TO LIMITATION ON TRANSFERS.—Subparagraph (B) of section 9503(b)(5) is amended by striking ''2004'' and inserting ''2005''.

(b) AQUATIC RESOURCES TRUST FUND.—

(1) SPORT FISH RESTORATION ACCOUNT.—Paragraph (2) of section 9504(b) (relating to Sport Fish Restoration Account) is amended by striking ''Surface Transportation Extension Act of 2003'' each place it appears and inserting ''Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004''.

(2) BOAT SAFETY ACCOUNT.—Section 9504(c) (relating to expenditures from Boat Safety Account) is amended—

(A) by striking ''2004'' and inserting ''2005'', and

(B) by striking ''Surface Transportation Extension Act of 2003'' and inserting ''Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004''.

(3) EXCEPTION TO LIMITATION ON TRANSFERS.—Paragraph (2) of section 9504(d) (relating to limitation on transfers to Aquatic Resources Trust Fund) is amended by striking ''2004'' and inserting ''2005''.

(4) TECHNICAL CORRECTION.—The last sentence of paragraph (2) of section 9504(b) is amended by striking ''subparagraph (B)'', and inserting ''subparagraph (C)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

(d) TEMPORARY RULE REGARDING ADJUSTMENTS.—During the period beginning on the date of the enactment of this Act and ending on February 28, 2005, for purposes of making any estimate under section 9503(d) of the Internal Revenue Code of 1986 of receipts of the Highway Trust Fund, the Secretary of the Treasury shall treat—

(1) each expiring provision of paragraphs (1) through (4) of section 9503(b) of such Code which is related to appropriations or transfers to such Fund to have been extended through the end of the 24-month period referred to in section 9503(d)(1)(B) of such Code, and

(2) with respect to each tax imposed under the sections referred to in section 9503(b)(1) of such Code, the rate of such tax during the 24-month period referred to in section 9503(d)(1)(B) of such Code to be the same as the rate of such tax as in effect on the date of the enactment of this Act.

SEC. 5102. TRANSFER OF CERTAIN ETHANOL TAXES INTO THE HIGHWAY TRUST FUND.

(a) IN GENERAL.—Section 9503(b)(4) is amended—

(1) by adding ''or'' at the end of subparagraph (C),

(2) by striking the comma at the end of subparagraph (D)(iii) and inserting a period, and

(3) by striking subparagraphs (E) and (F).

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel sold or used after September 30, 2003.

SEC. 5103. DEDICATION OF GAS GUZZLER TAX TO HIGHWAY TRUST FUND.

(a) IN GENERAL.—Section 9503(b)(1) (relating to transfer to Highway Trust Fund of amounts equivalent to certain taxes) is amended by redesignating subparagraphs (C), (D), and (E) as subparagraphs (D), (E), and (F), respectively, and by inserting after subparagraph (B) the following new subparagraph:

''(C) section 4064 (relating to gas guzzler tax),''.

(b) UNIFORM APPLICATION OF TAX.—Subparagraph (A) of section 4064(b)(1) (defining automobile) is amended by striking the second sentence.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 5104. INTEREST ON UNEXPENDED BALANCES CREDITED TO TRUST FUND.

(a) IN GENERAL.—Section 9503 (relating to the Highway Trust Fund) is amended by striking subsection (f).

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

Subtitle B—Fuel Fraud Prevention

SEC. 5200. SHORT TITLE.

This subtitle may be cited as the ''Fuel Fraud Prevention Act of 2004''.

PART I—AVIATION JET FUEL

SEC. 5211. TAXATION OF AVIATION-GRADE KEROSENE.

(a) RATE OF TAX.—

(1) IN GENERAL.—Subparagraph (A) of section 4081(a)(2) is amended by striking ''and'' at the end of clause (ii), by striking the period at the end of clause (iii) and inserting '', and'', and by adding at the end the following new clause:

''(iv) in the case of aviation-grade kerosene, 21.8 cents per gallon.''.

(2) COMMERCIAL AVIATION.—Paragraph (2) of section 4081(a) is amended by adding at the end the following new subparagraph:

''(C) TAXES IMPOSED ON FUEL USED IN COMMERCIAL AVIATION.—In the case of aviation-grade kerosene which is removed from any refinery or terminal directly into the fuel tank of an aircraft for use in commercial aviation, the rate of tax under subparagraph (A)(iv) shall be 4.3 cents per gallon.''.

(3) NONTAXABLE USES.—

(A) IN GENERAL.—Section 4082 is amended by redesignating subsections (e) and (f) as subsections (f) and (g), respectively, and by inserting after subsection (d) the following new subsection:

''(e) AVIATION-GRADE KEROSENE.—In the case of aviation-grade kerosene which is exempt from the tax imposed by section 4041(c) (other than by reason of a prior imposition of tax) and which is removed from any refinery or terminal directly into the fuel tank of an aircraft, the rate of tax under section 4081(a)(2)(A)(iv) shall be zero.''.

(B) CONFORMING AMENDMENTS.—

(i) Subsection (b) of section 4082 is amended by adding at the end the following new flush sentence: ''The term 'nontaxable use' does not include the use of aviation-grade kerosene in an aircraft.''.

(ii) Section 4082(d) is amended by striking paragraph (1) and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(4) NONAIRCRAFT USE OF AVIATION-GRADE KEROSENE.—

(A) IN GENERAL.—Subparagraph (B) of section 4041(a)(1) is amended by adding at the end the following new sentence: ''This subparagraph shall not apply to aviation-grade kerosene.''.

(B) CONFORMING AMENDMENT.—The heading for paragraph (1) of section 4041(a) is amended by inserting ''AND KEROSENE'' after ''DIESEL FUEL''.

(b) COMMERCIAL AVIATION.—Section 4083 is amended redesignating subsections (b) and (c) as subsections (c) and (d), respectively, and by inserting after subsection (a) the following new subsection:

''(b) COMMERCIAL AVIATION.—For purposes of this subpart, the term 'commercial aviation' means any use of an aircraft in a business of transporting persons or property for compensation or hire by air, unless properly allocable to any transportation exempt from the taxes imposed by section 4261 and 4271 by reason of section 4281 or 4282 or by reason of section 4261(h).''.

(c) REFUNDS.—

(1) IN GENERAL.—Paragraph (4) of section 6427(l) is amended to read as follows:

''(4) REFUNDS FOR AVIATION-GRADE KEROSENE.—

''(A) NO REFUND OF CERTAIN TAXES ON FUEL USED IN COMMERCIAL AVIATION.—In the case of aviation-grade kerosene used in commercial aviation (as defined in section 4083(b)) (other than supplies for vessels or aircraft within the meaning of section 4221(d)(3)), paragraph (1) shall not apply to so much of the tax imposed by section 4081 as is attributable to—

''(i) the Leaking Underground Storage Tank Trust Fund financing rate imposed by such section, and

''(ii) so much of the rate of tax specified in section 4081(a)(2)(A)(iv) as does not exceed 4.3 cents per gallon.

''(B) PAYMENT TO ULTIMATE, REGISTERED VENDOR.—With respect to aviation-grade kerosene, if the ultimate purchaser of such kerosene waives (at such time and in such form and manner as the Secretary shall prescribe) the right to payment under paragraph (1) and assigns such right to the ultimate vendor, then the Secretary shall pay the amount which would be paid under paragraph (1) to such ultimate vendor, but only if such ultimate vendor—

''(i) is registered under section 4101, and

''(ii) meets the requirements of subparagraph (A), (B), or (D) of section 6416(a)(1).''.

(2) TIME FOR FILING CLAIMS.—Paragraph (4) of section 6427(i) is amended by striking ''subsection (l)(5)'' and inserting ''paragraph (4)(B) or (5) of subsection (l)''.

(3) CONFORMING AMENDMENT.—Subparagraph (B) of section 6427(l)(2) is amended to read as follows:

''(B) in the case of aviation-grade kerosene—

''(i) any use which is exempt from the tax imposed by section 4041(c) other than by reason of a prior imposition of tax, or

''(ii) any use in commercial aviation (within the meaning of section 4083(b)).''.

(d) REPEAL OF PRIOR TAXATION OF AVIATION FUEL.—

(1) IN GENERAL.—Part III of subchapter A of chapter 32 is amended by striking subpart B and by redesignating subpart C as subpart B.

(2) CONFORMING AMENDMENTS.—

(A) Section 4041(c) is amended to read as follows:

''(c) AVIATION-GRADE KEROSENE.—

''(1) IN GENERAL.—There is hereby imposed a tax upon aviation-grade kerosene—

''(A) sold by any person to an owner, lessee, or other operator of an aircraft for use in such aircraft, or

''(B) used by any person in an aircraft unless there was a taxable sale of such fuel under subparagraph (A).

''(2) EXEMPTION FOR PREVIOUSLY TAXED FUEL.—No tax shall be imposed by this subsection on the sale or use of any aviation-grade kerosene if tax was imposed on such liquid under section 4081 and the tax thereon was not credited or refunded.

''(3) RATE OF TAX.—The rate of tax imposed by this subsection shall be the rate of tax specified in section 4081(a)(2)(A)(iv) which is in effect at the time of such sale or use.''.

(B) Section 4041(d)(2) is amended by striking ''section 4091'' and inserting ''section 4081''.

(C) Section 4041 is amended by striking subsection (e).

(D) Section 4041 is amended by striking subsection (i).

(E) Section 4041(m)(1) is amended to read as follows:

''(1) IN GENERAL.—In the case of the sale or use of any partially exempt methanol or ethanol fuel, the rate of the tax imposed by subsection (a)(2) shall be—

''(A) after September 30, 1997, and before September 30, 2009—

''(i) in the case of fuel none of the alcohol in which consists of ethanol, 9.15 cents per gallon, and

''(ii) in any other case, 11.3 cents per gallon, and

''(B) after September 30, 2009—

''(i) in the case of fuel none of the alcohol in which consists of ethanol, 2.15 cents per gallon, and

''(ii) in any other case, 4.3 cents per gallon.''.

(F) Sections 4101(a), 4103, 4221(a), and 6206 are each amended by striking '', 4081, or 4091'' and inserting ''or 4081''.

(G) Section 6416(b)(2) is amended by striking ''4091 or''.

(H) Section 6416(b)(3) is amended by striking ''or 4091'' each place it appears.

(I) Section 6416(d) is amended by striking ''or to the tax imposed by section 4091 in the case of refunds described in section 4091(d)''.

(J) Section 6427(j)(1) is amended by striking '', 4081, and 4091'' and inserting ''and 4081''.

(K)(i) Section 6427(l)(1) is amended to read as follows:

''(1) IN GENERAL.—Except as otherwise provided in this subsection and in subsection (k), if any diesel fuel or kerosene on which tax has been imposed by section 4041 or 4081 is used by any person in a nontaxable use, the Secretary shall pay (without interest) to the ultimate purchaser of such fuel an amount equal to the aggregate amount of tax imposed on such fuel under section 4041 or 4081, as the case may be, reduced by any refund paid to the ultimate vendor under paragraph (4)(B).''.

(ii) Paragraph (5)(B) of section 6427(l) is amended by striking ''Paragraph (1)(A) shall not apply to kerosene'' and inserting ''Paragraph (1) shall not apply to kerosene (other than aviation-grade kerosene)''.

(L) Subparagraph (B) of section 6724(d)(1) is amended by striking clause (xv) and by redesignating the succeeding clauses accordingly.

(M) Paragraph (2) of section 6724(d) is amended by striking subparagraph (W) and by redesignating the succeeding subparagraphs accordingly.

(N) Paragraph (1) of section 9502(b) is amended by adding ''and'' at the end of subparagraph (B) and by striking subparagraphs (C) and (D) and inserting the following new subparagraph:

''(C) section 4081 with respect to aviation gasoline and aviation-grade kerosene, and''.

(O) The last sentence of section 9502(b) is amended to read as follows:

''There shall not be taken into account under paragraph (1) so much of the taxes imposed by section 4081 as are determined at the rate specified in section 4081(a)(2)(B).''.

(P) Subsection (b) of section 9508 is amended by striking paragraph (3) and by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

(Q) Section 9508(c)(2)(A) is amended by striking ''sections 4081 and 4091'' and inserting ''section 4081''.

(R) The table of subparts for part III of subchapter A of chapter 32 is amended to read as follows:

''Subpart A. Motor and aviation fuels.

''Subpart B. Special provisions applicable to fuels tax.''

(S) The heading for subpart A of part III of subchapter A of chapter 32 is amended to read as follows:

''Subpart A—Motor and Aviation Fuels''.

(T) The heading for subpart B of part III of subchapter A of chapter 32 is amended to read as follows:

''Subpart B—Special Provisions Applicable to Fuels Tax''.

(g) OTHER AMENDMENTS.—

(1) Section 4081(c) is amended by adding at the end the following new flush sentence:

''In the case of any taxable fuel which is aviation-grade kerosene, this subsection shall not apply and the rules of section 4091(c) (as in effect on the day before the date of the enactment of the Fuel Fraud Prevention Act of 2004) shall apply.''.

(2) For purposes of the Internal Revenue Code of 1986, any reference to section 4091(c) shall be treated as a reference to the rules of such section as in effect on the date before the date of the enactment of this Act.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to aviation-grade kerosene removed, entered, or sold after September 30, 2004.

(g) FLOOR STOCKS TAX.—

(1) IN GENERAL.—There is hereby imposed on aviation-grade kerosene held on October 1, 2004, by any person a tax equal to—

(A) the tax which would have been imposed before such date on such kerosene had the amendments made by this section been in effect at all times before such date, reduced by

(B) the tax imposed before such date under section 4091 of the Internal Revenue Code of 1986, as in effect on the day before the date of the enactment of this Act.

(2) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—The person holding the kerosene on October 1, 2004, to which the tax imposed by paragraph (1) applies shall be liable for such tax.

(B) METHOD AND TIME FOR PAYMENT.—The tax imposed by paragraph (1) shall be paid at such time and in such manner as the Secretary of the Treasury shall prescribe, including the nonapplication of such tax on de minimis amounts of kerosene.

(3) TRANSFER OF FLOOR STOCK TAX REVENUES TO TRUST FUNDS.—For purposes of determining the amount transferred to any trust fund, the tax imposed by this subsection shall be treated as imposed by section 4081 of the Internal Revenue Code of 1986—

(A) at the Leaking Underground Storage Tank Trust Fund financing rate under such section to the extent of 0.1 cents per gallon, and

(B) at the rate under section 4081(a)(2)(A)(iv) to the extent of the remainder.

(4) HELD BY A PERSON.—For purposes of this section, kerosene shall be considered as held by a person if title thereto has passed to such person (whether or not delivery to the person has been made).

(5) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the tax imposed by section 4081 of such Code shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply with respect to the floor stock tax imposed by paragraph (1) to the same extent as if such tax were imposed by such section.

SEC. 5212. TRANSFER OF CERTAIN AMOUNTS FROM THE AIRPORT AND AIRWAY TRUST FUND TO THE HIGHWAY TRUST FUND TO REFLECT HIGHWAY USE OF JET FUEL.

(a) IN GENERAL.—Section 9502(d) is amended by adding at the end the following new paragraph:

''(7) TRANSFERS FROM THE TRUST FUND TO THE HIGHWAY TRUST FUND TO REFLECT HIGHWAY USE OF JET FUEL.—

''(A) IN GENERAL.—The Secretary shall pay from the Airport and Airway Trust Fund into the Highway Trust Fund—

''(i) $395,000,000 in fiscal year 2005,

''(ii) $425,000,000 in fiscal year 2006,

''(iii) $429,000,000 in fiscal year 2007,

''(iv) $432,000,000 in fiscal year 2008, and

''(v) $435,000,000 in fiscal year 2009.

''(B) AMOUNTS TRANSFERRED TO MASS TRANSIT ACCOUNT.—The Secretary shall transfer 11 percent of the amounts paid into the Highway Trust Fund under subparagraph (A) to the Mass Transit Account established under section 9503(e).''.

(b) CONFORMING AMENDMENTS.—

(1) Subsection (a) of section 9503 is amended—

(A) by striking ''appropriated or credited'' and inserting ''paid, appropriated, or credited'', and

(B) by striking ''or section 9602(b)'' and inserting '', section 9502(d)(7), or section 9602(b)''.

(2) Subsection (e)(1) of section 9503 is amended by striking ''or section 9602(b)'' and inserting '', section 9502(d)(7), or section 9602(b)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

PART II—DYED FUEL

SEC. 5221. DYE INJECTION EQUIPMENT.

(a) IN GENERAL.—Section 4082(a)(2) (relating to exemptions for diesel fuel and kerosene) is amended by inserting ''by mechanical injection'' after ''indelibly dyed''.

(b) DYE INJECTOR SECURITY.—Not later than June 30, 2004, the Secretary of the Treasury shall issue regulations regarding mechanical dye injection systems described in the amendment made by subsection (a), and such regulations shall include standards for making such systems tamper resistant.

(c) PENALTY FOR TAMPERING WITH OR FAILING TO MAINTAIN SECURITY REQUIREMENTS FOR MECHANICAL DYE INJECTION SYSTEMS.—

(1) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by adding after section 6715 the following new section:

''SEC. 6715A. TAMPERING WITH OR FAILING TO MAINTAIN SECURITY REQUIREMENTS FOR MECHANICAL DYE INJECTION SYSTEMS.

''(a) IMPOSITION OF PENALTY—

''(1) TAMPERING.—If any person tampers with a mechanical dye injection system used to indelibly dye fuel for purposes of section 4082, then such person shall pay a penalty in addition to the tax (if any).

''(2) FAILURE TO MAINTAIN SECURITY REQUIREMENTS.—If any operator of a mechanical dye injection system used to indelibly dye fuel for purposes of section 4082 fails to maintain the security standards for such system as established by the Secretary, then such operator shall pay a penalty.

''(b) AMOUNT OF PENALTY.—The amount of the penalty under subsection (a) shall be—

''(1) for each violation described in paragraph (1), the greater of—

''(A) $25,000, or

''(B) $10 for each gallon of fuel involved, and

''(2) for each—

''(A) failure to maintain security standards described in paragraph (2), $1,000, and

''(B) failure to correct a violation described in paragraph (2), $1,000 per day for each day after which such violation was discovered or such person should have reasonably known of such violation.

''(c) JOINT AND SEVERAL LIABILITY.—

''(1) IN GENERAL.—If a penalty is imposed under this section on any business entity, each officer, employee, or agent of such entity or other contracting party who willfully participated in any act giving rise to such penalty shall be jointly and severally liable with such entity for such penalty.

''(2) AFFILIATED GROUPS.—If a business entity described in paragraph (1) is part of an affiliated group (as defined in section 1504(a)), the parent corporation of such entity shall be jointly and severally liable with such entity for the penalty imposed under this section.''.

(2) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by adding after the item related to section 6715 the following new item:

''Sec. 6715A. Tampering with or failing to maintain security requirements for mechanical dye injection systems.''.

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (c) shall take effect 180 days after the date on which the Secretary issues the regulations described in subsection (b).

SEC. 5222. ELIMINATION OF ADMINISTRATIVE REVIEW FOR TAXABLE USE OF DYED FUEL.

(a) IN GENERAL.—Section 6715 is amended by inserting at the end the following new subsection:

''(e) NO ADMINISTRATIVE APPEAL FOR THIRD AND SUBSEQUENT VIOLATIONS.—In the case of any person who is found to be subject to the penalty under this section after a chemical analysis of such fuel and who has been penalized under this section at least twice after the date of the enactment of this subsection, no administrative appeal or review shall be allowed with respect to such finding except in the case of a claim regarding—

''(1) fraud or mistake in the chemical analysis, or

''(2) mathematical calculation of the amount of the penalty.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to penalties assessed after the date of the enactment of this Act.

SEC. 5223. PENALTY ON UNTAXED CHEMICALLY ALTERED DYED FUEL MIXTURES.

(a) IN GENERAL.—Section 6715(a) (relating to dyed fuel sold for use or used in taxable use, etc.) is amended by striking ''or'' in paragraph (2), by inserting ''or'' at the end of paragraph (3), and by inserting after paragraph (3) the following new paragraph:

''(4) any person who has knowledge that a dyed fuel which has been altered as described in paragraph (3) sells or holds for sale such fuel for any use which the person knows or has reason to know is not a nontaxable use of such fuel,''.

(b) CONFORMING AMENDMENT.—Section 6715(a)(3) is amended by striking ''alters, or attempts to alter,'' and inserting ''alters, chemically or otherwise, or attempts to so alter,''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 5224. TERMINATION OF DYED DIESEL USE BY INTERCITY BUSES.

(a) IN GENERAL.—Paragraph (3) of section 4082(b) (relating to nontaxable use) is amended to read as follows:

''(3) any use described in section 4041(a)(1)(C)(iii)(II).''.

(b) ULTIMATE VENDOR REFUND.—Subsection (b) of section 6427 is amended by adding at the end the following new paragraph:

''(4) REFUNDS FOR USE OF DIESEL FUEL IN CERTAIN INTERCITY BUSES.—

''(A) IN GENERAL.—With respect to any fuel to which paragraph (2)(A) applies, if the ultimate purchaser of such fuel waives (at such time and in such form and manner as the Secretary shall prescribe) the right to payment under paragraph (1) and assigns such right to the ultimate vendor, then the Secretary shall pay the amount which would be paid under paragraph (1) to such ultimate vendor, but only if such ultimate vendor—

''(i) is registered under section 4101, and

''(ii) meets the requirements of subparagraph (A), (B), or (D) of section 6416(a)(1).

''(B) CREDIT CARDS.—For purposes of this paragraph, if the sale of such fuel is made by means of a credit card, the person extending credit to the ultimate purchaser shall be deemed to be the ultimate vendor.''.

(c) PAYMENT OF REFUNDS.—Subparagraph (A) of section 6427(i)(4), as amended by section 5211 of this Act, is amended by inserting ''subsections (b)(4) and'' after ''filed under''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel sold after September 30, 2004.

PART III—MODIFICATION OF INSPECTION OF RECORDS PROVISIONS

SEC. 5231. AUTHORITY TO INSPECT ON-SITE RECORDS.

(a) IN GENERAL.—Section 4083(d)(1)(A) (relating to administrative authority), as amended by section 5211 of this Act, is amended by striking ''and'' at the end of clause (i) and by inserting after clause (ii) the following new clause:

''(iii) inspecting any books and records and any shipping papers pertaining to such fuel, and''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 5232. ASSESSABLE PENALTY FOR REFUSAL OF ENTRY.

(a) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties), as amended by section 5221 of this Act, is amended by adding at the end the following new section:

"SEC. 6717. REFUSAL OF ENTRY.

''(a) IN GENERAL.—In addition to any other penalty provided by law, any person who refuses to admit entry or refuses to permit any other action by the Secretary authorized by section 4083(d)(1) shall pay a penalty of $1,000 for such refusal.

''(b) JOINT AND SEVERAL LIABILITY.—

''(1) IN GENERAL.—If a penalty is imposed under this section on any business entity, each officer, employee, or agent of such entity or other contracting party who willfully participated in any act giving rise to such penalty shall be jointly and severally liable with such entity for such penalty.

''(2) AFFILIATED GROUPS.—If a business entity described in paragraph (1) is part of an affiliated group (as defined in section 1504(a)), the parent corporation of such entity shall be jointly and severally liable with such entity for the penalty imposed under this section.

''(c) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 4083(d)(3), as amended by section 5211 of this Act, is amended—

(A) by striking ''ENTRY.—The penalty'' and inserting: ''ENTRY.—

''(A) FORFEITURE.—The penalty'', and

(B) by adding at the end the following new subparagraph:

''(B) ASSESSABLE PENALTY.—For additional assessable penalty for the refusal to admit entry or other refusal to permit an action by the Secretary authorized by paragraph (1), see section 6717.''.

(2) The table of sections for part I of subchapter B of chapter 68, as amended by section 5221 of this Act, is amended by adding at the end the following new item:

''Sec. 6717. Refusal of entry.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

PART IV—REGISTRATION AND REPORTING REQUIREMENTS

SEC. 5241. REGISTRATION OF PIPELINE OR VESSEL OPERATORS REQUIRED FOR EXEMPTION OF BULK TRANSFERS TO REGISTERED TERMINALS OR REFINERIES.

(a) IN GENERAL.—Section 4081(a)(1)(B) (relating to exemption for bulk transfers to registered terminals or refineries) is amended—

(1) by inserting ''by pipeline or vessel'' after ''transferred in bulk'', and

(2) by inserting '', the operator of such pipeline or vessel,'' after ''the taxable fuel''.

(b) CIVIL PENALTY FOR CARRYING TAXABLE FUELS BY NONREGISTERED PIPELINES OR VESSELS.—

(1) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties), as amended by section 5232 of this Act, is amended by adding at the end the following new section:

"SEC. 6718. CARRYING TAXABLE FUELS BY NONREGISTERED PIPELINES OR VESSELS.

''(a) IMPOSITION OF PENALTY.—If any person knowingly transfers any taxable fuel (as defined in section 4083(a)(1)) in bulk pursuant to section 4081(a)(1)(B) to an unregistered, such person shall pay a penalty in addition to the tax (if any).

''(b) AMOUNT OF PENALTY.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the amount of the penalty under subsection (a) on each act shall be an amount equal to the greater of—

''(A) $10,000, or

''(B) $1 per gallon.

''(2) MULTIPLE VIOLATIONS.—In determining the penalty under subsection (a) on any person, paragraph (1) shall be applied by increasing the amount in paragraph (1) by the product of such amount and the number of prior penalties (if any) imposed by this section on such person (or a related person or any predecessor of such person or related person).

''(c) JOINT AND SEVERAL LIABILITY.—

''(1) IN GENERAL.—If a penalty is imposed under this section on any business entity, each officer, employee, or agent of such entity or other contracting party who willfully participated in any act giving rise to such penalty shall be jointly and severally liable with such entity for such penalty.

''(2) AFFILIATED GROUPS.—If a business entity described in paragraph (1) is part of an affiliated group (as defined in section 1504(a)), the parent corporation of such entity shall be jointly and severally liable with such entity for the penalty imposed under this section.

''(d) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.''.

(2) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68, as amended by section 5232 of this Act, is amended by adding at the end the following new item:

''Sec. 6718. Carrying taxable fuels by nonregistered pipelines or vessels.''.

(c) PUBLICATION OF REGISTERED PERSONS.—Not later than June 30, 2004, the Secretary of the Treasury shall publish a list of persons required to be registered under section 4101 of the Internal Revenue Code of 1986.

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on October 1, 2004.

SEC. 5242. DISPLAY OF REGISTRATION.

(a) IN GENERAL.—Subsection (a) of section 4101 (relating to registration) is amended—

(1) by striking ''Every'' and inserting the following:

''(1) IN GENERAL.—Every'', and

(2) by adding at the end the following new paragraph:

''(2) DISPLAY OF REGISTRATION.—Every operator of a vessel required by the Secretary to register under this section shall display proof of registration through an electronic identification device prescribed by the Secretary on each vessel used by such operator to transport any taxable fuel.''.

(b) CIVIL PENALTY FOR FAILURE TO DISPLAY REGISTRATION.—

(1) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties), as amended by section 5241 of this Act, is amended by adding at the end the following new section:

"SEC. 6719. FAILURE TO DISPLAY REGISTRATION OF VESSEL.

''(a) FAILURE TO DISPLAY REGISTRATION.—Every operator of a vessel who fails to display proof of registration pursuant to section 4101(a)(2) shall pay a penalty of $500 for each such failure. With respect to any vessel, only one penalty shall be imposed by this section during any calendar month.

''(b) MULTIPLE VIOLATIONS.—In determining the penalty under subsection (a) on any person, subsection (a) shall be applied by increasing the amount in subsection (a) by the product of such amount and the number of prior penalties (if any) imposed by this section on such person (or a related person or any predecessor of such person or related person).

''(c) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.''.

(2) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68, as amended by section 5241 of this Act, is amended by adding at the end the following new item:

''Sec. 6719. Failure to display registration of vessel.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

SEC. 5243. REGISTRATION OF PERSONS WITHIN FOREIGN TRADE ZONES, ETC..

(a) IN GENERAL.—Section 4101(a), as amended by section 5242 of this Act, is amended by redesignating paragraph (2) as paragraph (3), and by inserting after paragraph (1) the following new paragraph:

''(2) REGISTRATION OF PERSONS WITHIN FOREIGN TRADE ZONES, ETC..—The Secretary shall require registration by any person which—

''(A) operates a terminal or refinery within a foreign trade zone or within a customs bonded storage facility, or

''(B) holds an inventory position with respect to a taxable fuel in such a terminal.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

SEC. 5244. PENALTIES FOR FAILURE TO REGISTER AND FAILURE TO REPORT.

(a) INCREASED PENALTY.—Subsection (a) of section 7272 (relating to penalty for failure to register) is amended by inserting ''($10,000 in the case of a failure to register under section 4101)'' after ''$50''.

(b) INCREASED CRIMINAL PENALTY.—Section 7232 (relating to failure to register under section 4101, false representations of registration status, etc.) is amended by striking ''$5,000'' and inserting ''$10,000''.

(c) ASSESSABLE PENALTY FOR FAILURE TO REGISTER.—

(1) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties), as amended by section 5242 of this Act, is amended by adding at the end the following new section:

"SEC. 6720. FAILURE TO REGISTER.

''(a) FAILURE TO REGISTER.—Every person who is required to register under section 4101 and fails to do so shall pay a penalty in addition to the tax (if any).

''(b) AMOUNT OF PENALTY.—The amount of the penalty under subsection (a) shall be—

''(1) $10,000 for each initial failure to register, and

''(2) $1,000 for each day thereafter such person fails to register.

''(c) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.''.

(2) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68, as amended by section 5242 of this Act, is amended by adding at the end the following new item:

''Sec. 6720. Failure to register.''.

(d) ASSESSABLE PENALTY FOR FAILURE TO REPORT.—

(1) IN GENERAL.—Part II of subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end the following new section:

"SEC. 6725. FAILURE TO REPORT INFORMATION UNDER SECTION 4101.

''(a) IN GENERAL.—In the case of each failure described in subsection (b) by any person with respect to a vessel or facility, such person shall pay a penalty of $10,000 in addition to the tax (if any).

''(b) FAILURES SUBJECT TO PENALTY.—For purposes of subsection (a), the failures described in this subsection are—

''(1) any failure to make a report under section 4101(d) on or before the date prescribed therefor, and

''(2) any failure to include all of the information required to be shown on such report or the inclusion of incorrect information.

''(c) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.''.

(2) CLERICAL AMENDMENT.—The table of sections for part II of subchapter B of chapter 68 is amended by adding at the end the following new item:

''Sec. 6725. Failure to report information under section 4101.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to failures pending or occurring after September 30, 2004.

SEC. 5245. INFORMATION REPORTING FOR PERSONS CLAIMING CERTAIN TAX BENEFITS.

(a) IN GENERAL.—Subpart C of part III of subchapter A of chapter 32 is amended by adding at the end the following new section:

''SEC. 4104. INFORMATION REPORTING FOR PERSONS CLAIMING CERTAIN TAX BENEFITS.

''(a) IN GENERAL.—The Secretary shall require any person claiming tax benefits—

''(1) under the provisions of section 34, 40, and 40A to file a return at the time such person claims such benefits (in such manner as the Secretary may prescribe), and

''(2) under the provisions of section 4041(b)(2), 6426, or 6427(e) to file a monthly return (in such manner as the Secretary may prescribe).

''(b) CONTENTS OF RETURN.—Any return filed under this section shall provide such information relating to such benefits and the coordination of such benefits as the Secretary may require to ensure the proper administration and use of such benefits.

''(c) ENFORCEMENT.—With respect to any person described in subsection (a) and subject to registration requirements under this title, rules similar to rules of section 4222(c) shall apply with respect to any requirement under this section.''.

(b) CONFORMING AMENDMENT.—The table of sections for subpart C of part III of subchapter A of chapter 32 is amended by adding at the end the following new item:

''Sec. 4104. Information reporting for persons claiming certain tax benefits.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

PART V—IMPORTS

SEC. 5251. TAX AT POINT OF ENTRY WHERE IMPORTER NOT REGISTERED.

(a) TAX AT POINT OF ENTRY WHERE IMPORTER NOT REGISTERED.—

(1) IN GENERAL.—Subpart C of part III of subchapter A of chapter 31, as amended by section 5245 of this Act, is amended by adding at the end the following new section:

''SEC. 4105. TAX AT ENTRY WHERE IMPORTER NOT REGISTERED.

''(a) IN GENERAL.—Any tax imposed under this part on any person not registered under section 4101 for the entry of a fuel into the United States shall be imposed at the time and point of entry.

''(b) ENFORCEMENT OF ASSESSMENT.—If any person liable for any tax described under subsection (a) has not paid the tax or posted a bond, the Secretary may—

''(1) seize the fuel on which the tax is due, or

''(2) detain any vehicle transporting such fuel,

until such tax is paid or such bond is filed.

''(c) LEVY OF FUEL.—If no tax has been paid or no bond has been filed within 5 days from the date the Secretary seized fuel pursuant to subsection (b), the Secretary may sell such fuel as provided under section 6336.''.

(2) CONFORMING AMENDMENT.—The table of sections for subpart C of part III of subchapter A of chapter 31 of the Internal Revenue Code of 1986, as amended by section 5245 of this Act, is amended by adding after the last item the following new item:

''Sec. 4105. Tax at entry where importer not registered.''.

(b) DENIAL OF ENTRY WHERE TAX NOT PAID.—The Secretary of Homeland Security is authorized to deny entry into the United States of any shipment of a fuel which is taxable under section 4081 of the Internal Revenue Code of 1986 if the person entering such shipment fails to pay the tax imposed under such section or post a bond in accordance with the provisions of section 4105 of such Code.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 5252. RECONCILIATION OF ON-LOADED CARGO TO ENTERED CARGO.

(a) IN GENERAL.—Subsection (a) of section 343 of the Trade Act of 2002 is amended by inserting at the end the following new paragraph:

''(4) IN GENERAL.—Subject to paragraphs (2) and (3), not later than 1 year after the enactment of this paragraph, the Secretary of Homeland Security, together with the Secretary of the Treasury, shall promulgate regulations providing for the transmission to the Internal Revenue Service, through an electronic data interchange system, of information pertaining to cargo of taxable fuels (as defined in section 4083 of the Internal Revenue Code of 1986) destined for importation into the United States prior to such importation.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

PART VI—MISCELLANEOUS PROVISIONS

SEC. 5261. TAX ON SALE OF DIESEL FUEL WHETHER SUITABLE FOR USE OR NOT IN A DIESEL-POWERED VEHICLE OR TRAIN.

(a) IN GENERAL.—Section 4083(a)(3) is amended—

(1) by striking ''The term'' and inserting the following:

''(A) IN GENERAL.—The term'', and

(2) by inserting at the end the following new subparagraph:

''(B) LIQUID SOLD AS DIESEL FUEL.—The term 'diesel fuel' includes any liquid which is sold as or offered for sale as a fuel in a diesel-powered highway vehicle or a diesel-powered train.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 5262. MODIFICATION OF ULTIMATE VENDOR REFUND CLAIMS WITH RESPECT TO FARMING.

(a) IN GENERAL.—

(1) REFUNDS.—Section 6427(l) is amended by adding at the end the following new paragraph:

''(6) REGISTERED VENDORS PERMITTED TO ADMINISTER CERTAIN CLAIMS FOR REFUND OF DIESEL FUEL AND KEROSENE SOLD TO FARMERS.—

''(A) IN GENERAL.—In the case of diesel fuel or kerosene used on a farm for farming purposes (within the meaning of section 6420(c)), paragraph (1) shall not apply to the aggregate amount of such diesel fuel or kerosene if such amount does not exceed 500 gallons (as determined under subsection (i)(5)(A)(iii)).

''(B) PAYMENT TO ULTIMATE VENDOR.—The amount which would (but for subparagraph (A)) have been paid under paragraph (1) with respect to any fuel shall be paid to the ultimate vendor of such fuel, if such vendor—

''(i) is registered under section 4101, and

''(ii) meets the requirements of subparagraph (A), (B), or (D) of section 6416(a)(1).''.

(2) FILING OF CLAIMS.—Section 6427(i) is amended by inserting at the end the following new paragraph:

''(5) SPECIAL RULE FOR VENDOR REFUNDS WITH RESPECT TO FARMERS.—

''(A) IN GENERAL.—A claim may be filed under subsection (l)(6) by any person with respect to fuel sold by such person for any period—

''(i) for which $200 or more ($100 or more in the case of kerosene) is payable under subsection (l)(6),

''(ii) which is not less than 1 week, and

''(iii) which is for not more than 500 gallons for each farmer for which there is a claim.

Notwithstanding subsection (l)(1), paragraph (3)(B) shall apply to claims filed under the preceding sentence.

''(B) TIME FOR FILING CLAIM.—No claim filed under this paragraph shall be allowed unless filed on or before the last day of the first quarter following the earliest quarter included in the claim.''.

(3) CONFORMING AMENDMENTS.—

(A) Section 6427(l)(5)(A) is amended to read as follows:

''(A) IN GENERAL.—Paragraph (1) shall not apply to diesel fuel or kerosene used by a State or local government.''.

(B) The heading for section 6427(l)(5) is amended by striking ''FARMERS AND''.

(b) Section 6427(i)(3) is amended—

(1) by adding at the end of subparagraph (A) the following new flush sentence:

''In the case of an electronic claim, this subparagraph shall be applied without regard to clause (i).'', and

(2) by striking ''20 days of the date of the filing of such claim'' in subparagraph (B) and inserting ''45 days of the date of the filing of such claim (20 days in the case of an electronic claim)'', and

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to fuels sold for nontaxable use after the date of the enactment of this Act.

SEC. 5263. TAXABLE FUEL REFUNDS FOR CERTAIN ULTIMATE VENDORS.

(a) IN GENERAL.—Paragraph (4) of section 6416(a) (relating to abatements, credits, and refunds) is amended to read as follows:

''(4) REGISTERED ULTIMATE VENDOR TO ADMINISTER CREDITS AND REFUNDS OF GASOLINE TAX.—

''(A) IN GENERAL.—For purposes of this subsection, if an ultimate vendor purchases any gasoline on which tax imposed by section 4081 has been paid and sells such gasoline to an ultimate purchaser described in subparagraph (C) or (D) of subsection (b)(2) (and such gasoline is for a use described in such subparagraph), such ultimate vendor shall be treated as the person (and the only person) who paid such tax, but only if such ultimate vendor is registered under section 4101. For purposes of this subparagraph, if the sale of gasoline is made by means of a credit card, the person extending the credit to the ultimate purchaser shall be deemed to be the ultimate vendor.

''(B) TIMING OF CLAIMS.—The procedure and timing of any claim under subparagraph (A) shall be the same as for claims under section 6427(i)(4), except that the rules of section 6427(i)(3)(B) regarding electronic claims shall not apply unless the ultimate vendor has certified to the Secretary for the most recent quarter of the taxable year that all ultimate purchasers of the vendor are certified and entitled to a refund under subparagraph (C) or (D) of subsection (b)(2).''.

(b) CREDIT CARD PURCHASES OF DIESEL FUEL OR KEROSENE BY STATE AND LOCAL GOVERNMENTS.—Section 6427(l)(5)(C) (relating to nontaxable uses of diesel fuel, kerosene, and aviation fuel), as amended by section 5252 of this Act, is amended by adding at the end

the following new sentence: ''For purposes of this subparagraph, if the sale of diesel fuel or kerosene is made by means of a credit card, the person extending the credit to the ultimate purchaser shall be deemed to be the ultimate vendor.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

SEC. 5264. TWO-PARTY EXCHANGES.

(a) IN GENERAL.—Subpart C of part III of subchapter A of chapter 32, as amended by section 5251 of this Act, is amended by adding at the end the following new section:

''SEC. 4106. TWO-PARTY EXCHANGES.

''(a) IN GENERAL.—In a two-party exchange, the delivering person shall not be liable for the tax imposed under of section 4081(a)(1)(A)(ii).

''(b) TWO-PARTY EXCHANGE.—The term 'two-party exchange' means a transaction, other than a sale, in which taxable fuel is transferred from a delivering person registered under section 4101 as a taxable fuel registrant to a receiving person who is so registered where all of the following occur:

''(1) The transaction includes a transfer from the delivering person, who holds the inventory position for taxable fuel in the terminal as reflected in the records of the terminal operator.

''(2) The exchange transaction occurs before or contemporaneous with completion of removal across the rack from the terminal by the receiving person.

''(3) The terminal operator in its books and records treats the receiving person as the person that removes the product across the terminal rack for purposes of reporting the transaction to the Secretary.

''(4) The transaction is the subject of a written contract.''.

(b) CONFORMING AMENDMENT.—The table of sections for subpart C of part III of subchapter A of chapter 32, as amended by section 5251 of this Act, is amended by adding after the last item the following new item:

''Sec. 4106. Two-party exchanges.''.

(c) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 5265. MODIFICATIONS OF TAX ON USE OF CERTAIN VEHICLES.

(a) NO PRORATION OF TAX UNLESS VEHICLE IS DESTROYED OR STOLEN.—

(1) IN GENERAL.—Section 4481(c) (relating to proration of tax) is amended to read as follows:

''(c) PRORATION OF TAX WHERE VEHICLE SOLD, DESTROYED, OR STOLEN.—

''(1) IN GENERAL.—If in any taxable period a highway motor vehicle is sold, destroyed, or stolen before the first day of the last month in such period and not subsequently used during such taxable period, the tax shall be reckoned proportionately from the first day of the month in such period in which the first use of such highway motor vehicle occurs to and including the last day of the month in which such highway motor vehicle was sold, destroyed, or stolen.

''(2) DESTROYED.—For purposes of paragraph (1), a highway motor vehicle is destroyed if such vehicle is damaged by reason of an accident or other casualty to such an extent that it is not economic to rebuild.''.

(2) CONFORMING AMENDMENTS.—

(A) Section 6156 (relating to installment payment of tax on use of highway motor vehicles) is repealed.

(B) The table of sections for subchapter A of chapter 62 is amended by striking the item relating to section 6156.

(b) DISPLAY OF TAX CERTIFICATE.—Paragraph (2) of section 4481(d) (relating to one tax liability for period) is amended to read as follows:

''(2) DISPLAY OF TAX CERTIFICATE.—Every taxpayer which pays the tax imposed under this section with respect to a highway motor vehicle shall, not later than 1 month after the due date of the return of tax with respect to each taxable period, receive and display on such vehicle an electronic identification device prescribed by the Secretary.''.

(c) ELECTRONIC FILING.—Section 4481 is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

''(e) ELECTRONIC FILING.—Any taxpayer who files a return under this section with respect to 25 or more vehicles for any taxable period shall file such return electronically.''.

(d) REPEAL OF REDUCTION IN TAX FOR CERTAIN TRUCKS.—Section 4483 of the Internal Revenue Code of 1986 is amended by striking subsection (f).

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable periods beginning after the date of the enactment of this Act.

(2) SUBSECTION (b).—The amendment made by subsection (b) shall take effect on October 1, 2005.

SEC. 5266. DEDICATION OF REVENUES FROM CERTAIN PENALTIES TO THE HIGHWAY TRUST FUND.

(a) IN GENERAL.—Subsection (b) of section 9503 (relating to transfer to Highway Trust Fund of amounts equivalent to certain taxes), as amended by section 5101 of this Act, is amended by redesignating paragraph (5) as paragraph (6) and inserting after paragraph (4) the following new paragraph:

''(5) CERTAIN PENALTIES.—There are hereby appropriated to the Highway Trust Fund amounts equivalent to the penalties assessed under sections 6715, 6715A, 6717, 6718, 6719, 6720, 6725, 7232, and 7272 (but only with regard to penalties under such section related to failure to register under section 4101).''.

(b) CONFORMING AMENDMENTS.—

(1) The heading of subsection (b) of section 9503 is amended by inserting ''AND PENALTIES'' after ''TAXES''.

(2) The heading of paragraph (1) of section 9503(b) is amended by striking ''IN GENERAL'' and inserting ''CERTAIN TAXES''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to penalties assessed after October 1, 2004.

SEC. 5267. NONAPPLICATION OF EXPORT EXEMPTION TO DELIVERY OF FUEL TO MOTOR VEHICLES REMOVED FROM UNITED STATES.

(a) IN GENERAL.—Section 4221(d)(2) (defining export) is amended by adding at the end the following new sentence: ''Such term does not include the delivery of a taxable fuel (as defined in section 4083(a)(1)) into a fuel tank of a motor vehicle which is shipped or driven out of the United States.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 4041(g) (relating to other exemptions) is amended by adding at the end the following new sentence: ''Paragraph (3) shall not apply to the sale for delivery of a liquid into a fuel tank of a motor vehicle which is shipped or driven out of the United States.''.

(2) Clause (iv) of section 4081(a)(1)(A) (relating to tax on removal, entry, or sale) is amended by inserting ''or at a duty-free sales enterprise (as defined in section 555(b)(8) of the Tariff Act of 1930)'' after ''section 4101''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales or deliveries made after the date of the enactment of this Act.

PART VII—TOTAL ACCOUNTABILITY

SEC. 5271. TOTAL ACCOUNTABILITY.

(a) TAXATION OF REPORTABLE LIQUIDS.—

(1) IN GENERAL.—Section 4081(a), as amended by this Act, is amended—

(A) by inserting ''or reportable liquid'' after ''taxable fuel'' each place it appears, and

(B) by inserting ''such liquid'' after ''such fuel'' in paragraph (1)(A)(iv).

(2) RATE OF TAX.—Subparagraph (A) of section 4081(a)(2), as amended by section 5211 of this Act, is amended by striking ''and'' at the end of clause (iii), by striking the period at the end of clause (iv) and inserting '', and'', and by adding at the end the following new clause:

''(v) in the case of reportable liquids, the rate determined under section 4083(c)(2).''.

(3) EXEMPTION.—Section 4081(a)(1) is amended by adding at the end the following new subparagraph:

''(C) EXEMPTION FOR REGISTERED TRANSFERS OF REPORTABLE LIQUIDS.—The tax imposed by this paragraph shall not apply to any removal, entry, or sale of a reportable liquid if—

''(i) such removal, entry, or sale is to a registered person who certifies that such liquid will not be used as a fuel or in the production of a fuel, or

''(ii) the sale is to the ultimate purchaser of such liquid.''.

(4) REPORTABLE LIQUIDS.—Section 4083, as amended by this Act, is amended by redesignating subsections (c) and (d) (as redesignated by section 5211 of this Act) as subsections (d) and (e), respectively, and by inserting after subsection (b) the following new section:

''(c) REPORTABLE LIQUID.—For purposes of this subpart—

''(1) IN GENERAL.—The term 'reportable liquid' means any petroleum-based liquid other than a taxable fuel.

''(2) TAXATION.—

''(A) GASOLINE BLEND STOCKS AND ADDITIVES.—Gasoline blend stocks and additives which are reportable liquids (as defined in paragraph (1)) shall be subject to the rate of tax under clause (i) of section 4081(a)(2)(A).

''(B) OTHER REPORTABLE LIQUIDS.—Any reportable liquid (as defined in paragraph (1)) not described in subparagraph (A) shall be subject to the rate of tax under clause (iii) of section 4081(a)(2)(A).''.

(5) CONFORMING AMENDMENTS.—

(A) Section 4081(e) is amended by inserting ''or reportable liquid'' after ''taxable fuel''.

(B) Section 4083(d) (relating to certain use defined as removal), as redesignated by paragraph (4), is amended by inserting ''or reportable liquid'' after ''taxable fuel''.

(C) Section 4083(e)(1) (relating to administrative authority), as redesignated by paragraph (4), is amended—

(i) in subparagraph (A)—

(I) by inserting ''or reportable liquid'' after ''taxable fuel'', and

(II) by inserting ''or such liquid'' after ''such fuel'' each place it appears, and

(ii) in subparagraph (B), by inserting ''or any reportable liquid'' after ''any taxable fuel''.

(D) Section 4101(a)(2), as added by section 5243 of this Act, is amended by inserting ''or a reportable liquid'' after ''taxable fuel''.

(E) Section 4101(a)(3), as added by section 5242 of this Act and redesignated by section 5243 of this Act, is amended by inserting ''or any reportable liquid'' before the period at the end.

(F) Section 4102 is amended by inserting ''or any reportable liquid'' before the period at the end.

(G)(i) Section 6718, as added by section 5241 of this Act, is amended—

(I) in subsection (a), by inserting ''or any reportable liquid (as defined in section 4083(c)(1))'' after '' section 4083(a)(1))'', and

(II) in the heading, by inserting ''or reportable liquids'' after ''taxable fuel''.

(ii) The item relating to section 6718 in table of sections for part I of subchapter B of chapter 68, as added by section 5241 of this Act, is amended by inserting ''or reportable liquids'' after ''taxable fuels''.

(H) Section 6427(h) is amended to read as follows:

''(h) GASOLINE BLEND STOCKS OR ADDITIVES AND REPORTABLE LIQUIDS.—Except as provided in subsection (k)—

''(1) if any gasoline blend stock or additive (within the meaning of section 4083(a)(2)) is not used by any person to produce gasoline and such person establishes that the ultimate use of such gasoline blend stock or additive is not to produce gasoline, or

''(2) if any reportable liquid (within the meaning of section 4083(c)(1)) is not used by any person to produce a taxable fuel and such person establishes that the ultimate use of such reportable liquid is not to produce a taxable fuel,

then the Secretary shall pay (without interest) to such person an amount equal to the aggregate amount of the tax imposed on such person with respect to such gasoline blend stock or additive or such reportable fuel.''.

(I) Section 7232, as amended by this Act, is amended by inserting ''or reportable liquid (within the meaning of section 4083(c)(1))'' after ''section 4083)''.

(J) Section 343 of the Trade Act of 2002, as amended by section 5252 of this Act, is amended by inserting ''and reportable liquids (as defined in section 4083(c)(1) of such Code)'' after ''Internal Revenue Code of 1986)''.

(b) DYED DIESEL.—Section 4082(a) is amended by striking ''and'' at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting ''and'', and by inserting after paragraph (3) the following new paragraph:

''(4) which is removed, entered, or sold by a person registered under section 4101.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to reportable liquids (as defined in section 4083(c) of the Internal Revenue Code) and fuel sold or used after September 30, 2004.

SEC. 5272. EXCISE TAX REPORTING.

(a) IN GENERAL.—Part II of subchapter A of chapter 61 is amended by adding at the end the following new subpart:

''SUBPART E—EXCISE TAX REPORTING

''SEC. 6025. RETURNS RELATING TO FUEL TAXES.

''(a) IN GENERAL.—The Secretary shall require any person liable for the tax imposed under Part III of subchapter A of chapter 32 to file a return of such tax on a monthly basis.

''(b) INFORMATION INCLUDED WITH RETURN.—The Secretary shall require any person filing a return under subsection (a) to provide information regarding any refined product (whether or not such product is taxable under this title) removed from a terminal during the period for which such return applies.''.

(b) CONFORMING AMENDMENT.—The table of parts for subchapter A of chapter 61 is amended by adding at the end the following new item:

''Subpart E—Excise Tax Reporting''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel sold or used after September 30, 2004.

SEC. 5273. INFORMATION REPORTING.

(a) IN GENERAL.—Section 4101(d) is amended by adding at the end the following new flush sentence:

''The Secretary shall require reporting under the previous sentence with respect to taxable fuels removed, entered, or transferred from any refinery, pipeline, or vessel which is registered under this section.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply on October 1, 2004.

SA 2316. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Strike title V and insert the following:

TITLE V—HIGHWAY REAUTHORIZATION AND EXCISE TAX SIMPLIFICATION

SEC. 5000. SHORT TITLE; AMENDMENT OF 1986 CODE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the ''Highway Reauthorization and Excise Tax Simplification Act of 2004''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—The table of contents for this title is as follows:

TITLE V—HIGHWAY REAUTHORIZATION AND EXCISE TAX SIMPLIFICATION

Sec. 5000. Short title; amendment of 1986 code; table of contents.

Subtitle A—Trust Fund Reauthorization

Sec. 5001. Extension of Highway Trust Fund and Aquatic Resources Trust Fund expenditure authority and related taxes.
Sec. 5002. Full accounting of funds received by the Highway Trust Fund.
Sec. 5003. Modification of adjustments of apportionments.

Subtitle B—Biodiesel Income Tax Credit

Sec. 5101. Biodiesel income tax credit.

Subtitle C—Fuel Fraud Prevention

Sec. 5200. Short title.

PART I—AVIATION JET FUEL

Sec. 5211. Taxation of aviation-grade kerosene.
Sec. 5212. Transfer of certain amounts from the Airport and Airway Trust Fund to the Highway Trust Fund to reflect highway use of jet fuel.

PART II—DYED FUEL

Sec. 5221. Dye injection equipment.
Sec. 5222. Elimination of administrative review for taxable use of dyed fuel.
Sec. 5223. Penalty on untaxed chemically altered dyed fuel mixtures.
Sec. 5224. Termination of dyed diesel use by intercity buses.

PART III—MODIFICATION OF INSPECTION OF RECORDS PROVISIONS

Sec. 5231. Authority to inspect on-site records.
Sec. 5232. Assessable penalty for refusal of entry.

PART IV—REGISTRATION AND REPORTING REQUIREMENTS

Sec. 5241. Registration of pipeline or vessel operators required for exemption of bulk transfers to registered terminals or refineries.
Sec. 5242. Display of registration.
Sec. 5243. Registration of persons within foreign trade zones.
Sec. 5244. Penalties for failure to register and failure to report.
Sec. 5245. Information reporting for persons claiming certain tax benefits.

PART V—IMPORTS

Sec. 5251. Tax at point of entry where importer not registered.
Sec. 5252. Reconciliation of on-loaded cargo to entered cargo.

PART VI—MISCELLANEOUS PROVISIONS

Sec. 5261. Tax on sale of diesel fuel whether suitable for use or not in a diesel-powered vehicle or train.
Sec. 5262. Modification of ultimate vendor refund claims with respect to farming.
Sec. 5263. Taxable fuel refunds for certain ultimate vendors.
Sec. 5264. Two-party exchanges.
Sec. 5265. Modifications of tax on use of certain vehicles.
Sec. 5266. Dedication of revenues from certain penalties to the Highway Trust Fund.
Sec. 5267. Nonapplication of export exemption to delivery of fuel to motor vehicles removed from United States.

PART VII—TOTAL ACCOUNTABILITY

Sec. 5271. Total accountability.
Sec. 5272. Excise tax reporting.
Sec. 5273. Information reporting.

Subtitle D—Definition of Highway Vehicle

Sec. 5301. Exemption from certain excise taxes for mobile machinery.
Sec. 5302. Modification of definition of off-highway vehicle.

Subtitle E—Excise Tax Reform and Simplification

PART I—HIGHWAY EXCISE TAXES

Sec. 5401. Dedication of gas guzzler tax to Highway Trust Fund.
Sec. 5402. Repeal certain excise taxes on rail diesel fuel and inland waterway barge fuels.

PART II—AQUATIC EXCISE TAXES

Sec. 5411. Elimination of Aquatic Resources Trust Fund and transformation of Sport Fish Restoration Account.
Sec. 5412. Exemption of LED devices from sonar devices suitable for finding fish.
Sec. 5413. Repeal of harbor maintenance tax on exports.
Sec. 5414. Cap on excise tax on certain fishing equipment.
Sec. 5415. Reduction in rate of tax on portable aerated bait containers.

PART III—AERIAL EXCISE TAXES

Sec. 5421. Clarification of excise tax exemptions for agricultural aerial applicators and exemption for fixed-wing aircraft engaged in forestry operations.
Sec. 5422. Modification of rural airport definition.
Sec. 5423. Exemption from ticket taxes for transportation provided by seaplanes.
Sec. 5424. Certain sightseeing flights exempt from taxes on air transportation.

PART IV—ALCOHOLIC BEVERAGE EXCISE TAXES

Sec. 5431. Repeal of special occupational taxes on producers and marketers of alcoholic beverages.
Sec. 5432. Suspension of limitation on rate of rum excise tax cover over to Puerto Rico and Virgin Islands.

PART V—SPORT EXCISE TAXES

Sec. 5441. Custom gunsmiths.

Sec. 5442. Modified taxation of imported archery products.
Sec. 5443. Treatment of tribal governments for purposes of Federal wagering excise and occupational taxes.
PART VI—OTHER PROVISIONS
Sec. 5451. Income tax credit for distilled spirits wholesalers and for distilled spirits in control State bailment warehouses for costs of carrying Federal excise taxes on bottled distilled spirits.
Sec. 5452. Credit for taxpayers owning commercial power takeoff vehicles.
Sec. 5453. Credit for auxiliary power units installed on diesel-powered trucks.
Subtitle F—Miscellaneous Provisions
Sec. 5501. Motor Fuel Tax Enforcement Advisory Commission.
Sec. 5502. National Surface Transportation Infrastructure Financing Commission.
Sec. 5503. Treasury study of fuel tax compliance and interagency cooperation.
Sec. 5504. Expansion of Highway Trust Fund expenditure purposes to include funding for studies of supplemental or alternative financing for the Highway Trust Fund.
Sec. 5505. Treasury study of highway fuels used by trucks for non-transportation purposes.
Sec. 5506. Delta regional transportation plan.
Sec. 5507. Treatment of employer-provided transit and van pooling benefits.
Sec. 5508. Study of incentives for production of biodiesel.
Sec. 5509. Reduction of expenditures from the Highway Trust Fund.
Subtitle G—Revenue Offsets
PART I—LIMITATION ON EXPENSING CERTAIN PASSENGERS AUTOMOBILES
Sec. 5601. Expansion of limitation on depreciation of certain passenger automobiles.
PART II—PROVISION TO REPLENISH THE GENERAL FUND
Sec. 5611. Modification to corporate estimated tax requirements.

Subtitle A—Trust Fund Reauthorization

SEC. 5001. EXTENSION OF HIGHWAY TRUST FUND AND AQUATIC RESOURCES TRUST FUND EXPENDITURE AUTHORITY AND RELATED TAXES.

(a) HIGHWAY TRUST FUND EXPENDITURE AUTHORITY.—

(1) HIGHWAY ACCOUNT.—Paragraph (1) of section 9503(c) (relating to transfers from Highway Trust Fund for certain repayments and credits) is amended—

(A) in the matter before subparagraph (A), by striking ''March 1, 2004'' and inserting ''October 1, 2009'',

(B) by striking ''or'' at the end of subparagraph (E),

(C) by striking the period at the end of subparagraph (F) and inserting '', or'',

(D) by inserting after subparagraph (F), the following new subparagraph:

''(G) authorized to be paid out of the Highway Trust Fund under the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004.'', and

(E) in the matter after subparagraph (G), as added by subparagraph (D), by striking ''Surface Transportation Extension Act of 2003'' and inserting ''Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004''.

(2) MASS TRANSIT ACCOUNT.—Paragraph (3) of section 9503(e) (relating to establishment of Mass Transit Account) is amended—

(A) in the matter before subparagraph (A), by striking ''March 1, 2004'' and inserting ''October 1, 2009'',

(B) by striking ''or'' at the end of subparagraph (C),

(C) by striking the period at the end of subparagraph (D) and inserting '', or'',

(D) by inserting after subparagraph (D), the following new subparagraph:

''(E) the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004,'', and

(E) in the matter after subparagraph (E), as added by subparagraph (D), by striking ''Surface Transportation Extension Act of 2003'' and inserting ''Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004''.

(3) EXCEPTION TO LIMITATION ON TRANSFERS.—Subparagraph (B) of section 9503(b)(5) (relating to limitation on transfers to Highway Trust Fund) is amended by striking ''March 1, 2004'' and inserting ''October 1, 2009''.

(b) AQUATIC RESOURCES TRUST FUND EXPENDITURE AUTHORITY.—

(1) SPORT FISH RESTORATION ACCOUNT.—Paragraph (2) of section 9504(b) (relating to Sport Fish Restoration Account) is amended by striking ''Surface Transportation Extension Act of 2003'' each place it appears and inserting ''Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004''.

(2) BOAT SAFETY ACCOUNT.—Section 9504(c) (relating to expenditures from Boat Safety Account) is amended—

(A) by striking ''March 1, 2004'' and inserting ''October 1, 2009'', and

(B) by striking ''Surface Transportation Extension Act of 2003'' and inserting ''Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004''.

(3) EXCEPTION TO LIMITATION ON TRANSFERS.—Paragraph (2) of section 9504(d) (relating to limitation on transfers to Aquatic Resources Trust Fund) is amended by striking ''March 1, 2004'' and inserting ''October 1, 2009''.

(4) TECHNICAL CORRECTION.—The last sentence of paragraph (2) of section 9504(b) is amended by striking ''subparagraph (B)'', and inserting ''subparagraph (C)''.

(c) EXTENSION OF TAXES.—

(1) IN GENERAL.—The following provisions are each amended by striking ''2005'' each place it appears and inserting ''2009'':

(A) Section 4041(a)(1)(C)(iii)(I) (relating to rate of tax on certain buses).

(B) Section 4041(a)(2)(B) (relating to rate of tax on special motor fuels).

(C) Section 4041(m)(1)(A) (relating to certain alcohol fuels produced from natural gas).

(D) Section 4051(c) (relating to termination of tax on heavy trucks and trailers).

(E) Section 4071(d) (relating to termination of tax on tires).

(F) Section 4081(d)(1) (relating to termination of tax on gasoline, diesel fuel, and kerosene).

(G) Section 4481(e) (relating to period tax in effect).

(H) Section 4482(c)(4) (relating to taxable period).

(I) Section 4482(d) (relating to special rule for taxable period in which termination date occurs).

(2) FLOOR STOCKS REFUNDS.—Section 6412(a)(1) (relating to floor stocks refunds) is amended—

(A) by striking ''2005'' each place it appears and inserting ''2009'', and

(B) by striking ''2006'' each place it appears and inserting ''2010''.

(d) EXTENSION OF CERTAIN EXEMPTIONS.—The following provisions are each amended by striking ''2005'' and inserting ''2009'':

(1) Section 4221(a) (relating to certain tax-free sales).

(2) Section 4483(g) (relating to termination of exemptions for highway use tax).

(e) EXTENSION OF DEPOSITS INTO, AND CERTAIN TRANSFERS FROM, TRUST FUND.—

(1) IN GENERAL.—Subsections (b), (c)(2), (c)(3), (c)(4)(A)(i), and (c)(5)(A) of section 9503 (relating to the Highway Trust Fund) are amended—

(A) by striking ''2005'' each place it appears and inserting ''2009'', and

(B) by striking ''2006'' each place it appears and inserting ''2010''.

(2) CONFORMING AMENDMENTS TO LAND AND WATER CONSERVATION FUND.—Section 201(b) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–11(b)) is amended—

(A) by striking ''2003'' and inserting ''2007'', and

(B) by striking ''2004'' each place it appears and inserting ''2008''.

(f) EXTENSION OF TAX BENEFITS FOR QUALIFIED METHANOL AND ETHANOL FUEL PRODUCED FROM COAL.—Section 4041(b)(2) (relating to qualified methanol and ethanol fuel) is amended—

(1) by striking ''2007'' in subparagraph (C)(ii) and inserting ''2010'', and

(2) by striking ''October 1, 2007'' in subparagraph (D) and inserting ''January 1, 2011''.

(g) PROHIBITION ON USE OF HIGHWAY ACCOUNT FOR RAIL PROJECTS.—Section 9503(c) (relating to transfers from Highway Trust Fund for certain repayments and credits) is amended by adding at the end the following new paragraph:

''(6) PROHIBITION ON USE OF HIGHWAY ACCOUNT FOR RAIL PROJECTS.—With respect to projects beginning after the date of the enactment of this paragraph, no amount shall be available from the Highway Account (as defined in subsection (e)(5)(B)) for any rail project.''.

(h) HIGHWAY TRUST FUND EXPENDITURES FOR HIGHWAY USE TAX EVASION PROJECTS.—From amounts available in the Highway Trust Fund, there is authorized to be expended such sums as are necessary for highway use tax evasion projects.

(i) EFFECTIVE DATE.—The amendments made by and provisions of this section shall take effect on the date of the enactment of this Act.

SEC. 5002. FULL ACCOUNTING OF FUNDS RECEIVED BY THE HIGHWAY TRUST FUND.

(a) IN GENERAL.—Section 9503(c) (relating to transfers from Highway Trust Fund for certain repayments and credits), as amended by section 5001 of this Act, is amended by striking paragraph (2) and redesignating paragraphs (3), (4), (5), and (6) as paragraphs (2), (3), (4), and (5), respectively.

(b) INTEREST ON UNEXPENDED BALANCES CREDITED TO TRUST FUND.—Section 9503 (relating to the Highway Trust Fund) is amended by striking subsection (f).

(c) CONFORMING AMENDMENTS.—

(1) Section 9503(b)(4)(D) is amended by striking ''paragraph (4)(D) or (5)(B)'' and inserting ''paragraph (3)(D) or (4)(B)''.

(2) Paragraph (2) of section 9503(c) (as redesignated by subsection (a)) is amended by adding at the end the following new sentence: ''The amounts payable from the Highway Trust Fund under this paragraph shall be determined by taking into account only the portion of the taxes which are deposited into the Highway Trust Fund.''.

(3) Section 9504(a)(2) is amended by striking ''section 9503(c)(4), section 9503(c)(5)'' and inserting ''section 9503(c)(3), section 9503(c)(4)''.

(4) Paragraph (2) of section 9504(b), as amended by section 5001 of this Act, is amended by striking ''section 9503(c)(5)'' and inserting ''section 9503(c)(4)''.

(5) Section 9504(e) is amended by striking ''section 9503(c)(4)'' and inserting ''section 9503(c)(3)''.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to amounts paid for which no transfer from the Highway Trust Fund has been made before April 1, 2004.

(2) INTEREST CREDITED.—The amendment made by subsection (b) shall take effect on the date of the enactment of this Act.

SEC. 5003. MODIFICATION OF ADJUSTMENTS OF APPORTIONMENTS.

(a) IN GENERAL.—Section 9503(d) (relating to adjustments for apportionments) is amended—

(1) by striking ''24-month'' in paragraph (1)(B) and inserting ''48-month'', and

(2) by striking ''2 YEARS''' in the heading for paragraph (3) and inserting ''4 YEARS'''.

(b) MEASUREMENT OF NET HIGHWAY RECEIPTS.—Section 9503(d) is amended by redesignating paragraph (6) as paragraph (7) and by inserting after paragraph (5) the following new paragraph:

''(6) MEASUREMENT OF NET HIGHWAY RECEIPTS.—For purposes of making any estimate under paragraph (1) of net highway receipts for periods ending after the date specified in subsection (b)(1), the Secretary shall treat—

''(A) each expiring provision of subsection (b) which is related to appropriations or transfers to the Highway Trust Fund to have been extended through the end of the 48-month period referred to in paragraph (1)(B), and

''(B) with respect to each tax imposed under the sections referred to in subsection (b)(1), the rate of such tax during the 48-month period referred to in paragraph (1)(B) to be the same as the rate of such tax as in effect on the date of such estimate.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

Subtitle B—Biodiesel Income Tax Credit

SEC. 5101. BIODIESEL INCOME TAX CREDIT.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by inserting after section 40 the following new section:

''SEC. 40A. BIODIESEL USED AS FUEL.

''(a) GENERAL RULE.—For purposes of section 38, the biodiesel fuels credit determined under this section for the taxable year is an amount equal to the sum of—

''(1) the biodiesel mixture credit, plus

''(2) the biodiesel credit.

''(b) DEFINITION OF BIODIESEL MIXTURE CREDIT AND BIODIESEL CREDIT.—For purposes of this section—

''(1) BIODIESEL MIXTURE CREDIT.—

''(A) IN GENERAL.—The biodiesel mixture credit of any taxpayer for any taxable year is 50 cents for each gallon of biodiesel used by the taxpayer in the production of a qualified biodiesel mixture.

''(B) QUALIFIED BIODIESEL MIXTURE.—The term 'qualified biodiesel mixture' means a mixture of biodiesel and diesel fuel (as defined in section 4083(a)(3)), determined without regard to any use of kerosene, which—

''(i) is sold by the taxpayer producing such mixture to any person for use as a fuel, or

''(ii) is used as a fuel by the taxpayer producing such mixture.

''(C) SALE OR USE MUST BE IN TRADE OR BUSINESS, ETC.—Biodiesel used in the production of a qualified biodiesel mixture shall be taken into account—

''(i) only if the sale or use described in subparagraph (B) is in a trade or business of the taxpayer, and

''(ii) for the taxable year in which such sale or use occurs.

''(D) CASUAL OFF-FARM PRODUCTION NOT ELIGIBLE.—No credit shall be allowed under this section with respect to any casual off-farm production of a qualified biodiesel mixture.

''(2) BIODIESEL CREDIT.—

''(A) IN GENERAL.—The biodiesel credit of any taxpayer for any taxable year is 50 cents for each gallon of biodiesel which is not in a mixture with diesel fuel and which during the taxable year—

''(i) is used by the taxpayer as a fuel in a trade or business, or

''(ii) is sold by the taxpayer at retail to a person and placed in the fuel tank of such person's vehicle.

''(B) USER CREDIT NOT TO APPLY TO BIODIESEL SOLD AT RETAIL.—No credit shall be allowed under subparagraph (A)(i) with respect to any biodiesel which was sold in a retail sale described in subparagraph (A)(ii).

''(3) CREDIT FOR AGRI-BIODIESEL.—In the case of any biodiesel which is agri-biodiesel, paragraphs (1)(A) and (2)(A) shall be applied by substituting '$1.00' for '50 cents'.

''(4) CERTIFICATION FOR BIODIESEL.—No credit shall be allowed under this section unless the taxpayer obtains a certification (in such form and manner as prescribed by the Secretary) from the producer or importer of the biodiesel which identifies the product produced and the percentage of biodiesel and agri-biodiesel in the product.

''(c) COORDINATION WITH CREDIT AGAINST EXCISE TAX.—The amount of the credit determined under this section with respect to any biodiesel shall be properly reduced to take into account any benefit provided with respect to such biodiesel solely by reason of the application of section 6426 or 6427(e).

''(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) BIODIESEL.—The term 'biodiesel' means the monoalkyl esters of long chain fatty acids derived from plant or animal matter which meet—

''(A) the registration requirements for fuels and fuel additives established by the Environmental Protection Agency under section 211 of the Clean Air Act (42 U.S.C. 7545), and

''(B) the requirements of the American Society of Testing and Materials D6751.

''(2) AGRI-BIODIESEL.—The term 'agri-biodiesel' means biodiesel derived solely from virgin oils, including esters derived from virgin vegetable oils from corn, soybeans, sunflower seeds, cottonseeds, canola, crambe, rapeseeds, safflowers, flaxseeds, rice bran, and mustard seeds, and from animal fats.

''(3) MIXTURE OR BIODIESEL NOT USED AS A FUEL, ETC.—

''(A) MIXTURES.—If—

''(i) any credit was determined under this section with respect to biodiesel used in the production of any qualified biodiesel mixture, and

''(ii) any person—

''(I) separates the biodiesel from the mixture, or

''(II) without separation, uses the mixture other than as a fuel,

then there is hereby imposed on such person a tax equal to the product of the rate applicable under subsection (b)(1)(A) and the number of gallons of such biodiesel in such mixture.

''(B) BIODIESEL.—If—

''(i) any credit was determined under this section with respect to the retail sale of any biodiesel, and

''(ii) any person mixes such biodiesel or uses such biodiesel other than as a fuel,

then there is hereby imposed on such person a tax equal to the product of the rate applicable under subsection (b)(2)(A) and the number of gallons of such biodiesel.

''(C) APPLICABLE LAWS.—All provisions of law, including penalties, shall, insofar as applicable and not inconsistent with this section, apply in respect of any tax imposed under subparagraph (A) or (B) as if such tax were imposed by section 4081 and not by this chapter.

''(4) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

''(e) TERMINATION.—This section shall not apply to any sale or use after December 31, 2006.''.

(b) CREDIT TREATED AS PART OF GENERAL BUSINESS CREDIT.—Section 38(b) (relating to current year business credit) is amended by striking ''plus'' at the end of paragraph (14), by striking the period at the end of paragraph (15) and inserting '', plus'', and by adding at the end the following new paragraph:

''(16) the biodiesel fuels credit determined under section 40A(a).''.

(c) CONFORMING AMENDMENTS.—

(1) Section 39(d) is amended by adding at the end the following new paragraph:

''(11) NO CARRYBACK OF BIODIESEL FUELS CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the biodiesel fuels credit determined under section 40A may be carried back to a taxable year ending on or before September 30, 2004.''.

(2)(A) Section 87 is amended to read as follows:

''SEC. 87. ALCOHOL AND BIODIESEL FUELS CREDITS.

''Gross income includes—

''(1) the amount of the alcohol fuels credit determined with respect to the taxpayer for the taxable year under section 40(a), and

''(2) the biodiesel fuels credit determined with respect to the taxpayer for the taxable year under section 40A(a).''.

(B) The item relating to section 87 in the table of sections for part II of subchapter B of chapter 1 is amended by striking ''fuel credit'' and inserting ''and biodiesel fuels credits''.

(3) Section 196(c) is amended by striking ''and'' at the end of paragraph (9), by striking the period at the end of paragraph (10) and inserting '', and'', and by adding at the end the following new paragraph:

''(11) the biodiesel fuels credit determined under section 40A(a).''.

(4) The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding after the item relating to section 40 the following new item:

''Sec. 40A. Biodiesel used as fuel.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel produced, and sold or used, after September 30, 2004, in taxable years ending after such date.

Subtitle C—Fuel Fraud Prevention

SEC. 5200. SHORT TITLE.

This subtitle may be cited as the ''Fuel Fraud Prevention Act of 2004''.

PART I—AVIATION JET FUEL

SEC. 5211. TAXATION OF AVIATION-GRADE KEROSENE.

(a) RATE OF TAX.—

(1) IN GENERAL.—Subparagraph (A) of section 4081(a)(2) is amended by striking ''and'' at the end of clause (ii), by striking the period at the end of clause (iii) and inserting '', and'', and by adding at the end the following new clause:

''(iv) in the case of aviation-grade kerosene, 21.8 cents per gallon.''.

(2) COMMERCIAL AVIATION.—Paragraph (2) of section 4081(a) is amended by adding at the end the following new subparagraph:

''(C) TAXES IMPOSED ON FUEL USED IN COMMERCIAL AVIATION.—In the case of aviation-grade kerosene which is removed from any refinery or terminal directly into the fuel

tank of an aircraft for use in commercial aviation, the rate of tax under subparagraph (A)(iv) shall be 4.3 cents per gallon.''.

(3) NONTAXABLE USES.—

(A) IN GENERAL.—Section 4082 is amended by redesignating subsections (e) and (f) as subsections (f) and (g), respectively, and by inserting after subsection (d) the following new subsection:

''(e) AVIATION-GRADE KEROSENE.—In the case of aviation-grade kerosene which is exempt from the tax imposed by section 4041(c) (other than by reason of a prior imposition of tax) and which is removed from any refinery or terminal directly into the fuel tank of an aircraft, the rate of tax under section 4081(a)(2)(A)(iv) shall be zero.''.

(B) CONFORMING AMENDMENTS.—

(i) Subsection (b) of section 4082 is amended by adding at the end the following new flush sentence: ''The term 'nontaxable use' does not include the use of aviation-grade kerosene in an aircraft.''.

(ii) Section 4082(d) is amended by striking paragraph (1) and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(4) NONAIRCRAFT USE OF AVIATION-GRADE KEROSENE.—

(A) IN GENERAL.—Subparagraph (B) of section 4041(a)(1) is amended by adding at the end the following new sentence: ''This subparagraph shall not apply to aviation-grade kerosene.''.

(B) CONFORMING AMENDMENT.—The heading for paragraph (1) of section 4041(a) is amended by inserting ''AND KEROSENE'' after ''DIESEL FUEL''.

(b) COMMERCIAL AVIATION.—Section 4083 is amended redesignating subsections (b) and (c) as subsections (c) and (d), respectively, and by inserting after subsection (a) the following new subsection:

''(b) COMMERCIAL AVIATION.—For purposes of this subpart, the term 'commercial aviation' means any use of an aircraft in a business of transporting persons or property for compensation or hire by air, unless properly allocable to any transportation exempt from the taxes imposed by section 4261 and 4271 by reason of section 4281 or 4282 or by reason of section 4261(h).''.

(c) REFUNDS.—

(1) IN GENERAL.—Paragraph (4) of section 6427(l) is amended to read as follows:

''(4) REFUNDS FOR AVIATION-GRADE KEROSENE.—

''(A) NO REFUND OF CERTAIN TAXES ON FUEL USED IN COMMERCIAL AVIATION.—In the case of aviation-grade kerosene used in commercial aviation (as defined in section 4083(b)) (other than supplies for vessels or aircraft within the meaning of section 4221(d)(3)), paragraph (1) shall not apply to so much of the tax imposed by section 4081 as is attributable to—

''(i) the Leaking Underground Storage Tank Trust Fund financing rate imposed by such section, and

''(ii) so much of the rate of tax specified in section 4081(a)(2)(A)(iv) as does not exceed 4.3 cents per gallon.

''(B) PAYMENT TO ULTIMATE, REGISTERED VENDOR.—With respect to aviation-grade kerosene, if the ultimate purchaser of such kerosene waives (at such time and in such form and manner as the Secretary shall prescribe) the right to payment under paragraph (1) and assigns such right to the ultimate vendor, then the Secretary shall pay the amount which would be paid under paragraph (1) to such ultimate vendor, but only if such ultimate vendor—

''(i) is registered under section 4101, and

''(ii) meets the requirements of subparagraph (A), (B), or (D) of section 6416(a)(1).''.

(2) TIME FOR FILING CLAIMS.—Paragraph (4) of section 6427(i) is amended by striking ''subsection (l)(5)'' and inserting ''paragraph (4)(B) or (5) of subsection (l)''.

(3) CONFORMING AMENDMENT.—Subparagraph (B) of section 6427(l)(2) is amended to read as follows:

''(B) in the case of aviation-grade kerosene—

''(i) any use which is exempt from the tax imposed by section 4041(c) other than by reason of a prior imposition of tax, or

''(ii) any use in commercial aviation (within the meaning of section 4083(b)).''.

(d) REPEAL OF PRIOR TAXATION OF AVIATION FUEL.—

(1) IN GENERAL.—Part III of subchapter A of chapter 32 is amended by striking subpart B and by redesignating subpart C as subpart B.

(2) CONFORMING AMENDMENTS.—

(A) Section 4041(c) is amended to read as follows:

''(c) AVIATION-GRADE KEROSENE.—

''(1) IN GENERAL.—There is hereby imposed a tax upon aviation-grade kerosene—

''(A) sold by any person to an owner, lessee, or other operator of an aircraft for use in such aircraft, or

''(B) used by any person in an aircraft unless there was a taxable sale of such fuel under subparagraph (A).

''(2) EXEMPTION FOR PREVIOUSLY TAXED FUEL.—No tax shall be imposed by this subsection on the sale or use of any aviation-grade kerosene if tax was imposed on such liquid under section 4081 and the tax thereon was not credited or refunded.

''(3) RATE OF TAX.—The rate of tax imposed by this subsection shall be the rate of tax specified in section 4081(a)(2)(A)(iv) which is in effect at the time of such sale or use.''.

(B) Section 4041(d)(2) is amended by striking ''section 4091'' and inserting ''section 4081''.

(C) Section 4041 is amended by striking subsection (e).

(D) Section 4041 is amended by striking subsection (i).

(E) Section 4041(m)(1) is amended to read as follows:

''(1) IN GENERAL.—In the case of the sale or use of any partially exempt methanol or ethanol fuel, the rate of the tax imposed by subsection (a)(2) shall be—

''(A) after September 30, 1997, and before September 30, 2009—

''(i) in the case of fuel none of the alcohol in which consists of ethanol, 9.15 cents per gallon, and

''(ii) in any other case, 11.3 cents per gallon, and

''(B) after September 30, 2009—

''(i) in the case of fuel none of the alcohol in which consists of ethanol, 2.15 cents per gallon, and

''(ii) in any other case, 4.3 cents per gallon.''.

(F) Sections 4101(a), 4103, 4221(a), and 6206 are each amended by striking '', 4081, or 4091'' and inserting ''or 4081''.

(G) Section 6416(b)(2) is amended by striking ''4091 or''.

(H) Section 6416(b)(3) is amended by striking ''or 4091'' each place it appears.

(I) Section 6416(d) is amended by striking ''or to the tax imposed by section 4091 in the case of refunds described in section 4091(d)''.

(J) Section 6427(j)(1) is amended by striking '', 4081, and 4091'' and inserting ''and 4081''.

(K)(i) Section 6427(l)(1) is amended to read as follows:

''(1) IN GENERAL.—Except as otherwise provided in this subsection and in subsection (k), if any diesel fuel or kerosene on which tax has been imposed by section 4041 or 4081 is used by any person in a nontaxable use, the Secretary shall pay (without interest) to the ultimate purchaser of such fuel an amount equal to the aggregate amount of tax imposed on such fuel under section 4041 or 4081, as the case may be, reduced by any refund paid to the ultimate vendor under paragraph (4)(B).''.

(ii) Paragraph (5)(B) of section 6427(l) is amended by striking ''Paragraph (1)(A) shall not apply to kerosene'' and inserting ''Paragraph (1) shall not apply to kerosene (other than aviation-grade kerosene)''.

(L) Subparagraph (B) of section 6724(d)(1) is amended by striking clause (xv) and by redesignating the succeeding clauses accordingly.

(M) Paragraph (2) of section 6724(d) is amended by striking subparagraph (W) and by redesignating the succeeding subparagraphs accordingly.

(N) Paragraph (1) of section 9502(b) is amended by adding ''and'' at the end of subparagraph (B) and by striking subparagraphs (C) and (D) and inserting the following new subparagraph:

''(C) section 4081 with respect to aviation gasoline and aviation-grade kerosene, and''.

(O) The last sentence of section 9502(b) is amended to read as follows:

''There shall not be taken into account under paragraph (1) so much of the taxes imposed by section 4081 as are determined at the rate specified in section 4081(a)(2)(B).''.

(P) Subsection (b) of section 9508 is amended by striking paragraph (3) and by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

(Q) Section 9508(c)(2)(A) is amended by striking ''sections 4081 and 4091'' and inserting ''section 4081''.

(R) The table of subparts for part III of subchapter A of chapter 32 is amended to read as follows:

''Subpart A. Motor and aviation fuels.

''Subpart B. Special provisions applicable to fuels tax.''.

(S) The heading for subpart A of part III of subchapter A of chapter 32 is amended to read as follows:

''Subpart A—Motor and Aviation Fuels''.

(T) The heading for subpart B of part III of subchapter A of chapter 32 is amended to read as follows:

''Subpart B—Special Provisions Applicable to Fuels Tax''.

(g) OTHER AMENDMENTS.—

(1) Section 4081(c) is amended by adding at the end the following new flush sentence:

''In the case of any taxable fuel which is aviation-grade keorsene, this subsection shall not apply and the rules of section 4091(c) (as in effect on the day before the date of the enactment of the Fuel Fraud Prevention Act of 2004) shall apply.''.

(2) For purposes of the Internal Revenue Code of 1986, any reference to section 4091(c) shall be treated as a reference to the rules of such section as in effect on the date before the date of the enactment of this Act.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to aviation-grade kerosene removed, entered, or sold after September 30, 2004.

(g) FLOOR STOCKS TAX.—

(1) IN GENERAL.—There is hereby imposed on aviation-grade kerosene held on October 1, 2004, by any person a tax equal to—

(A) the tax which would have been imposed before such date on such kerosene had the amendments made by this section been in effect at all times before such date, reduced by

(B) the tax imposed before such date under section 4091 of the Internal Revenue Code of 1986, as in effect on the day before the date of the enactment of this Act.

(2) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—The person holding the kerosene on October 1, 2004, to which the

tax imposed by paragraph (1) applies shall be liable for such tax.

(B) METHOD AND TIME FOR PAYMENT.—The tax imposed by paragraph (1) shall be paid at such time and in such manner as the Secretary of the Treasury shall prescribe, including the nonapplication of such tax on de minimis amounts of kerosene.

(3) TRANSFER OF FLOOR STOCK TAX REVENUES TO TRUST FUNDS.—For purposes of determining the amount transferred to any trust fund, the tax imposed by this subsection shall be treated as imposed by section 4081 of the Internal Revenue Code of 1986—

(A) at the Leaking Underground Storage Tank Trust Fund financing rate under such section to the extent of 0.1 cents per gallon, and

(B) at the rate under section 4081(a)(2)(A)(iv) to the extent of the remainder.

(4) HELD BY A PERSON.—For purposes of this section, kerosene shall be considered as held by a person if title thereto has passed to such person (whether or not delivery to the person has been made).

(5) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the tax imposed by section 4081 of such Code shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply with respect to the floor stock tax imposed by paragraph (1) to the same extent as if such tax were imposed by such section.

SEC. 5212. TRANSFER OF CERTAIN AMOUNTS FROM THE AIRPORT AND AIRWAY TRUST FUND TO THE HIGHWAY TRUST FUND TO REFLECT HIGHWAY USE OF JET FUEL.

(a) IN GENERAL.—Section 9502(d) is amended by adding at the end the following new paragraph:

''(7) TRANSFERS FROM THE TRUST FUND TO THE HIGHWAY TRUST FUND TO REFLECT HIGHWAY USE OF JET FUEL.—

''(A) IN GENERAL.—The Secretary shall pay from the Airport and Airway Trust Fund into the Highway Trust Fund—

''(i) $395,000,000 in fiscal year 2005,

''(ii) $425,000,000 in fiscal year 2006,

''(iii) $429,000,000 in fiscal year 2007,

''(iv) $432,000,000 in fiscal year 2008, and

''(v) $435,000,000 in fiscal year 2009.

''(B) AMOUNTS TRANSFERRED TO MASS TRANSIT ACCOUNT.—The Secretary shall transfer 11 percent of the amounts paid into the Highway Trust Fund under subparagraph (A) to the Mass Transit Account established under section 9503(e).''.

(b) CONFORMING AMENDMENTS.—

(1) Subsection (a) of section 9503 is amended—

(A) by striking ''appropriated or credited'' and inserting ''paid, appropriated, or credited'', and

(B) by striking ''or section 9602(b)'' and inserting '', section 9502(d)(7), or section 9602(b)''.

(2) Subsection (e)(1) of section 9503 is amended by striking ''or section 9602(b)'' and inserting '', section 9502(d)(7), or section 9602(b)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

PART II—DYED FUEL

SEC. 5221. DYE INJECTION EQUIPMENT.

(a) IN GENERAL.—Section 4082(a)(2) (relating to exemptions for diesel fuel and kerosene) is amended by inserting ''by mechanical injection'' after ''indelibly dyed''.

(b) DYE INJECTOR SECURITY.—Not later than June 30, 2004, the Secretary of the Treasury shall issue regulations regarding mechanical dye injection systems described in the amendment made by subsection (a), and such regulations shall include standards for making such systems tamper resistant.

(c) PENALTY FOR TAMPERING WITH OR FAILING TO MAINTAIN SECURITY REQUIREMENTS FOR MECHANICAL DYE INJECTION SYSTEMS.—

(1) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by adding after section 6715 the following new section:

''SEC. 6715A. TAMPERING WITH OR FAILING TO MAINTAIN SECURITY REQUIREMENTS FOR MECHANICAL DYE INJECTION SYSTEMS.

''(a) IMPOSITION OF PENALTY—

''(1) TAMPERING.—If any person tampers with a mechanical dye injection system used to indelibly dye fuel for purposes of section 4082, then such person shall pay a penalty in addition to the tax (if any).

''(2) FAILURE TO MAINTAIN SECURITY REQUIREMENTS.—If any operator of a mechanical dye injection system used to indelibly dye fuel for purposes of section 4082 fails to maintain the security standards for such system as established by the Secretary, then such operator shall pay a penalty.

''(b) AMOUNT OF PENALTY.—The amount of the penalty under subsection (a) shall be—

''(1) for each violation described in paragraph (1), the greater of—

''(A) $25,000, or

''(B) $10 for each gallon of fuel involved, and

''(2) for each—

''(A) failure to maintain security standards described in paragraph (2), $1,000, and

''(B) failure to correct a violation described in paragraph (2), $1,000 per day for each day after which such violation was discovered or such person should have reasonably known of such violation.

''(c) JOINT AND SEVERAL LIABILITY.—

''(1) IN GENERAL.—If a penalty is imposed under this section on any business entity, each officer, employee, or agent of such entity or other contracting party who willfully participated in any act giving rise to such penalty shall be jointly and severally liable with such entity for such penalty.

''(2) AFFILIATED GROUPS.—If a business entity described in paragraph (1) is part of an affiliated group (as defined in section 1504(a)), the parent corporation of such entity shall be jointly and severally liable with such entity for the penalty imposed under this section.''.

(2) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by adding after the item related to section 6715 the following new item:

''Sec. 6715A. Tampering with or failing to maintain security requirements for mechanical dye injection systems.''.

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (c) shall take effect 180 days after the date on which the Secretary issues the regulations described in subsection (b).

SEC. 5222. ELIMINATION OF ADMINISTRATIVE REVIEW FOR TAXABLE USE OF DYED FUEL.

(a) IN GENERAL.—Section 6715 is amended by inserting at the end the following new subsection:

''(e) NO ADMINISTRATIVE APPEAL FOR THIRD AND SUBSEQUENT VIOLATIONS.—In the case of any person who is found to be subject to the penalty under this section after a chemical analysis of such fuel and who has been penalized under this section at least twice after the date of the enactment of this subsection, no administrative appeal or review shall be allowed with respect to such finding except in the case of a claim regarding—

''(1) fraud or mistake in the chemical analysis, or

''(2) mathematical calculation of the amount of the penalty.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to penalties assessed after the date of the enactment of this Act.

SEC. 5223. PENALTY ON UNTAXED CHEMICALLY ALTERED DYED FUEL MIXTURES.

(a) IN GENERAL.—Section 6715(a) (relating to dyed fuel sold for use or used in taxable use, etc.) is amended by striking ''or'' in paragraph (2), by inserting ''or'' at the end of paragraph (3), and by inserting after paragraph (3) the following new paragraph:

''(4) any person who has knowledge that a dyed fuel which has been altered as described in paragraph (3) sells or holds for sale such fuel for any use which the person knows or has reason to know is not a nontaxable use of such fuel,''.

(b) CONFORMING AMENDMENT.—Section 6715(a)(3) is amended by striking ''alters, or attempts to alter,'' and inserting ''alters, chemically or otherwise, or attempts to so alter,''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 5224. TERMINATION OF DYED DIESEL USE BY INTERCITY BUSES.

(a) IN GENERAL.—Paragraph (3) of section 4082(b) (relating to nontaxable use) is amended to read as follows:

''(3) any use described in section 4041(a)(1)(C)(iii)(II).''.

(b) ULTIMATE VENDOR REFUND.—Subsection (b) of section 6427 is amended by adding at the end the following new paragraph:

''(4) REFUNDS FOR USE OF DIESEL FUEL IN CERTAIN INTERCITY BUSES.—

''(A) IN GENERAL.—With respect to any fuel to which paragraph (2)(A) applies, if the ultimate purchaser of such fuel waives (at such time and in such form and manner as the Secretary shall prescribe) the right to payment under paragraph (1) and assigns such right to the ultimate vendor, then the Secretary shall pay the amount which would be paid under paragraph (1) to such ultimate vendor, but only if such ultimate vendor—

''(i) is registered under section 4101, and

''(ii) meets the requirements of subparagraph (A), (B), or (D) of section 6416(a)(1).

''(B) CREDIT CARDS.—For purposes of this paragraph, if the sale of such fuel is made by means of a credit card, the person extending credit to the ultimate purchaser shall be deemed to be the ultimate vendor.''.

(c) PAYMENT OF REFUNDS.—Subparagraph (A) of section 6427(i)(4), as amended by section 5211 of this Act, is amended by inserting ''subsections (b)(4) and'' after ''filed under''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel sold after September 30, 2004.

PART III—MODIFICATION OF INSPECTION OF RECORDS PROVISIONS

SEC. 5231. AUTHORITY TO INSPECT ON-SITE RECORDS.

(a) IN GENERAL.—Section 4083(d)(1)(A) (relating to administrative authority), as amended by section 5211 of this Act, is amended by striking ''and'' at the end of clause (i) and by inserting after clause (ii) the following new clause:

''(iii) inspecting any books and records and any shipping papers pertaining to such fuel, and''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 5232. ASSESSABLE PENALTY FOR REFUSAL OF ENTRY.

(a) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties), as amended by section 5221 of this Act, is amended by adding at the end the following new section:

"SEC. 6717. REFUSAL OF ENTRY.

''(a) IN GENERAL.—In addition to any other penalty provided by law, any person who refuses to admit entry or refuses to permit any other action by the Secretary authorized by section 4083(d)(1) shall pay a penalty of $1,000 for such refusal.

''(b) JOINT AND SEVERAL LIABILITY.—

''(1) IN GENERAL.—If a penalty is imposed under this section on any business entity, each officer, employee, or agent of such entity or other contracting party who willfully participated in any act giving rise to such penalty shall be jointly and severally liable with such entity for such penalty.

''(2) AFFILIATED GROUPS.—If a business entity described in paragraph (1) is part of an affiliated group (as defined in section 1504(a)), the parent corporation of such entity shall be jointly and severally liable with such entity for the penalty imposed under this section.

''(c) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 4083(d)(3), as amended by section 5211 of this Act, is amended—

(A) by striking ''ENTRY.—The penalty'' and inserting: ''ENTRY.—

''(A) FORFEITURE.—The penalty'', and

(B) by adding at the end the following new subparagraph:

''(B) ASSESSABLE PENALTY.—For additional assessable penalty for the refusal to admit entry or other refusal to permit an action by the Secretary authorized by paragraph (1), see section 6717.''.

(2) The table of sections for part I of subchapter B of chapter 68, as amended by section 5221 of this Act, is amended by adding at the end the following new item:

''Sec. 6717. Refusal of entry.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

PART IV—REGISTRATION AND REPORTING REQUIREMENTS

SEC. 5241. REGISTRATION OF PIPELINE OR VESSEL OPERATORS REQUIRED FOR EXEMPTION OF BULK TRANSFERS TO REGISTERED TERMINALS OR REFINERIES.

(a) IN GENERAL.—Section 4081(a)(1)(B) (relating to exemption for bulk transfers to registered terminals or refineries) is amended—

(1) by inserting ''by pipeline or vessel'' after ''transferred in bulk'', and

(2) by inserting '', the operator of such pipeline or vessel,'' after ''the taxable fuel''.

(b) CIVIL PENALTY FOR CARRYING TAXABLE FUELS BY NONREGISTERED PIPELINES OR VESSELS.—

(1) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties), as amended by section 5232 of this Act, is amended by adding at the end the following new section:

"SEC. 6718. CARRYING TAXABLE FUELS BY NONREGISTERED PIPELINES OR VESSELS.

''(a) IMPOSITION OF PENALTY.—If any person knowingly transfers any taxable fuel (as defined in section 4083(a)(1)) in bulk pursuant to section 4081(a)(1)(B) to an unregistered, such person shall pay a penalty in addition to the tax (if any).

''(b) AMOUNT OF PENALTY.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the amount of the penalty under subsection (a) on each act shall be an amount equal to the greater of—

''(A) $10,000, or

''(B) $1 per gallon.

''(2) MULTIPLE VIOLATIONS.—In determining the penalty under subsection (a) on any person, paragraph (1) shall be applied by increasing the amount in paragraph (1) by the product of such amount and the number of prior penalties (if any) imposed by this section on such person (or a related person or any predecessor of such person or related person).

''(c) JOINT AND SEVERAL LIABILITY.—

''(1) IN GENERAL.—If a penalty is imposed under this section on any business entity, each officer, employee, or agent of such entity or other contracting party who willfully participated in any act giving rise to such penalty shall be jointly and severally liable with such entity for such penalty.

''(2) AFFILIATED GROUPS.—If a business entity described in paragraph (1) is part of an affiliated group (as defined in section 1504(a)), the parent corporation of such entity shall be jointly and severally liable with such entity for the penalty imposed under this section.

''(d) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.''.

(2) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68, as amended by section 5232 of this Act, is amended by adding at the end the following new item:

''Sec. 6718. Carrying taxable fuels by nonregistered pipelines or vessels.''.

(c) PUBLICATION OF REGISTERED PERSONS.—Not later than June 30, 2004, the Secretary of the Treasury shall publish a list of persons required to be registered under section 4101 of the Internal Revenue Code of 1986.

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on October 1, 2004.

SEC. 5242. DISPLAY OF REGISTRATION.

(a) IN GENERAL.—Subsection (a) of section 4101 (relating to registration) is amended—

(1) by striking ''Every'' and inserting the following:

''(1) IN GENERAL.—Every'', and

(2) by adding at the end the following new paragraph:

''(2) DISPLAY OF REGISTRATION.—Every operator of a vessel required by the Secretary to register under this section shall display proof of registration through an electronic identification device prescribed by the Secretary on each vessel used by such operator to transport any taxable fuel.''.

(b) CIVIL PENALTY FOR FAILURE TO DISPLAY REGISTRATION.—

(1) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties), as amended by section 5241 of this Act, is amended by adding at the end the following new section:

"SEC. 6719. FAILURE TO DISPLAY REGISTRATION OF VESSEL.

''(a) FAILURE TO DISPLAY REGISTRATION.—Every operator of a vessel who fails to display proof of registration pursuant to section 4101(a)(2) shall pay a penalty of $500 for each such failure. With respect to any vessel, only one penalty shall be imposed by this section during any calendar month.

''(b) MULTIPLE VIOLATIONS.—In determining the penalty under subsection (a) on any person, subsection (a) shall be applied by increasing the amount in subsection (a) by the product of such amount and the number of prior penalties (if any) imposed by this section on such person (or a related person or any predecessor of such person or related person).

''(c) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.''.

(2) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68, as amended by section 5241 of this Act, is amended by adding at the end the following new item:

''Sec. 6719. Failure to display registration of vessel.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

SEC. 5243. REGISTRATION OF PERSONS WITHIN FOREIGN TRADE ZONES, ETC..

(a) IN GENERAL.—Section 4101(a), as amended by section 5242 of this Act, is amended by redesignating paragraph (2) as paragraph (3), and by inserting after paragraph (1) the following new paragraph:

''(2) REGISTRATION OF PERSONS WITHIN FOREIGN TRADE ZONES, ETC..—The Secretary shall require registration by any person which—

''(A) operates a terminal or refinery within a foreign trade zone or within a customs bonded storage facility, or

''(B) holds an inventory position with respect to a taxable fuel in such a terminal.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

SEC. 5244. PENALTIES FOR FAILURE TO REGISTER AND FAILURE TO REPORT.

(a) INCREASED PENALTY.—Subsection (a) of section 7272 (relating to penalty for failure to register) is amended by inserting ''($10,000 in the case of a failure to register under section 4101)'' after ''$50''.

(b) INCREASED CRIMINAL PENALTY.—Section 7232 (relating to failure to register under section 4101, false representations of registration status, etc.) is amended by striking ''$5,000'' and inserting ''$10,000''.

(c) ASSESSABLE PENALTY FOR FAILURE TO REGISTER.—

(1) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties), as amended by section 5242 of this Act, is amended by adding at the end the following new section:

"SEC. 6720. FAILURE TO REGISTER.

''(a) FAILURE TO REGISTER.—Every person who is required to register under section 4101 and fails to do so shall pay a penalty in addition to the tax (if any).

''(b) AMOUNT OF PENALTY.—The amount of the penalty under subsection (a) shall be—

''(1) $10,000 for each initial failure to register, and

''(2) $1,000 for each day thereafter such person fails to register.

''(c) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.''.

(2) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68, as amended by section 5242 of this Act, is amended by adding at the end the following new item:

''Sec. 6720. Failure to register.''.

(d) ASSESSABLE PENALTY FOR FAILURE TO REPORT.—

(1) IN GENERAL.—Part II of subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end the following new section:

"SEC. 6725. FAILURE TO REPORT INFORMATION UNDER SECTION 4101.

''(a) IN GENERAL.—In the case of each failure described in subsection (b) by any person with respect to a vessel or facility, such person shall pay a penalty of $10,000 in addition to the tax (if any).

''(b) FAILURES SUBJECT TO PENALTY.—For purposes of subsection (a), the failures described in this subsection are—

''(1) any failure to make a report under section 4101(d) on or before the date prescribed therefor, and

''(2) any failure to include all of the information required to be shown on such report or the inclusion of incorrect information.

''(c) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.''.

(2) CLERICAL AMENDMENT.—The table of sections for part II of subchapter B of chapter 68 is amended by adding at the end the following new item:

''Sec. 6725. Failure to report information under section 4101.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to failures pending or occurring after September 30, 2004.

SEC. 5245. INFORMATION REPORTING FOR PERSONS CLAIMING CERTAIN TAX BENEFITS.

(a) IN GENERAL.—Subpart C of part III of subchapter A of chapter 32 is amended by adding at the end the following new section:

''SEC. 4104. INFORMATION REPORTING FOR PERSONS CLAIMING CERTAIN TAX BENEFITS.

''(a) IN GENERAL.—The Secretary shall require any person claiming tax benefits—

''(1) under the provisions of section 34, 40, and 40A to file a return at the time such person claims such benefits (in such manner as the Secretary may prescribe), and

''(2) under the provisions of section 4041(b)(2), 6426, or 6427(e) to file a monthly return (in such manner as the Secretary may prescribe).

''(b) CONTENTS OF RETURN.—Any return filed under this section shall provide such information relating to such benefits and the coordination of such benefits as the Secretary may require to ensure the proper administration and use of such benefits.

''(c) ENFORCEMENT.—With respect to any person described in subsection (a) and subject to registration requirements under this title, rules similar to rules of section 4222(c) shall apply with respect to any requirement under this section.''.

(b) CONFORMING AMENDMENT.—The table of sections for subpart C of part III of subchapter A of chapter 32 is amended by adding at the end the following new item:

''Sec. 4104. Information reporting for persons claiming certain tax benefits.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

PART V—IMPORTS

SEC. 5251. TAX AT POINT OF ENTRY WHERE IMPORTER NOT REGISTERED.

(a) TAX AT POINT OF ENTRY WHERE IMPORTER NOT REGISTERED.—

(1) IN GENERAL.—Subpart C of part III of subchapter A of chapter 31, as amended by section 5245 of this Act, is amended by adding at the end the following new section:

''SEC. 4105. TAX AT ENTRY WHERE IMPORTER NOT REGISTERED.

''(a) IN GENERAL.—Any tax imposed under this part on any person not registered under section 4101 for the entry of a fuel into the United States shall be imposed at the time and point of entry.

''(b) ENFORCEMENT OF ASSESSMENT.—If any person liable for any tax described under subsection (a) has not paid the tax or posted a bond, the Secretary may—

''(1) seize the fuel on which the tax is due, or

''(2) detain any vehicle transporting such fuel,

until such tax is paid or such bond is filed.

''(c) LEVY OF FUEL.—If no tax has been paid or no bond has been filed within 5 days from the date the Secretary seized fuel pursuant to subsection (b), the Secretary may sell such fuel as provided under section 6336.''.

(2) CONFORMING AMENDMENT.—The table of sections for subpart C of part III of subchapter A of chapter 31 of the Internal Revenue Code of 1986, as amended by section 5245 of this Act, is amended by adding after the last item the following new item:

''Sec. 4105. Tax at entry where importer not registered.''.

(b) DENIAL OF ENTRY WHERE TAX NOT PAID.—The Secretary of Homeland Security is authorized to deny entry into the United States of any shipment of a fuel which is taxable under section 4081 of the Internal Revenue Code of 1986 if the person entering such shipment fails to pay the tax imposed under such section or post a bond in accordance with the provisions of section 4105 of such Code.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 5252. RECONCILIATION OF ON-LOADED CARGO TO ENTERED CARGO.

(a) IN GENERAL.—Subsection (a) of section 343 of the Trade Act of 2002 is amended by inserting at the end the following new paragraph:

''(4) IN GENERAL.—Subject to paragraphs (2) and (3), not later than 1 year after the enactment of this paragraph, the Secretary of Homeland Security, together with the Secretary of the Treasury, shall promulgate regulations providing for the transmission to the Internal Revenue Service, through an electronic data interchange system, of information pertaining to cargo of taxable fuels (as defined in section 4083 of the Internal Revenue Code of 1986) destined for importation into the United States prior to such importation.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

PART VI—MISCELLANEOUS PROVISIONS

SEC. 5261. TAX ON SALE OF DIESEL FUEL WHETHER SUITABLE FOR USE OR NOT IN A DIESEL-POWERED VEHICLE OR TRAIN.

(a) IN GENERAL.—Section 4083(a)(3) is amended—

(1) by striking ''The term'' and inserting the following:

''(A) IN GENERAL.—The term'', and

(2) by inserting at the end the following new subparagraph:

''(B) LIQUID SOLD AS DIESEL FUEL.—The term 'diesel fuel' includes any liquid which is sold as or offered for sale as a fuel in a diesel-powered highway vehicle or a diesel-powered train.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 5262. MODIFICATION OF ULTIMATE VENDOR REFUND CLAIMS WITH RESPECT TO FARMING.

(a) IN GENERAL.—

(1) REFUNDS.—Section 6427(l) is amended by adding at the end the following new paragraph:

''(6) REGISTERED VENDORS PERMITTED TO ADMINISTER CERTAIN CLAIMS FOR REFUND OF DIESEL FUEL AND KEROSENE SOLD TO FARMERS.—

''(A) IN GENERAL.—In the case of diesel fuel or kerosene used on a farm for farming purposes (within the meaning of section 6420(c)), paragraph (1) shall not apply to the aggregate amount of such diesel fuel or kerosene if such amount does not exceed 500 gallons (as determined under subsection (i)(5)(A)(iii)).

''(B) PAYMENT TO ULTIMATE VENDOR.—The amount which would (but for subparagraph (A)) have been paid under paragraph (1) with respect to any fuel shall be paid to the ultimate vendor of such fuel, if such vendor—

''(i) is registered under section 4101, and

''(ii) meets the requirements of subparagraph (A), (B), or (D) of section 6416(a)(1).''.

(2) FILING OF CLAIMS.—Section 6427(i) is amended by inserting at the end the following new paragraph:

''(5) SPECIAL RULE FOR VENDOR REFUNDS WITH RESPECT TO FARMERS.—

''(A) IN GENERAL.—A claim may be filed under subsection (l)(6) by any person with respect to fuel sold by such person for any period—

''(i) for which $200 or more ($100 or more in the case of kerosene) is payable under subsection (l)(6),

''(ii) which is not less than 1 week, and

''(iii) which is for not more than 500 gallons for each farmer for which there is a claim.

Notwithstanding subsection (l)(1), paragraph (3)(B) shall apply to claims filed under the preceding sentence.

''(B) TIME FOR FILING CLAIM.—No claim filed under this paragraph shall be allowed unless filed on or before the last day of the first quarter following the earliest quarter included in the claim.''.

(3) CONFORMING AMENDMENTS.—

(A) Section 6427(l)(5)(A) is amended to read as follows:

''(A) IN GENERAL.—Paragraph (1) shall not apply to diesel fuel or kerosene used by a State or local government.''.

(B) The heading for section 6427(l)(5) is amended by striking ''FARMERS AND''.

(b) Section 6427(i)(3) is amended—

(1) by adding at the end of subparagraph (A) the following new flush sentence:

''In the case of an electronic claim, this subparagraph shall be applied without regard to clause (i).'', and

(2) by striking ''20 days of the date of the filing of such claim'' in subparagraph (B) and inserting ''45 days of the date of the filing of such claim (20 days in the case of an electronic claim)'', and

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to fuels sold for nontaxable use after the date of the enactment of this Act.

SEC. 5263. TAXABLE FUEL REFUNDS FOR CERTAIN ULTIMATE VENDORS.

(a) IN GENERAL.—Paragraph (4) of section 6416(a) (relating to abatements, credits, and refunds) is amended to read as follows:

''(4) REGISTERED ULTIMATE VENDOR TO ADMINISTER CREDITS AND REFUNDS OF GASOLINE TAX.—

''(A) IN GENERAL.—For purposes of this subsection, if an ultimate vendor purchases any gasoline on which tax imposed by section 4081 has been paid and sells such gasoline to an ultimate purchaser described in subparagraph (C) or (D) of subsection (b)(2) (and such gasoline is for a use described in such subparagraph), such ultimate vendor shall be treated as the person (and the only person) who paid such tax, but only if such ultimate vendor is registered under section 4101. For purposes of this subparagraph, if the sale of gasoline is made by means of a credit card, the person extending the credit to the ultimate purchaser shall be deemed to be the ultimate vendor.

''(B) TIMING OF CLAIMS.—The procedure and timing of any claim under subparagraph (A) shall be the same as for claims under section 6427(i)(4), except that the rules of section 6427(i)(3)(B) regarding electronic claims shall not apply unless the ultimate vendor has certified to the Secretary for the most recent quarter of the taxable year that all ultimate purchasers of the vendor are certified and entitled to a refund under subparagraph (C) or (D) of subsection (b)(2).''.

(b) CREDIT CARD PURCHASES OF DIESEL FUEL OR KEROSENE BY STATE AND LOCAL GOVERNMENTS.—Section 6427(l)(5)(C) (relating to nontaxable uses of diesel fuel, kerosene, and aviation fuel), as amended by section 5252 of this Act, is amended by adding at the end

the following new sentence: ''For purposes of this subparagraph, if the sale of diesel fuel or kerosene is made by means of a credit card, the person extending the credit to the ultimate purchaser shall be deemed to be the ultimate vendor.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

SEC. 5264. TWO-PARTY EXCHANGES.

(a) IN GENERAL.—Subpart C of part III of subchapter A of chapter 32, as amended by section 5251 of this Act, is amended by adding at the end the following new section:

''SEC. 4106. TWO-PARTY EXCHANGES.

''(a) IN GENERAL.—In a two-party exchange, the delivering person shall not be liable for the tax imposed under of section 4081(a)(1)(A)(ii).

''(b) TWO-PARTY EXCHANGE.—The term 'two-party exchange' means a transaction, other than a sale, in which taxable fuel is transferred from a delivering person registered under section 4101 as a taxable fuel registrant to a receiving person who is so registered where all of the following occur:

''(1) The transaction includes a transfer from the delivering person, who holds the inventory position for taxable fuel in the terminal as reflected in the records of the terminal operator.

''(2) The exchange transaction occurs before or contemporaneous with completion of removal across the rack from the terminal by the receiving person.

''(3) The terminal operator in its books and records treats the receiving person as the person that removes the product across the terminal rack for purposes of reporting the transaction to the Secretary.

''(4) The transaction is the subject of a written contract.''.

(b) CONFORMING AMENDMENT.—The table of sections for subpart C of part III of subchapter A of chapter 32, as amended by section 5251 of this Act, is amended by adding after the last item the following new item:

''Sec. 4106. Two-party exchanges.''.

(c) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 5265. MODIFICATIONS OF TAX ON USE OF CERTAIN VEHICLES.

(a) NO PRORATION OF TAX UNLESS VEHICLE IS DESTROYED OR STOLEN.—

(1) IN GENERAL.—Section 4481(c) (relating to proration of tax) is amended to read as follows:

''(c) PRORATION OF TAX WHERE VEHICLE SOLD, DESTROYED, OR STOLEN.—

''(1) IN GENERAL.—If in any taxable period a highway motor vehicle is sold, destroyed, or stolen before the first day of the last month in such period and not subsequently used during such taxable period, the tax shall be reckoned proportionately from the first day of the month in such period in which the first use of such highway motor vehicle occurs to and including the last day of the month in which such highway motor vehicle was sold, destroyed, or stolen.

''(2) DESTROYED.—For purposes of paragraph (1), a highway motor vehicle is destroyed if such vehicle is damaged by reason of an accident or other casualty to such an extent that it is not economic to rebuild.''.

(2) CONFORMING AMENDMENTS.—

(A) Section 6156 (relating to installment payment of tax on use of highway motor vehicles) is repealed.

(B) The table of sections for subchapter A of chapter 62 is amended by striking the item relating to section 6156.

(b) DISPLAY OF TAX CERTIFICATE.—Paragraph (2) of section 4481(d) (relating to one tax liability for period) is amended to read as follows:

''(2) DISPLAY OF TAX CERTIFICATE.—Every taxpayer which pays the tax imposed under this section with respect to a highway motor vehicle shall, not later than 1 month after the due date of the return of tax with respect to each taxable period, receive and display on such vehicle an electronic identification device prescribed by the Secretary.''.

(c) ELECTRONIC FILING.—Section 4481, as amended by section 5001 of this Act, is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

''(e) ELECTRONIC FILING.—Any taxpayer who files a return under this section with respect to 25 or more vehicles for any taxable period shall file such return electronically.''.

(d) REPEAL OF REDUCTION IN TAX FOR CERTAIN TRUCKS.—Section 4483 of the Internal Revenue Code of 1986 is amended by striking subsection (f).

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable periods beginning after the date of the enactment of this Act.

(2) SUBSECTION (b).—The amendment made by subsection (b) shall take effect on October 1, 2005.

SEC. 5266. DEDICATION OF REVENUES FROM CERTAIN PENALTIES TO THE HIGHWAY TRUST FUND.

(a) IN GENERAL.—Subsection (b) of section 9503 (relating to transfer to Highway Trust Fund of amounts equivalent to certain taxes), as amended by section 5001 of this Act, is amended by redesignating paragraph (5) as paragraph (6) and inserting after paragraph (4) the following new paragraph:

''(5) CERTAIN PENALTIES.—There are hereby appropriated to the Highway Trust Fund amounts equivalent to the penalties assessed under sections 6715, 6715A, 6717, 6718, 6719, 6720, 6725, 7232, and 7272 (but only with regard to penalties under such section related to failure to register under section 4101).''.

(b) CONFORMING AMENDMENTS.—

(1) The heading of subsection (b) of section 9503 is amended by inserting ''AND PENALTIES'' after ''TAXES''.

(2) The heading of paragraph (1) of section 9503(b) is amended by striking ''IN GENERAL'' and inserting ''CERTAIN TAXES''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to penalties assessed after October 1, 2004.

SEC. 5267. NONAPPLICATION OF EXPORT EXEMPTION TO DELIVERY OF FUEL TO MOTOR VEHICLES REMOVED FROM UNITED STATES.

(a) IN GENERAL.—Section 4221(d)(2) (defining export) is amended by adding at the end the following new sentence: ''Such term does not include the delivery of a taxable fuel (as defined in section 4083(a)(1)) into a fuel tank of a motor vehicle which is shipped or driven out of the United States.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 4041(g) (relating to other exemptions) is amended by adding at the end the following new sentence: ''Paragraph (3) shall not apply to the sale for delivery of a liquid into a fuel tank of a motor vehicle which is shipped or driven out of the United States.''.

(2) Clause (iv) of section 4081(a)(1)(A) (relating to tax on removal, entry, or sale) is amended by inserting ''or at a duty-free sales enterprise (as defined in section 555(b)(8) of the Tariff Act of 1930)'' after ''section 4101''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales or deliveries made after the date of the enactment of this Act.

PART VII—TOTAL ACCOUNTABILITY

SEC. 5271. TOTAL ACCOUNTABILITY.

(a) TAXATION OF REPORTABLE LIQUIDS.—

(1) IN GENERAL.—Section 4081(a), as amended by this Act, is amended—

(A) by inserting ''or reportable liquid'' after ''taxable fuel'' each place it appears, and

(B) by inserting ''such liquid'' after ''such fuel'' in paragraph (1)(A)(iv).

(2) RATE OF TAX.—Subparagraph (A) of section 4081(a)(2), as amended by section 5211 of this Act, is amended by striking ''and'' at the end of clause (iii), by striking the period at the end of clause (iv) and inserting '', and'', and by adding at the end the following new clause:

''(v) in the case of reportable liquids, the rate determined under section 4083(c)(2).''.

(3) EXEMPTION.—Section 4081(a)(1) is amended by adding at the end the following new subparagraph:

''(C) EXEMPTION FOR REGISTERED TRANSFERS OF REPORTABLE LIQUIDS.—The tax imposed by this paragraph shall not apply to any removal, entry, or sale of a reportable liquid if—

''(i) such removal, entry, or sale is to a registered person who certifies that such liquid will not be used as a fuel or in the production of a fuel, or

''(ii) the sale is to the ultimate purchaser of such liquid.''.

(4) REPORTABLE LIQUIDS.—Section 4083, as amended by this Act, is amended by redesignating subsections (c) and (d) (as redesignated by section 5211 of this Act) as subsections (d) and (e), respectively, and by inserting after subsection (b) the following new section:

''(c) REPORTABLE LIQUID.—For purposes of this subpart—

''(1) IN GENERAL.—The term 'reportable liquid' means any petroleum-based liquid other than a taxable fuel.

''(2) TAXATION.—

''(A) GASOLINE BLEND STOCKS AND ADDITIVES.—Gasoline blend stocks and additives which are reportable liquids (as defined in paragraph (1)) shall be subject to the rate of tax under clause (i) of section 4081(a)(2)(A).

''(B) OTHER REPORTABLE LIQUIDS.—Any reportable liquid (as defined in paragraph (1)) not described in subparagraph (A) shall be subject to the rate of tax under clause (iii) of section 4081(a)(2)(A).''.

(5) CONFORMING AMENDMENTS.—

(A) Section 4081(e) is amended by inserting ''or reportable liquid'' after ''taxable fuel''.

(B) Section 4083(d) (relating to certain use defined as removal), as redesignated by paragraph (4), is amended by inserting ''or reportable liquid'' after ''taxable fuel''.

(C) Section 4083(e)(1) (relating to administrative authority), as redesignated by paragraph (4), is amended—

(i) in subparagraph (A)—

(I) by inserting ''or reportable liquid'' after ''taxable fuel'', and

(II) by inserting ''or such liquid'' after ''such fuel'' each place it appears, and

(ii) in subparagraph (B), by inserting ''or any reportable liquid'' after ''any taxable fuel''.

(D) Section 4101(a)(2), as added by section 5243 of this Act, is amended by inserting ''or a reportable liquid'' after ''taxable fuel''.

(E) Section 4101(a)(3), as added by section 5242 of this Act and redesignated by section 5243 of this Act, is amended by inserting ''or any reportable liquid'' before the period at the end.

(F) Section 4102 is amended by inserting ''or any reportable liquid'' before the period at the end.

(G)(i) Section 6718, as added by section 5241 of this Act, is amended—

(I) in subsection (a), by inserting ''or any reportable liquid (as defined in section 4083(c)(1))'' after '' section 4083(a)(1))'', and

(II) in the heading, by inserting ''or reportable liquids'' after ''taxable fuel''.

(ii) The item relating to section 6718 in table of sections for part I of subchapter B of chapter 68, as added by section 5241 of this Act, is amended by inserting ''or reportable liquids'' after ''taxable fuels''.

(H) Section 6427(h) is amended to read as follows:

''(h) GASOLINE BLEND STOCKS OR ADDITIVES AND REPORTABLE LIQUIDS.—Except as provided in subsection (k)—

''(1) if any gasoline blend stock or additive (within the meaning of section 4083(a)(2)) is not used by any person to produce gasoline and such person establishes that the ultimate use of such gasoline blend stock or additive is not to produce gasoline, or

''(2) if any reportable liquid (within the meaning of section 4083(c)(1)) is not used by any person to produce a taxable fuel and such person establishes that the ultimate use of such reportable liquid is not to produce a taxable fuel,

then the Secretary shall pay (without interest) to such person an amount equal to the aggregate amount of the tax imposed on such person with respect to such gasoline blend stock or additive or such reportable fuel.''.

(I) Section 7232, as amended by this Act, is amended by inserting ''or reportable liquid (within the meaning of section 4083(c)(1))'' after ''section 4083)''.

(J) Section 343 of the Trade Act of 2002, as amended by section 5252 of this Act, is amended by inserting ''and reportable liquids (as defined in section 4083(c)(1) of such Code)'' after ''Internal Revenue Code of 1986)''.

(b) DYED DIESEL.—Section 4082(a) is amended by striking ''and'' at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting ''and'', and by inserting after paragraph (3) the following new paragraph:

''(4) which is removed, entered, or sold by a person registered under section 4101.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to reportable liquids (as defined in section 4083(c) of the Internal Revenue Code) and fuel sold or used after September 30, 2004.

SEC. 5272. EXCISE TAX REPORTING.

(a) IN GENERAL.—Part II of subchapter A of chapter 61 is amended by adding at the end the following new subpart:

''SUBPART E—EXCISE TAX REPORTING

''SEC. 6025. RETURNS RELATING TO FUEL TAXES.

''(a) IN GENERAL.—The Secretary shall require any person liable for the tax imposed under Part III of subchapter A of chapter 32 to file a return of such tax on a monthly basis.

''(b) INFORMATION INCLUDED WITH RETURN.—The Secretary shall require any person filing a return under subsection (a) to provide information regarding any refined product (whether or not such product is taxable under this title) removed from a terminal during the period for which such return applies.''.

(b) CONFORMING AMENDMENT.—The table of parts for subchapter A of chapter 61 is amended by adding at the end the following new item:

''Subpart E—Excise Tax Reporting''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel sold or used after September 30, 2004.

SEC. 5273. INFORMATION REPORTING.

(a) IN GENERAL.—Section 4101(d) is amended by adding at the end the following new flush sentence:

''The Secretary shall require reporting under the previous sentence with respect to taxable fuels removed, entered, or transferred from any refinery, pipeline, or vessel which is registered under this section.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply on October 1, 2004.

Subtitle D—Definition of Highway Vehicle

SEC. 5301. EXEMPTION FROM CERTAIN EXCISE TAXES FOR MOBILE MACHINERY.

(a) EXEMPTION FROM TAX ON HEAVY TRUCKS AND TRAILERS SOLD AT RETAIL.—

(1) IN GENERAL.—Section 4053 (relating to exemptions) is amended by adding at the end the following new paragraph:

''(8) MOBILE MACHINERY.—Any vehicle which consists of a chassis—

''(A) to which there has been permanently mounted (by welding, bolting, riveting, or other means) machinery or equipment to perform a construction, manufacturing, processing, farming, mining, drilling, timbering, or similar operation if the operation of the machinery or equipment is unrelated to transportation on or off the public highways,

''(B) which has been specially designed to serve only as a mobile carriage and mount (and a power source, where applicable) for the particular machinery or equipment involved, whether or not such machinery or equipment is in operation, and

''(C) which, by reason of such special design, could not, without substantial structural modification, be used as a component of a vehicle designed to perform a function of transporting any load other than that particular machinery or equipment or similar machinery or equipment requiring such a specially designed chassis.''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall take effect on the day after the date of the enactment of this Act.

(b) EXEMPTION FROM TAX ON USE OF CERTAIN VEHICLES.—

(1) IN GENERAL.—Section 4483 (relating to exemptions) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

''(g) EXEMPTION FOR MOBILE MACHINERY.—No tax shall be imposed by section 4481 on the use of any vehicle described in section 4053(8).''.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the day after the date of the enactment of this Act.

(d) EXEMPTION FROM FUEL TAXES.—

(1) IN GENERAL.—Section 6421(e)(2) (defining off-highway business use) is amended by adding at the end the following new subparagraph:

''(C) USES IN MOBILE MACHINERY.—

''(i) IN GENERAL.—The term 'off-highway business use' shall include any use in a vehicle which meets the requirements described in clause (ii).

''(ii) REQUIREMENTS FOR MOBILE MACHINERY.—The requirements described in this clause are—

''(I) the design-based test, and

''(II) the use-based test.

''(iii) DESIGN-BASED TEST.—For purposes of clause (ii)(I), the design-based test is met if the vehicle consists of a chassis—

''(I) to which there has been permanently mounted (by welding, bolting, riveting, or other means) machinery or equipment to perform a construction, manufacturing, processing, farming, mining, drilling, timbering, or similar operation if the operation of the machinery or equipment is unrelated to transportation on or off the public highways,

''(II) which has been specially designed to serve only as a mobile carriage and mount (and a power source, where applicable) for the particular machinery or equipment involved, whether or not such machinery or equipment is in operation, and

''(III) which, by reason of such special design, could not, without substantial structural modification, be used as a component of a vehicle designed to perform a function of transporting any load other than that particular machinery or equipment or similar machinery or equipment requiring such a specially designed chassis.

''(iv) USE-BASED TEST.—For purposes of clause (ii)(II), the use-based test is met if the use of the vehicle on public highways was less than 5,000 miles during the taxpayer's taxable year.

''(v) SPECIAL RULE FOR USE BY CERTAIN TAX-EXEMPT ORGANIZATIONS.—In the case of any use in a vehicle by an organization which is described in section 501(c) and exempt from tax under section 501(a), clause (ii) shall be applied without regard to subclause (II) thereof.''.

(2) ANNUAL REFUND OF TAX PAID.—Section 6427(i)(2) (relating to exceptions) is amended by adding at the end the following new subparagraph:

''(C) NONAPPLICATION OF PARAGRAPH.—This paragraph shall not apply to any fuel used in any off-highway business use described in section 6421(e)(2)(C).''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 5302. MODIFICATION OF DEFINITION OF OFF-HIGHWAY VEHICLE.

(a) IN GENERAL.—Section 7701(a) (relating to definitions) is amended by adding at the end the following new paragraph:

''(48) OFF-HIGHWAY VEHICLES.—

''(A) OFF-HIGHWAY TRANSPORTATION VEHICLES.—

''(i) IN GENERAL.—A vehicle shall not be treated as a highway vehicle if such vehicle is specially designed for the primary function of transporting a particular type of load other than over the public highway and because of this special design such vehicle's capability to transport a load over the public highway is substantially limited or impaired.

''(ii) DETERMINATION OF VEHICLE'S DESIGN.—For purposes of clause (i), a vehicle's design is determined solely on the basis of its physical characteristics.

''(iii) DETERMINATION OF SUBSTANTIAL LIMITATION OR IMPAIRMENT.—For purposes of clause (i), in determining whether substantial limitation or impairment exists, account may be taken of factors such as the size of the vehicle, whether such vehicle is subject to the licensing, safety, and other requirements applicable to highway vehicles, and whether such vehicle can transport a load at a sustained speed of at least 25 miles per hour. It is immaterial that a vehicle can transport a greater load off the public highway than such vehicle is permitted to transport over the public highway.

''(B) NONTRANSPORTATION TRAILERS AND SEMITRAILERS.—A trailer or semitrailer shall not be treated as a highway vehicle if it is specially designed to function only as an enclosed stationary shelter for the carrying on of an off-highway function at an off-highway site.''.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by this section shall take effect on the date of the enactment of this Act.

(2) FUEL TAXES.—With respect to taxes imposed under subchapter B of chapter 31 and part III of subchapter A of chapter 32, the amendment made by this section shall apply

to taxable periods beginning after the date of the enactment of this Act.

Subtitle E—Excise Tax Reform and Simplification

PART I—HIGHWAY EXCISE TAXES

SEC. 5401. DEDICATION OF GAS GUZZLER TAX TO HIGHWAY TRUST FUND.

(a) IN GENERAL.—Section 9503(b)(1) (relating to transfer to Highway Trust Fund of amounts equivalent to certain taxes) is amended by redesignating subparagraphs (C), (D), and (E) as subparagraphs (D), (E), and (F), respectively, and by inserting after subparagraph (B) the following new subparagraph:

''(C) section 4064 (relating to gas guzzler tax),''.

(b) UNIFORM APPLICATION OF TAX.—Subparagraph (A) of section 4064(b)(1) (defining automobile) is amended by striking the second sentence.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 5402. REPEAL CERTAIN EXCISE TAXES ON RAIL DIESEL FUEL AND INLAND WATERWAY BARGE FUELS.

(a) TAXES ON TRAINS.—

(1) IN GENERAL.—Subparagraph (A) of section 4041(a)(1) is amended by striking ''or a diesel-powered train'' each place it appears and by striking ''or train''.

(2) CONFORMING AMENDMENTS.—

(A) Subparagraph (C) of section 4041(a)(1), as amended by section 5001 of this Act, is amended by striking clause (ii) and by redesignating clause (iii) as clause (ii).

(B) Subparagraph (C) of section 4041(b)(1) is amended by striking all that follows ''section 6421(e)(2)'' and inserting a period.

(C) Subsection (d) of section 4041 is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

''(3) DIESEL FUEL USED IN TRAINS.—There is hereby imposed a tax of 0.1 cent per gallon on any liquid other than gasoline (as defined in section 4083)—

''(A) sold by any person to an owner, lessee, or other operator of a diesel-powered train for use as a fuel in such train, or

''(B) used by any person as a fuel in a diesel-powered train unless there was a taxable sale of such fuel under subparagraph (A).

No tax shall be imposed by this paragraph on the sale or use of any liquid if tax was imposed on such liquid under section 4081.''.

(D) Subsection (f) of section 4082 is amended by striking ''section 4041(a)(1)'' and inserting ''subsections (d)(3) and (a)(1) of section 4041, respectively''.

(E) Subparagraphs (A) and (B) of section 4083(a)(3), as amended by section 5261 of this Act, are amended by striking ''or a diesel-powered train''.

(F) Paragraph (3) of section 6421(f) is amended to read as follows:

''(3) GASOLINE USED IN TRAINS.—In the case of gasoline used as a fuel in a train, this section shall not apply with respect to the Leaking Underground Storage Tank Trust Fund financing rate under section 4081.''.

(G) Paragraph (3) of section 6427(l) is amended to read as follows:

''(3) REFUND OF CERTAIN TAXES ON FUEL USED IN DIESEL-POWERED TRAINS.—For purposes of this subsection, the term 'nontaxable use' includes fuel used in a diesel-powered train. The preceding sentence shall not apply to the tax imposed by section 4041(d) and the Leaking Underground Storage Tank Trust Fund financing rate under section 4081 except with respect to fuel sold for exclusive use by a State or any political subdivision thereof.''.

(b) FUEL USED ON INLAND WATERWAYS.—

(1) IN GENERAL.—Paragraph (1) of section 4042(b) is amended by adding ''and'' at the end of subparagraph (A), by striking '', and'' at the end of subparagraph (B) and inserting a period, and by striking subparagraph (C).

(2) CONFORMING AMENDMENT.—Paragraph (2) of section 4042(b) is amended by striking subparagraph (C).

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

PART II—AQUATIC EXCISE TAXES

SEC. 5411. ELIMINATION OF AQUATIC RESOURCES TRUST FUND AND TRANSFORMATION OF SPORT FISH RESTORATION ACCOUNT.

(a) SIMPLIFICATION OF FUNDING FOR BOAT SAFETY ACCOUNT.—

(1) IN GENERAL.—Section 9503(c)(3) (relating to transfers from Trust Fund for motorboat fuel taxes), as redesignated by section 5002 of this Act, is amended—

(A) by striking ''Fund—'' and all that follows through ''shall be transferred'' in subparagraph (B) and inserting ''Fund which is attributable to motorboat fuel taxes shall be transferred'', and

(B) by striking subparagraph (A), and

(C) by redesignating subparagraphs (B) through (E) as subparagraphs (A) through (D), respectively.

(2) CONFORMING AMENDMENTS.—

(A) Section 9503(b)(4) is amended by striking subparagraph (D).

(B) Subparagraph (B) of section 9503(c)(3), as redesignated by section 5002 of this Act and subsection (a)(3), is amended—

(i) by striking ''ACCOUNT'' in the heading and inserting ''TRUST FUND'',

(ii) by striking ''or (B)'' in clause (ii), and

(iii) by striking ''Account in the Aquatic Resources''.

(C) Subparagraph (C) of section 9503(c)(3), as redesignated by section 5002 of this Act and subsection (a)(3), is amended by striking '', but only to the extent such taxes are deposited into the Highway Trust Fund''.

(D) Paragraph (4) of section 9503(c), as redesignated by section 5002 of this Act, is amended—

(i) by striking ''Account in the Aquatic Resources'' in subparagraph (A), and

(ii) by striking '', but only to the extent such taxes are deposited into the Highway Trust Fund'' in subparagraph (B).

(b) MERGING OF ACCOUNTS.—

(1) IN GENERAL.—Subsection (a) of section 9504 is amended to read as follows:

''(a) CREATION OF TRUST FUND.—There is hereby established in the Treasury of the United States a trust fund to be known as the 'Sport Fish Restoration Trust Fund'. Such Trust Fund shall consist of such amounts as may be appropriated, credited, or paid to it as provided in this section, section 9503(c)(3), section 9503(c)(4), or section 9602(b).''.

(2) CONFORMING AMENDMENTS.—

(A) Subsection (b) of section 9504 is amended—

(i) by striking ''ACCOUNT'' in the heading and inserting ''TRUST FUND'',

(ii) by striking ''Account'' both places it appears in paragraphs (1) and (2) and inserting ''Trust Fund'', and

(iii) by striking ''ACCOUNT'' both places it appears in the headings for paragraphs (1) and (2) and inserting ''TRUST FUND''.

(B) Subsection (d) of section 9504, as amended by section 5001 of this Act, is amended—

(i) by striking ''AQUATIC RESOURCES'' in the heading,

(ii) by striking ''any Account in the Aquatic Resources'' in paragraph (1) and inserting ''the Sports Fish Restoration'', and

(iii) by striking ''any such Account'' in paragraph (1) and inserting ''such Trust Fund''.

(C) Subsection (e) of section 9504, as amended by section 5002 of this Act, is amended by striking ''Boat Safety Account and Sport Fish Restoration Account'' and inserting ''Sport Fish Restoration Trust Fund''.

(D) Section 9504 is amended by striking ''AQUATIC RESOURCES'' in the heading and inserting ''SPORT FISH RESTORATION''.

(E) The item relating to section 9504 in the table of sections for subchapter A of chapter 98 is amended by striking ''aquatic resources'' and inserting ''sport fish restoration''.

(c) PHASEOUT OF BOAT SAFETY ACCOUNT.—Subsection (c) of section 9504 is amended to read as follows:

''(c) EXPENDITURES FROM BOAT SAFETY ACCOUNT.—Amounts remaining in the Boat Safety Account on October 1, 2004, and amounts thereafter credited to the Account under section 9602(b), shall be available, as provided by appropriation Acts, for making expenditures before October 1, 2009, to carry out the purposes of section 13106 of title 46, United States Code (as in effect on the date of the enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004).''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

SEC. 5412. EXEMPTION OF LED DEVICES FROM SONAR DEVICES SUITABLE FOR FINDING FISH.

(a) IN GENERAL.—Section 4162(b) (defining sonar device suitable for finding fish) is amended by striking ''or'' at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting '', or'', and by adding at the end the following new paragraph:

''(5) an LED display.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to articles sold by the manufacturer, producer, or importer after September 30, 2004.

SEC. 5413. REPEAL OF HARBOR MAINTENANCE TAX ON EXPORTS.

(a) IN GENERAL.—Subsection (d) of section 4462 (relating to definitions and special rules) is amended to read as follows:

''(d) NONAPPLICABILITY OF TAX TO EXPORTS.—The tax imposed by section 4461(a) shall not apply to any port use with respect to any commercial cargo to be exported from the United States.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 4461(c)(1) is amended by adding ''or'' at the end of subparagraph (A), by striking subparagraph (B), and by redesignating subparagraph (C) as subparagraph (B).

(2) Section 4461(c)(2) is amended by striking ''imposed—'' and all that follows through ''in any other case,'' and inserting ''imposed''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect before, on, and after the date of the enactment of this Act.

SEC. 5414. CAP ON EXCISE TAX ON CERTAIN FISHING EQUIPMENT.

(a) IN GENERAL.—Paragraph (1) of section 4161(a) (relating to sport fishing equipment) is amended to read as follows:

''(1) IMPOSITION OF TAX.—

''(A) IN GENERAL.—There is hereby imposed on the sale of any article of sport fishing equipment by the manufacturer, producer, or importer a tax equal to 10 percent of the price for which so sold.

''(B) LIMITATION ON TAX IMPOSED ON FISHING RODS AND POLES.—The tax imposed by subparagraph (A) on any fishing rod or pole shall not exceed $10.''.

(b) CONFORMING AMENDMENTS.—Section 4161(a)(2) is amended by striking ''paragraph

(1)'' both places it appears and inserting ''paragraph (1)(A)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to articles sold by the manufacturer, producer, or importer after September 30, 2004.

SEC. 5415. REDUCTION IN RATE OF TAX ON PORTABLE AERATED BAIT CONTAINERS.

(a) IN GENERAL.—Section 4161(a)(2)(A) (relating to 3 percent rate of tax for electric outboard motors and sonar devices suitable for finding fish) is amended by inserting ''or a portable aerated bait container'' after ''fish''.

(b) CONFORMING AMENDMENT.—The heading of section 4161(a)(2) is amended by striking ''ELECTRIC OUTBOARD MOTORS AND SONAR DEVICES SUITABLE FOR FINDING FISH'' and inserting ''CERTAIN SPORT FISHING EQUIPMENT''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to articles sold by the manufacturer, producer, or importer after September 30, 2004.

PART III—AERIAL EXCISE TAXES

SEC. 5421. CLARIFICATION OF EXCISE TAX EXEMPTIONS FOR AGRICULTURAL AERIAL APPLICATORS AND EXEMPTION FOR FIXED-WING AIRCRAFT ENGAGED IN FORESTRY OPERATIONS.

(a) NO WAIVER BY FARM OWNER, TENANT, OR OPERATOR NECESSARY.—Subparagraph (B) of section 6420(c)(4) (relating to certain farming use other than by owner, etc.) is amended to read as follows:

''(B) if the person so using the gasoline is an aerial or other applicator of fertilizers or other substances and is the ultimate purchaser of the gasoline, then subparagraph (A) of this paragraph shall not apply and the aerial or other applicator shall be treated as having used such gasoline on a farm for farming purposes.''.

(b) EXEMPTION INCLUDES FUEL USED BETWEEN AIRFIELD AND FARM.—Section 6420(c)(4), as amended by subsection (a), is amended by adding at the end the following new flush sentence:

''For purposes of this paragraph, in the case of an aerial applicator, gasoline shall be treated as used on a farm for farming purposes if the gasoline is used for the direct flight between the airfield and 1 or more farms.''.

(c) EXEMPTION FROM TAX ON AIR TRANSPORTATION OF PERSONS FOR FORESTRY PURPOSES EXTENDED TO FIXED-WING AIRCRAFT.—Subsection (f) of section 4261 (relating to tax on air transportation of persons) is amended to read as follows:

''(f) EXEMPTION FOR CERTAIN USES.—No tax shall be imposed under subsection (a) or (b) on air transportation—

''(1) by helicopter for the purpose of transporting individuals, equipment, or supplies in the exploration for, or the development or removal of, hard minerals, oil, or gas, or

''(2) by helicopter or by fixed-wing aircraft for the purpose of the planting, cultivation, cutting, or transportation of, or caring for, trees (including logging operations),

but only if the helicopter or fixed-wing aircraft does not take off from, or land at, a facility eligible for assistance under the Airport and Airway Development Act of 1970, or otherwise use services provided pursuant to section 44509 or 44913(b) or subchapter I of chapter 471 of title 49, United States Code, during such use. In the case of helicopter transportation described in paragraph (1), this subsection shall be applied by treating each flight segment as a distinct flight.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel use or air transportation after the date of the enactment of this Act.

SEC. 5422. MODIFICATION OF RURAL AIRPORT DEFINITION.

(a) IN GENERAL.—Section 4261(e)(1)(B) (defining rural airport) is amended—

(1) by inserting ''(in the case of any airport described in clause (ii)(III), on flight segments of at least 100 miles)'' after ''by air'' in clause (i), and

(2) by striking the period at the end of subclause (II) of clause (ii) and inserting '', or'', and by adding at the end of clause (ii) the following new subclause:

''(III) is not connected by paved roads to another airport.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on April 1, 2004.

SEC. 5423. EXEMPTION FROM TICKET TAXES FOR TRANSPORTATION PROVIDED BY SEAPLANES.

(a) IN GENERAL.—Section 4261 (relating to imposition of tax) is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

''(i) EXEMPTION FOR SEAPLANES.—No tax shall be imposed by this section or section 4271 on any air transportation by a seaplane with respect to any segment consisting of a takeoff from, and a landing on, water, but only if the places at which such takeoff and landing occur have not received and are not receiving financial assistance from the Airport and Airways Trust Fund.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to transportation beginning after March 31, 2004.

SEC. 5424. CERTAIN SIGHTSEEING FLIGHTS EXEMPT FROM TAXES ON AIR TRANSPORTATION.

(a) IN GENERAL.—Section 4281 (relating to small aircraft on nonestablished lines) is amended by adding at the end the following new sentence: ''For purposes of this section, an aircraft shall not be considered as operated on an established line if such aircraft is operated on a flight the sole purpose of which is sightseeing.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to transportation beginning on or after the date of the enactment of this Act, but shall not apply to any amount paid before such date for such transportation.

PART IV—ALCOHOLIC BEVERAGE EXCISE TAXES

SEC. 5431. REPEAL OF SPECIAL OCCUPATIONAL TAXES ON PRODUCERS AND MARKETERS OF ALCOHOLIC BEVERAGES.

(a) REPEAL OF OCCUPATIONAL TAXES.—

(1) IN GENERAL.—The following provisions of part II of subchapter A of chapter 51 (relating to occupational taxes) are hereby repealed:

(A) Subpart A (relating to proprietors of distilled spirits plants, bonded wine cellars, etc.).

(B) Subpart B (relating to brewer).

(C) Subpart D (relating to wholesale dealers) (other than sections 5114 and 5116).

(D) Subpart E (relating to retail dealers) (other than section 5124).

(E) Subpart G (relating to general provisions) (other than sections 5142, 5143, 5145, and 5146).

(2) NONBEVERAGE DOMESTIC DRAWBACK.—Section 5131 is amended by striking '', on payment of a special tax per annum,''.

(3) INDUSTRIAL USE OF DISTILLED SPIRITS.—Section 5276 is hereby repealed.

(b) CONFORMING AMENDMENTS.—

(1)(A) The heading for part II of subchapter A of chapter 51 and the table of subparts for such part are amended to read as follows:

"PART II—MISCELLANEOUS PROVISIONS

''Subpart A. Manufacturers of stills.

''Subpart B. Nonbeverage domestic drawback claimants.

''Subpart C. Recordkeeping by dealers.

''Subpart D. Other provisions.''.

(B) The table of parts for such subchapter A is amended by striking the item relating to part II and inserting the following new item:

''Part II. Miscellaneous provisions.''.

(2) Subpart C of part II of such subchapter (relating to manufacturers of stills) is redesignated as subpart A.

(3)(A) Subpart F of such part II (relating to nonbeverage domestic drawback claimants) is redesignated as subpart B and sections 5131 through 5134 are redesignated as sections 5111 through 5114, respectively.

(B) The table of sections for such subpart B, as so redesignated, is amended—

(i) by redesignating the items relating to sections 5131 through 5134 as relating to sections 5111 through 5114, respectively, and

(ii) by striking ''and rate of tax'' in the item relating to section 5111, as so redesignated.

(C) Section 5111, as redesignated by subparagraph (A), is amended—

(i) by striking ''and rate of tax'' in the section heading,

(ii) by striking the subsection heading for subsection (a), and

(iii) by striking subsection (b).

(4) Part II of subchapter A of chapter 51 is amended by adding after subpart B, as redesignated by paragraph (3), the following new subpart:

"Subpart C—Recordkeeping by Dealers

''Sec. 5121. Recordkeeping by wholesale dealers.

''Sec. 5122. Recordkeeping by retail dealers.

''Sec. 5123. Preservation and inspection of records, and entry of premises for inspection.''.

(5)(A) Section 5114 (relating to records) is moved to subpart C of such part II and inserted after the table of sections for such subpart.

(B) Section 5114 is amended—

(i) by striking the section heading and inserting the following new heading:

"SEC. 5121. RECORDKEEPING BY WHOLESALE DEALERS.",

and

(ii) by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

''(c) WHOLESALE DEALERS.—For purposes of this part—

''(1) WHOLESALE DEALER IN LIQUORS.—The term 'wholesale dealer in liquors' means any dealer (other than a wholesale dealer in beer) who sells, or offers for sale, distilled spirits, wines, or beer, to another dealer.

''(2) WHOLESALE DEALER IN BEER.—The term 'wholesale dealer in beer' means any dealer who sells, or offers for sale, beer, but not distilled spirits or wines, to another dealer.

''(3) DEALER.—The term 'dealer' means any person who sells, or offers for sale, any distilled spirits, wines, or beer.

''(4) PRESUMPTION IN CASE OF SALE OF 20 WINE GALLONS OR MORE.—The sale, or offer for sale, of distilled spirits, wines, or beer, in quantities of 20 wine gallons or more to the same person at the same time, shall be presumptive evidence that the person making such sale, or offer for sale, is engaged in or carrying on the business of a wholesale dealer in liquors or a wholesale dealer in beer, as the case may be. Such presumption may be overcome by evidence satisfactorily showing that such sale, or offer for sale, was made to a person other than a dealer.''.

(C) Paragraph (3) of section 5121(d), as so redesignated, is amended by striking ''section 5146'' and inserting ''section 5123''.

(6)(A) Section 5124 (relating to records) is moved to subpart C of part II of subchapter

A of chapter 51 and inserted after section 5121.

(B) Section 5124 is amended—

(i) by striking the section heading and inserting the following new heading:

"SEC. 5122. RECORDKEEPING BY RETAIL DEALERS.",

(ii) by striking ''section 5146'' in subsection (c) and inserting ''section 5123'', and

(iii) by redesignating subsection (c) as subsection (d) and inserting after subsection (b) the following new subsection:

''(c) RETAIL DEALERS.—For purposes of this section—

''(1) RETAIL DEALER IN LIQUORS.—The term 'retail dealer in liquors' means any dealer (other than a retail dealer in beer or a limited retail dealer) who sells, or offers for sale, distilled spirits, wines, or beer, to any person other than a dealer.

''(2) RETAIL DEALER IN BEER.—The term 'retail dealer in beer' means any dealer (other than a limited retail dealer) who sells, or offers for sale, beer, but not distilled spirits or wines, to any person other than a dealer.

''(3) LIMITED RETAIL DEALER.—The term 'limited retail dealer' means any fraternal, civic, church, labor, charitable, benevolent, or ex-servicemen's organization making sales of distilled spirits, wine or beer on the occasion of any kind of entertainment, dance, picnic, bazaar, or festival held by it, or any person making sales of distilled spirits, wine or beer to the members, guests, or patrons of bona fide fairs, reunions, picnics, carnivals, or other similar outings, if such organization or person is not otherwise engaged in business as a dealer.

''(4) DEALER.—The term 'dealer' has the meaning given such term by section 5121(c)(3).''.

(7) Section 5146 is moved to subpart C of part II of subchapter A of chapter 51, inserted after section 5122, and redesignated as section 5123.

(8) Part II of subchapter A of chapter 51 is amended by inserting after subpart C the following new subpart:

"Subpart D—Other Provisions

''Sec. 5131. Packaging distilled spirits for industrial uses.

''Sec. 5132. Prohibited purchases by dealers.''.

(9) Section 5116 is moved to subpart D of part II of subchapter A of chapter 51, inserted after the table of sections, redesignated as section 5131, and amended by inserting ''(as defined in section 5121(c))'' after ''dealer'' in subsection (a).

(10) Subpart D of part II of subchapter A of chapter 51 is amended by adding at the end thereof the following new section:

"SEC. 5132. PROHIBITED PURCHASES BY DEALERS.

''(a) IN GENERAL.—Except as provided in regulations prescribed by the Secretary, it shall be unlawful for a dealer to purchase distilled spirits for resale from any person other than a wholesale dealer in liquors who is required to keep the records prescribed by section 5121.

''(b) LIMITED RETAIL DEALERS.—A limited retail dealer may lawfully purchase distilled spirits for resale from a retail dealer in liquors.

''(c) PENALTY AND FORFEITURE.—

"For penalty and forfeiture provisions applicable to violations of subsection (a), see sections 5687 and 7302.".

(11) Subsection (b) of section 5002 is amended—

(A) by striking ''section 5112(a)'' and inserting ''section 5121(c)(3)'',

(B) by striking ''section 5112'' and inserting ''section 5121(c)'',

(C) by striking ''section 5122'' and inserting ''section 5122(c)''.

(12) Subparagraph (A) of section 5010(c)(2) is amended by striking ''section 5134'' and inserting ''section 5114''.

(13) Subsection (d) of section 5052 is amended to read as follows:

''(d) BREWER.—For purposes of this chapter, the term 'brewer' means any person who brews beer or produces beer for sale. Such term shall not include any person who produces only beer exempt from tax under section 5053(e).''.

(14) The text of section 5182 is amended to read as follows:

''For provisions requiring recordkeeping by wholesale liquor dealers, see section 5121, and by retail liquor dealers, see section 5122.''.

(15) Subsection (b) of section 5402 is amended by striking ''section 5092'' and inserting ''section 5052(d)''.

(16) Section 5671 is amended by striking ''or 5091''.

(17)(A) Part V of subchapter J of chapter 51 is hereby repealed.

(B) The table of parts for such subchapter J is amended by striking the item relating to part V.

(18)(A) Sections 5142, 5143, and 5145 are moved to subchapter D of chapter 52, inserted after section 5731, redesignated as sections 5732, 5733, and 5734, respectively, and amended by striking ''this part'' each place it appears and inserting ''this subchapter''.

(B) Section 5732, as redesignated by subparagraph (A), is amended by striking ''(except the tax imposed by section 5131)'' each place it appears.

(C) Paragraph (2) of section 5733(c), as redesignated by subparagraph (A), is amended by striking ''liquors'' both places it appears and inserting ''tobacco products and cigarette papers and tubes''.

(D) The table of sections for subchapter D of chapter 52 is amended by adding at the end thereof the following:

''Sec. 5732. Payment of tax.

''Sec. 5733. Provisions relating to liability for occupational taxes.

''Sec. 5734. Application of State laws.''.

(E) Section 5731 is amended by striking subsection (c) and by redesignating subsection (d) as subsection (c).

(19) Subsection (c) of section 6071 is amended by striking ''section 5142'' and inserting ''section 5732''.

(20) Paragraph (1) of section 7652(g) is amended—

(A) by striking ''subpart F'' and inserting ''subpart B'', and

(B) by striking ''section 5131(a)'' and inserting ''section 5111''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on July 1, 2004, but shall not apply to taxes imposed for periods before such date.

SEC. 5432. SUSPENSION OF LIMITATION ON RATE OF RUM EXCISE TAX COVER OVER TO PUERTO RICO AND VIRGIN ISLANDS.

(a) IN GENERAL.—Section 7652(f)(1) (relating to limitation on cover over of tax on distilled spirits) is amended by striking ''January 1, 2004'' and inserting ''October 1, 2004, and $13.50 in the case of distilled spirits brought into the United States after September 30, 2004, and before January 1, 2006''.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to articles containing distilled spirits brought into the United States after December 31, 2003.

(2) SPECIAL RULE.—

(A) IN GENERAL.—After September 30, 2004, the treasury of Puerto Rico shall make a Conservation Trust Fund transfer within 30 days from the date of each cover over payment to such treasury under section 7652(e) of the Internal Revenue Code of 1986.

(B) CONSERVATION TRUST FUND TRANSFER.—

(i) IN GENERAL.—For purposes of this paragraph, the term ''Conservation Trust Fund transfer'' means a transfer to the Puerto Rico Conservation Trust Fund of an amount equal to 50 cents per proof gallon of the taxes imposed under section 5001 or section 7652 of such Code on distilled spirits that are covered over to the treasury of Puerto Rico under section 7652(e) of such Code.

(ii) TREATMENT OF TRANSFER.—Each Conservation Trust Fund transfer shall be treated as principal for an endowment, the income from which to be available for use by the Puerto Rico Conservation Trust Fund for the purposes for which the Trust Fund was established.

(iii) RESULT OF NONTRANSFER.—

(I) IN GENERAL.—Upon notification by the Secretary of the Interior that a Conservation Trust Fund transfer has not been made by the treasury of Puerto Rico, the Secretary of the Treasury shall, except as provided in subclause (II), deduct and withhold from the next cover over payment to be made to the treasury of Puerto Rico under section 7652(e) of such Code an amount equal to the appropriate Conservation Trust Fund transfer and interest thereon at the underpayment rate established under section 6621 of such Code as of the due date of such transfer. The Secretary of the Treasury shall transfer such amount deducted and withheld, and the interest thereon, directly to the Puerto Rico Conservation Trust Fund.

(II) GOOD CAUSE EXCEPTION.—If the Secretary of the Interior finds, after consultation with the Governor of Puerto Rico, that the failure by the treasury of Puerto Rico to make a required transfer was for good cause, and notifies the Secretary of the Treasury of the finding of such good cause before the due date of the next cover over payment following the notification of nontransfer, then the Secretary of the Treasury shall not deduct the amount of such nontransfer from any cover over payment.

(C) PUERTO RICO CONSERVATION TRUST FUND.—For purposes of this paragraph, the term ''Puerto Rico Conservation Trust Fund'' means the fund established pursuant to a Memorandum of Understanding between the United States Department of the Interior and the Commonwealth of Puerto Rico, dated December 24, 1968.

PART V—SPORT EXCISE TAXES

SEC. 5441. CUSTOM GUNSMITHS.

(a) SMALL MANUFACTURERS EXEMPT FROM FIREARMS EXCISE TAX.—Section 4182 (relating to exemptions) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

''(c) SMALL MANUFACTURERS, ETC.—

''(1) IN GENERAL.—The tax imposed by section 4181 shall not apply to any article described in such section if manufactured, produced, or imported by a person who manufactures, produces, and imports less than 50 of such articles during the calendar year.

''(2) CONTROLLED GROUPS.—All persons treated as a single employer for purposes of subsection (a) or (b) of section 52 shall be treated as one person for purposes of paragraph (1).''.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to articles sold by the manufacturer, producer, or importer on or after the date which is the first day of the month beginning at least 2 weeks after the date of the enactment of this Act.

(2) NO INFERENCE.—Nothing in the amendments made by this section shall be construed to create any inference with respect to the proper tax treatment of any sales before the effective date of such amendments.

SEC. 5442. MODIFIED TAXATION OF IMPORTED ARCHERY PRODUCTS.

(a) BOWS.—Paragraph (1) of section 4161(b) (relating to bows) is amended to read as follows:

''(1) BOWS.—

''(A) IN GENERAL.—There is hereby imposed on the sale by the manufacturer, producer, or importer of any bow which has a peak draw weight of 30 pounds or more, a tax equal to 11 percent of the price for which so sold.

''(B) ARCHERY EQUIPMENT.—There is hereby imposed on the sale by the manufacturer, producer, or importer—

''(i) of any part or accessory suitable for inclusion in or attachment to a bow described in subparagraph (A), and

''(ii) of any quiver or broadhead suitable for use with an arrow described in paragraph (2),

a tax equal to 11 percent of the price for which so sold.''.

(b) ARROWS.—Subsection (b) of section 4161 (relating to bows and arrows, etc.) is amended by redesignating paragraph (3) as paragraph (4) and inserting after paragraph (2) the following:

''(3) ARROWS.—

''(A) IN GENERAL.—There is hereby imposed on the sale by the manufacturer, producer, or importer of any arrow, a tax equal to 12 percent of the price for which so sold.

''(B) EXCEPTION.—In the case of any arrow of which the shaft or any other component has been previously taxed under paragraph (1) or (2)—

''(i) section 6416(b)(3) shall not apply, and

''(ii) the tax imposed by subparagraph (A) shall be an amount equal to the excess (if any) of—

''(I) the amount of tax imposed by this paragraph (determined without regard to this subparagraph), over

''(II) the amount of tax paid with respect to the tax imposed under paragraph (1) or (2) on such shaft or component.

''(C) ARROW.—For purposes of this paragraph, the term 'arrow' means any shaft described in paragraph (2) to which additional components are attached.''.

(c) CONFORMING AMENDMENTS.—Section 4161(b)(2) is amended—

(1) by inserting ''(other than broadheads)'' after ''point'', and

(2) by striking ''ARROWS.—'' in the heading and inserting ''ARROW COMPONENTS.—''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to articles sold by the manufacturer, producer, or importer after the date of the enactment of this Act.

SEC. 5443. TREATMENT OF TRIBAL GOVERNMENTS FOR PURPOSES OF FEDERAL WAGERING EXCISE AND OCCUPATIONAL TAXES.

(a) IN GENERAL.—Subsection (a) of section 7871 (relating to Indian tribal governments treated as States for certain purposes) is amended by striking ''and'' at the end of paragraph (6), by striking the period at the end of paragraph (7) and inserting ''; and'', and by adding at the end the following new paragraph:

''(8) for purposes of chapter 35 (relating to taxes on wagering).''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on July 1, 2004, but shall not apply to taxes imposed for periods before such date.

PART VI—OTHER PROVISIONS

SEC. 5451. INCOME TAX CREDIT FOR DISTILLED SPIRITS WHOLESALERS AND FOR DISTILLED SPIRITS IN CONTROL STATE BAILMENT WAREHOUSES FOR COSTS OF CARRYING FEDERAL EXCISE TAXES ON BOTTLED DISTILLED SPIRITS.

(a) IN GENERAL.—Subpart A of part I of subchapter A of chapter 51 (relating to gallonage and occupational taxes) is amended by adding at the end the following new section:

''SEC. 5011. INCOME TAX CREDIT FOR AVERAGE COST OF CARRYING EXCISE TAX.

''(a) IN GENERAL.—For purposes of section 38, the amount of the distilled spirits credit for any taxable year is the amount equal to the product of—

''(1) in the case of—

''(A) any eligible wholesaler—

''(i) the number of cases of bottled distilled spirits—

''(I) which were bottled in the United States, and

''(II) which are purchased by such wholesaler during the taxable year directly from the bottler of such spirits, or

''(B) any person which is subject to section 5005 and which is not an eligible wholesaler, the number of cases of bottled distilled spirits which are stored in a warehouse operated by, or on behalf of, a State, or agency or political subdivision thereof, on which title has not passed on an unconditional sale basis, and

''(2) the average tax-financing cost per case for the most recent calendar year ending before the beginning of such taxable year.

''(b) ELIGIBLE WHOLESALER.—For purposes of this section, the term 'eligible wholesaler' means any person which holds a permit under the Federal Alcohol Administration Act as a wholesaler of distilled spirits which is not a State, or agency or political subdivision thereof.

''(c) AVERAGE TAX-FINANCING COST.—

''(1) IN GENERAL.—For purposes of this section, the average tax-financing cost per case for any calendar year is the amount of interest which would accrue at the deemed financing rate during a 60-day period on an amount equal to the deemed Federal excise tax per case.

''(2) DEEMED FINANCING RATE.—For purposes of paragraph (1), the deemed financing rate for any calendar year is the average of the corporate overpayment rates under paragraph (1) of section 6621(a) (determined without regard to the last sentence of such paragraph) for calendar quarters of such year.

''(3) DEEMED FEDERAL EXCISE TAX PER CASE.—For purposes of paragraph (1), the deemed Federal excise tax per case is $25.68.

''(d) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) CASE.—The term 'case' means 12 80-proof 750 milliliter bottles.

''(2) NUMBER OF CASES IN LOT.—The number of cases in any lot of distilled spirits shall be determined by dividing the number of liters in such lot by 9.''.

(b) CREDIT TREATED AS PART OF GENERAL BUSINESS CREDIT.—Section 38(b) (relating to current year business credit), as amended by section 5101 of this Act, is amended by striking ''plus'' at the end of paragraph (15), by striking the period at the end of paragraph (16) and inserting '', plus'', and by adding at the end the following new paragraph:

''(17) the distilled spirits credit determined under section 5011(a).''.

(c) CONFORMING AMENDMENTS.—

(1) Section 39(d), as amended by section 5101 of this Act, is amended by adding at the end the following new paragraph:

''(12) NO CARRYBACK OF SECTION 5011 CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the credit determined under section 5011(a) may be carried back to a taxable year beginning before the date of the enactment of section 5011.''.

(2) The table of sections for subpart A of part I of subchapter A of chapter 51 is amended by adding at the end the following new item:

''Sec. 5011. Income tax credit for average cost of carrying excise tax.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 5452. CREDIT FOR TAXPAYERS OWNING COMMERCIAL POWER TAKEOFF VEHICLES.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits) is amended by adding at the end the following new section:

''SEC. 45G. COMMERCIAL POWER TAKEOFF VEHICLES CREDIT.

''(a) GENERAL RULE.—For purposes of section 38, the amount of the commercial power takeoff vehicles credit determined under this section for the taxable year is $250 for each qualified commercial power takeoff vehicle owned by the taxpayer as of the close of the calendar year in which or with which the taxable year of the taxpayer ends.

''(b) DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED COMMERCIAL POWER TAKEOFF VEHICLE.—The term 'qualified commercial power takeoff vehicle' means any highway vehicle described in paragraph (2) which is propelled by any fuel subject to tax under section 4041 or 4081 if such vehicle is used in a trade or business or for the production of income (and is licensed and insured for such use).

''(2) HIGHWAY VEHICLE DESCRIBED.—A highway vehicle is described in this paragraph if such vehicle is—

''(A) designed to engage in the daily collection of refuse or recyclables from homes or businesses and is equipped with a mechanism under which the vehicle's propulsion engine provides the power to operate a load compactor, or

''(B) designed to deliver ready mixed concrete on a daily basis and is equipped with a mechanism under which the vehicle's propulsion engine provides the power to operate a mixer drum to agitate and mix the product en route to the delivery site.

''(c) EXCEPTION FOR VEHICLES USED BY GOVERNMENTS, ETC.—No credit shall be allowed under this section for any vehicle owned by any person at the close of a calendar year if such vehicle is used at any time during such year by—

''(1) the United States or an agency or instrumentality thereof, a State, a political subdivision of a State, or an agency or instrumentality of one or more States or political subdivisions, or

''(2) an organization exempt from tax under section 501(a).

''(d) TERMINATION.—This section shall not apply with respect to any calendar year after 2006.''.

(b) CREDIT TREATED AS PART OF GENERAL BUSINESS CREDIT.—Section 38(b) (relating to current year business credit), as amended by section 5451 of this Act, is amended by striking ''plus'' at the end of paragraph (16), by striking the period at the end of paragraph (17) and inserting '', plus'', and by adding at the end the following new paragraph:

''(18) the commercial power takeoff vehicles credit under section 45G(a).''.

(c) CONFORMING AMENDMENTS.—

(1) Section 39(d), as amended by section 5451 of this Act, is amended by adding at the end the following new paragraph:

''(13) NO CARRYBACK OF SECTION 45G CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the credit determined under section 45G(a) may be carried back to a taxable year beginning on or before the date of the enactment of section 45G.''.

(2) The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

''Sec. 45G. Commercial power takeoff vehicles credit.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 5453. CREDIT FOR AUXILIARY POWER UNITS INSTALLED ON DIESEL-POWERED TRUCKS.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits), as amended by section 5452 of this Act, is amended by adding at the end the following new section:

''SEC. 45H. AUXILIARY POWER UNIT CREDIT.

''(a) GENERAL RULE.—For purposes of section 38, the amount of the auxiliary power unit credit determined under this section for the taxable year is $250 for each qualified auxiliary power unit—

''(1) purchased by the taxpayer, and

''(2) installed or caused to be installed by the taxpayer on a qualified heavy-duty highway vehicle during such taxable year.

''(b) DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED AUXILIARY POWER UNIT.—The term 'qualified auxiliary power unit' means any integrated system which—

''(A) provides heat, air conditioning, engine warming, and electricity to the factory installed components on a qualified heavy-duty highway vehicle as if the main drive engine of such vehicle was in operation,

''(B) is employed to reduce long-term idling of the diesel engine on such a vehicle, and

''(C) is certified by the Environmental Protection Agency as meeting emission standards in regulations in effect on the date of the enactment of this section.

''(2) QUALIFIED HEAVY-DUTY HIGHWAY VEHICLE.—The term 'qualified heavy-duty highway vehicle' means any highway vehicle weighing more than 12,500 pounds and powered by a diesel engine.

''(c) TERMINATION.—This section shall not apply with respect to any installation occurring after December 31, 2006.''.

(b) CREDIT TREATED AS PART OF GENERAL BUSINESS CREDIT.—Section 38(b) (relating to current year business credit), as amended by section 5452 of this Act, is amended by striking ''plus'' at the end of paragraph (17), by striking the period at the end of paragraph (18) and inserting '', plus'', and by adding at the end the following new paragraph:

''(19) the auxiliary power unit credit under section 45H(a).''.

(c) CONFORMING AMENDMENTS.—

(1) Section 39(d), as amended by section 5452 of this Act, is amended by adding at the end the following new paragraph:

''(14) NO CARRYBACK OF SECTION 45H CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the credit determined under section 45H(a) may be carried back to a taxable year beginning on or before the date of the enactment of section 45H.''.

(2) The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by section 5452 of this Act, is amended by adding at the end the following new item:

''Sec. 45H. Auxiliary power unit credit.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to auxiliary power units purchased and installed for taxable years beginning after the date of the enactment of this Act.

Subtitle F—Miscellaneous Provisions

SEC. 5501. MOTOR FUEL TAX ENFORCEMENT ADVISORY COMMISSION.

(a) ESTABLISHMENT.—There is established a Motor Fuel Tax Enforcement Advisory Commission (in this section referred to as the ''Commission'').

(b) FUNCTION.—The Commission shall—

(1) review motor fuel revenue collections, historical and current;

(2) review the progress of investigations;

(3) develop and review legislative proposals with respect to motor fuel taxes;

(4) monitor the progress of administrative regulation projects relating to motor fuel taxes;

(5) review the results of Federal and State agency cooperative efforts regarding motor fuel taxes;

(6) review the results of Federal interagency cooperative efforts regarding motor fuel taxes; and

(7) evaluate and make recommendations regarding—

(A) the effectiveness of existing Federal enforcement programs regarding motor fuel taxes,

(B) enforcement personnel allocation, and

(C) proposals for regulatory projects, legislation, and funding.

(c) MEMBERSHIP.—

(1) APPOINTMENT.—The Commission shall be composed of the following representatives appointed by the Chairmen and the Ranking Members of the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives:

(A) At least 1 representative from each of the following Federal entities: the Department of Homeland Security, the Department of Transportation - Office of Inspector General, the Federal Highway Administration, the Department of Defense, and the Department of Justice.

(B) At least 1 representative from the Federation of State Tax Administrators.

(C) At least 1 representative from any State department of transportation.

(D) 2 representatives from the highway construction industry.

(E) 5 representatives from industries relating to fuel distribution — refiners (2 representatives), distributors (1 representative), pipelines (1 representative), and terminal operators (2 representatives).

(F) 1 representative from the retail fuel industry.

(G) 2 representatives from the staff of the Committee on Finance of the Senate and 2 representatives from the staff of the Committee on Ways and Means of the House of Representatives.

(2) TERMS.—Members shall be appointed for the life of the Commission.

(3) VACANCIES.—A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(4) TRAVEL EXPENSES.—Members shall serve without pay but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(5) CHAIRMAN.—The Chairman of the Commission shall be elected by the members.

(d) FUNDING.—Such sums as are necessary shall be available from the Highway Trust fund for the expenses of the Commission.

(e) CONSULTATION.—Upon request of the Commission, representatives of the Department of the Treasury and the Internal Revenue Service shall be available for consultation to assist the Commission in carrying out its duties under this section.

(f) OBTAINING DATA.—The Commission may secure directly from any department or agency of the United States, information (other than information required by any law to be kept confidential by such department or agency) necessary for the Commission to carry out its duties under this section. Upon request of the Commission, the head of that department or agency shall furnish such nonconfidential information to the Commission. The Commission shall also gather evidence through such means as it may deem appropriate, including through holding hearings and soliciting comments by means of Federal Register notices.

(g) TERMINATION.—The Commission shall terminate after September 30, 2009.

SEC. 5502. NATIONAL SURFACE TRANSPORTATION INFRASTRUCTURE FINANCING COMMISSION.

(a) ESTABLISHMENT.—There is established a National Surface Transportation Infrastructure Financing Commission (in this section referred to as the ''Commission''). The Commission shall hold its first meeting within 90 days of the appointment of the eighth individual to be named to the Commission.

(b) FUNCTION.—

(1) IN GENERAL.—The Commission shall—

(A) make a thorough investigation and study of revenues flowing into the Highway Trust Fund under current law, including the individual components of the overall flow of such revenues;

(B) consider whether the amount of such revenues is likely to increase, decline, or remain unchanged, absent changes in the law, particularly by taking into account the impact of possible changes in public vehicular choice, fuel use, or travel alternatives that could be expected to reduce or increase revenues into the Highway Trust Fund;

(C) consider alternative approaches to generating revenues for the Highway Trust Fund, and the level of revenues that such alternatives would yield;

(D) consider highway and transit needs and whether additional revenues into the Highway Trust Fund, or other Federal revenues dedicated to highway and transit infrastructure, would be required in order to meet such needs; and

(E) study such other matters closely related to the subjects described in the preceding subparagraphs as it may deem appropriate.

(2) TIME FRAME OF INVESTIGATION AND STUDY.—The time frame to be considered by the Commission shall extend through the year 2015.

(3) PREPARATION OF REPORT.—Based on such investigation and study, the Commission shall develop a final report, with recommendations and the bases for those recommendations, indicating policies that should be adopted, or not adopted, to achieve various levels of annual revenue for the Highway Trust Fund and to enable the Highway Trust Fund to receive revenues sufficient to meet highway and transit needs. Such recommendations shall address, among other matters as the Commission may deem appropriate—

(A) what levels of revenue are required by the Federal Highway Trust Fund in order for it to meet needs to—

(i) maintain, and

(ii) improve the condition and performance of the Nation's highway and transit systems;

(B) what levels of revenue are required by the Federal Highway Trust Fund in order to ensure that Federal levels of investment in highways and transit do not decline in real terms; and

(C) the extent, if any, to which the Highway Trust Fund should be augmented by other mechanisms or funds as a Federal

means of financing highway and transit infrastructure investments.

(c) MEMBERSHIP.—

(1) APPOINTMENT.—The Commission shall be composed of 15 members, appointed as follows:

(A) 7 members appointed by the Secretary of Transportation, in consultation with the Secretary of the Treasury.

(B) 2 members appointed by the Chairman of the Committee on Ways and Means of the House of Representatives.

(C) 2 members appointed by the Ranking Minority Member of the Committee on Ways and Means of the House of Representatives.

(D) 2 members appointed by the Chairman of the Committee on Finance of the Senate.

(E) 2 members appointed by the Ranking Minority Member of the Committee on Finance of the Senate.

(2) QUALIFICATIONS.—Members appointed pursuant to paragraph (1) shall be appointed from among individuals knowledgeable in the fields of public transportation finance or highway and transit programs, policy, and needs, and may include representatives of interested parties, such as State and local governments or other public transportation authorities or agencies, representatives of the transportation construction industry (including suppliers of technology, machinery and materials), transportation labor (including construction and providers), transportation providers, the financial community, and users of highway and transit systems.

(3) TERMS.—Members shall be appointed for the life of the Commission.

(4) VACANCIES.—A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(5) TRAVEL EXPENSES.—Members shall serve without pay but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(6) CHAIRMAN.—The Chairman of the Commission shall be elected by the members.

(d) STAFF.—The Commission may appoint and fix the pay of such personnel as it considers appropriate.

(e) FUNDING.—Funding for the Commission shall be provided by the Secretary of the Treasury and by the Secretary of Transportation, out of funds available to those agencies for administrative and policy functions.

(f) STAFF OF FEDERAL AGENCIES.—Upon request of the Commission, the head of any department or agency of the United States may detail any of the personnel of that department or agency to the Commission to assist in carrying out its duties under this section.

(g) OBTAINING DATA.—The Commission may secure directly from any department or agency of the United States, information (other than information required by any law to be kept confidential by such department or agency) necessary for the Commission to carry out its duties under this section. Upon request of the Commission, the head of that department or agency shall furnish such nonconfidential information to the Commission. The Commission shall also gather evidence through such means as it may deem appropriate, including through holding hearings and soliciting comments by means of Federal Register notices.

(h) REPORT.—Not later than 2 years after the date of its first meeting, the Commission shall transmit its final report, including recommendations, to the Secretary of Transportation, the Secretary of the Treasury, and the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, the Committee on Transportation and Infrastructure of the House of Representatives, the Committee on Environment and Public Works of the Senate, and the Committee on Banking, Housing, and Urban Affairs of the Senate.

(i) TERMINATION.—The Commission shall terminate on the 180th day following the date of transmittal of the report under subsection (h). All records and papers of the Commission shall thereupon be delivered to the Administrator of General Services for deposit in the National Archives.

SEC. 5503. TREASURY STUDY OF FUEL TAX COMPLIANCE AND INTERAGENCY COOPERATION.

(a) IN GENERAL.—Not later than January 31, 2006, the Secretary of the Treasury shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report regarding fuel tax enforcement which shall include the information and analysis specified in subsections (b) and (c) and any other information and recommendations the Secretary of the Treasury may deem appropriate.

(b) AUDITS.—With respect to audits conducted by the Internal Revenue Service, the report required under subsection (a) shall include—

(1) the number and geographic distribution of audits conducted annually, by fiscal year, between October 1, 2001, and September 30, 2005;

(2) the total volume involved for each of the taxable fuels covered by such audits and a comparison to the annual production of such fuels;

(3) the staff hours and number of personnel devoted to the audits per year; and

(4) the results of such audits by year, including total tax collected, total penalties collected, and number of referrals for criminal prosecution.

(c) ENFORCEMENT ACTIVITIES.—With respect to enforcement activities, the report required under subsection (a) shall include—

(1) the number and geographic distribution of criminal investigations and prosecutions annually, by fiscal year, between October 1, 2001, and September 30, 2005, and the results of such investigations and prosecutions;

(2) to the extent such investigations and prosecutions involved other agencies, State or Federal, a breakdown by agency of the number of joint investigations involved;

(3) an assessment of the effectiveness of joint action and cooperation between the Department of the Treasury and other Federal and State agencies, including a discussion of the ability and need to share information across agencies for both civil and criminal Federal tax enforcement and enforcement of State or Federal laws relating to fuels;

(4) the staff hours and number of personnel devoted to criminal investigations and prosecutions per year;

(5) the staff hours and number of personnel devoted to administrative collection of fuel taxes; and

(6) the results of administrative collection efforts annually, by fiscal year, between October 1, 2001, and September 30, 2005.

SEC. 5504. EXPANSION OF HIGHWAY TRUST FUND EXPENDITURE PURPOSES TO INCLUDE FUNDING FOR STUDIES OF SUPPLEMENTAL OR ALTERNATIVE FINANCING FOR THE HIGHWAY TRUST FUND.

(a) IN GENERAL.—From amounts available in the Highway Trust Fund, there is authorized to be expended for 2 comprehensive studies of supplemental or alternative funding sources for the Highway Trust Fund—

(1) $1,000,000 to the Western Transportation Institute of the College of Engineering at Montana State University for the study and report described in subsection (b), and

(2) $16,500,000 to the Public Policy Center of the University of Iowa for the study and report described in subsection (c).

(b) STUDY OF FUNDING MECHANISMS.—Not later than December 31, 2006, the Western Transportation Institute of the College of Engineering at Montana State University shall report to the Secretary of the Treasury and the Secretary of Transportation on a study of highway funding mechanisms of other industrialized nations, an examination of the viability of alternative funding proposals, including congestion pricing, greater reliance on tolls, privatization of facilities, and bonding for construction of added capacity, and an examination of increasing the rates of motor fuels taxes in effect on the date of the enactment of this Act, including the indexation of such rates.

(c) STUDY ON FIELD TEST OF ON-BOARD COMPUTER ASSESSMENT OF HIGHWAY USE TAXES.—Not later than December 31, 2011, the Public Policy Center of the University of Iowa shall direct, analyze, and report to the Secretary of the Treasury and the Secretary of Transportation on a long-term field test of an approach to assessing highway use taxes based upon actual mileage driven by a specific vehicle on specific types of highways by use of an on-board computer—

(1) which is linked to satellites to calculate highway mileage traversed,

(2) which computes the appropriate highway use tax for each of the Federal, State, and local governments as the vehicle makes use of the highways, and

(3) the data from which is periodically downloaded by the vehicle owner to a collection center for an assessment of highway use taxes due in each jurisdiction traversed.The components of the field test shall include 2 years for preparation, including selection of vendors and test participants, and 3-year testing period.

SEC. 5505. TREASURY STUDY OF HIGHWAY FUELS USED BY TRUCKS FOR NON-TRANSPORTATION PURPOSES.

(a) STUDY.—The Secretary of the Treasury shall conduct a study regarding the use of highway motor fuel by trucks that is not used for the propulsion of the vehicle. As part of such study—

(1) in the case of vehicles carrying equipment that is unrelated to the transportation function of the vehicle—

(A) the Secretary of the Treasury, in consultation with the Secretary of Transportation, and with public notice and comment, shall determine the average annual amount of tax paid fuel consumed per vehicle, by type of vehicle, used by the propulsion engine to provide the power to operate the equipment attached to the highway vehicle, and

(B) the Secretary of the Treasury shall review the technical and administrative feasibility of exempting such nonpropulsive use of highway fuels for the highway motor fuels excise taxes,

(2) in the case where non-transportation equipment is run by a separate motor—

(A) the Secretary of the Treasury shall determine the annual average amount of fuel exempted from tax in the use of such equipment by equipment type, and

(B) the Secretary of the Treasury shall review issues of administration and compliance related to the present-law exemption provided for such fuel use, and

(3) the Secretary of the Treasury shall—

(A) estimate the amount of taxable fuel consumed by trucks and the emissions of various pollutants due to the long-term idling of diesel engines, and

(B) determine the cost of reducing such long-term idling through the use of plug-ins at truck stops, auxiliary power units, or other technologies.

(b) REPORT.—Not later than January 1, 2006, the Secretary of the Treasury shall report the findings of the study required under

subsection (a) to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

SEC. 5506. DELTA REGIONAL TRANSPORTATION PLAN.

(a) STUDY.—The Delta Regional Authority shall conduct a study of the transportation assets and needs in the States of Alabama, Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri, and Tennessee which comprise the Delta region.

(b) REGIONAL STRATEGIC TRANSPORTATION PLAN.—Upon completion of the study required under subsection (a), the Delta Regional Authority shall establish a regional strategic transportation plan to achieve efficient transportation systems in the Delta region. In developing the regional strategic transportation plan, the Delta Regional Authority shall consult with local planning and development districts, local and regional governments, metropolitan planning organizations, State transportation entities, and Federal transportation agencies.

(c) ELEMENTS OF STUDY AND PLAN.—The study and plan under this section shall include the following transportation modes and systems: transit, rail, highway, interstate, bridges, air, airports, waterways and ports.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Delta Regional Authority $1,000,000 to carry out the purposes of this section, to remain available until expended.

SEC. 5507. TREATMENT OF EMPLOYER-PROVIDED TRANSIT AND VAN POOLING BENEFITS.

(a) IN GENERAL.—Subparagraph (A) of section 132(f)(2) (relating to limitation on exclusion) is amended by striking ''$100'' and inserting ''$120''.

(b) INFLATION ADJUSTMENT CONFORMING AMENDMENTS.—The last sentence of section 132(f)(6)(A) (relating to inflation adjustment) is amended—

(1) by striking ''2002'' and inserting ''2005'', and

(2) by striking ''2001'' and inserting ''2004''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

SEC. 5508. STUDY OF INCENTIVES FOR PRODUCTION OF BIODIESEL.

(a) STUDY.—The General Comptroller of the United States shall conduct a study related to biodiesel fuels and the tax credit for biodiesel fuels established under this Act. Such study shall include—

(1) an assessment on whether such credit provides sufficient assistance to the producers of biodiesel fuel to establish the fuel as a viable energy alternative in the current market place,

(2) an assessment on how long such credit or similar subsidy would have to remain in effect before biodiesel fuel can compete in the market place without such assistance,

(3) a cost-benefit analysis of such credit, comparing the cost of the credit in forgone revenue to the benefits of lower fuel costs for consumers, increased profitability for the biodiesel industry, increased farm income, reduced program outlays from the Department of Agriculture, and the improved environmental conditions through the use of biodiesel fuel, and

(4) an assessment on whether such credit results in any unintended consequences for unrelated industries, including the impact, if any, on the glycerin market.

(b) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Comptroller General of the United States shall report the findings of the study required under subsection (a) to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

SEC. 5509. REDUCTION OF EXPENDITURES FROM THE HIGHWAY TRUST FUND.

The amount made available under titles I, II, III, and IV of this Act shall be reduced on a pro rata basis, so that the total of such reductions equals $214,000,000,000.

Subtitle G—Revenue Offsets

PART I—LIMITATION ON EXPENSING CERTAIN PASSENGER AUTOMOBILES

SEC. 5601. EXPANSION OF LIMITATION ON DEPRECIATION OF CERTAIN PASSENGER AUTOMOBILES.

(a) IN GENERAL.—Section 179(b) (relating to limitations) is amended by adding at the end the following new paragraph:

''(6) LIMITATION ON COST TAKEN INTO ACCOUNT FOR CERTAIN PASSENGER VEHICLES.—

''(A) IN GENERAL.—The cost of any sport utility vehicle for any taxable year which may be taken into account under this section shall not exceed $25,000.

''(B) SPORT UTILITY VEHICLE.—For purposes of subparagraph (A)—

''(i) IN GENERAL.—The term 'sport utility vehicle' means any 4-wheeled vehicle which—

''(I) is manufactured primarily for use on public streets, roads, and highways,

''(II) is not subject to section 280F, and

''(III) is rated at not more than 14,000 pounds gross vehicle weight.

''(ii) CERTAIN VEHICLES EXCLUDED.—Such term does not include any vehicle which—

''(I) does not have the primary load carrying device or container attached,

''(II) has a seating capacity of more than 12 individuals,

''(III) is designed for more than 9 individuals in seating rearward of the driver's seat,

''(IV) is equipped with an open cargo area, or a covered box not readily accessible from the passenger compartment, of at least 72.0 inches in interior length, or

''(V) has an integral enclosure, fully enclosing the driver compartment and load carrying device, does not have seating rearward of the driver's seat, and has no body section protruding more than 30 inches ahead of the leading edge of the windshield.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after February 2, 2004.

PART II—PROVISION TO REPLENISH THE GENERAL FUND

SEC. 5611. MODIFICATION TO CORPORATE ESTIMATED TAX REQUIREMENTS.

The amount of any required installment of corporate estimated income tax which is otherwise due under section 6655 of the Internal Revenue Code of 1986 after June 30, 2009, and before October 1, 2009, shall be 119 percent of such amount.

SA 2317. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 1006, between lines 7 and 8, insert the following:

SEC. 4603. SENSE OF THE SENATE

It is the sense of the Senate that, notwithstanding amendment to section 24104 of title 49, United States Code, by section 4601, no amounts in excess of the amounts appropriated for Amtrak for fiscal year 2004 should be appropriated for any fiscal year before the enactment of a law providing for comprehensive reform and restructuring of Amtrak (as determined by the Secretary of Transportation).''.

SA 2318. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 1005, line 18, strike ''There'' and insert ''Upon the enactment of a law providing for comprehensive reform and restructuring of Amtrak (as determined by the Secretary of Transportation), there''.

SA 2319. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 1005, line 21, after ''expenses.'' insert ''Notwithstanding the preceding sentence, no amounts in excess of the amounts appropriated for Amtrak for fiscal year 2004 are authorized to be appropriated for any fiscal year until the enactment of a law providing for comprehensive reform and restructuring of Amtrak (as determined by the Secretary of Transportation),''.

SA 2320. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

In section 105 of title 23, United States Code, as added by section 1201 of the amendment, strike subsection (c).

SA 2321. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

In section 105 of title 23, United States Code, as added by section 1201 of the amendment, strike subsection (b)(1)(B).

SA 2322. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

In section 105 of title 23, United States Code, as added by section 1201 of the amendment, strike subsection (d).

SA 2323. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize

funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Redesignate subsection (g) of section 105 of title 23, United States Code, as it would be amended by section 1104 of the amendment, as subsection (h) and insert after subsection (f) the following:

''(g) FURTHER ADJUSTMENT.—The Secretary shall reduce any funds apportioned to a State under this section by an amount equal to any discretionary allocation directed in an annual Appropriations Act, or its accompanying explanatory material, made from a program funded from the Highway Trust Fund (other than the mass transit account) or any other direct appropriation from the Highway Trust Fund (other than the mass transit account) received by such State, or any other entity in such State, in the prior fiscal year.

SA 2324. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 1005, beginning with line 15, strike through line 7 on page 1006 and insert the following:

TITLE VI—RAIL TRANSPORTATION

SEC. 601. SHORT TITLE.

This title may be cited as the ''Rail Passenger Service Restructuring, Reauthorization, and Development Act''.

SEC. 602. TABLE OF CONTENTS; AMENDMENT OF TITLE 49, UNITED STATES CODE.

(a) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 601. Short title.
Sec. 602. Table of contents; amendment of title 49, United States Code.

SUBTITLE A—NETWORK RESTRUCTURING AND COST-SHARING

PART 1—RESTRUCTURING

Sec. 611. Statement of purposes.
See. 612. Passenger rail service restructuring.
Sec. 613. Definitions.
Sec. 614. Operating grants for corridor routes.
Sec. 615. Operating grants for long distance routes
Sec. 616. Long distance route restructuring commission.
Sec. 617. Criteria for restructuring.
Sec. 618. Implementation of restructuring plan.

PART 2—NORTHEAST CORRIDOR

Sec. 621. Redemption of common stock.
Sec. 622. Retirement of preferred stock; transfer of assets.
See. 623. Real estate and asset sales; other.
See. 624. Interstate compact for the Northeast Corridor.
Sec. 625. Shut-down of commuter or freight operations.
Sec. 626. Capital grants for the Northeast Corridor.

PART 3—RELATED MATTERS

Sec. 631. Fair and open competition.
Sec. 632. Access to other railroads.
Sec. 633. Limitations on rail passenger transportation liability.
Sec. 634. Train operations insurance pool.
Sec. 635. Collective bargaining arrangements.

SUBTITLE B—RAIL DEVELOPMENT

See. 651. Capital assistance for intercity passenger rail service.
Sce. 652. Final regulations on applications by States for development grants.
Sec. 653. Authority for interstate compacts for corridor development.

SUBTITLE C—REFORMS

Sec. 671. Management of secured debt.
Sec. 672. Employee transition assistance.
Sec. 673. Termination of authority for GSA to provide services to Amtrak.
Sec. 674. Amtrak reform board of directors.
See. 675. Limitations on availability of grants.
Sec. 676. Repeal of obsolete and executed provisions of law.
Sec. 677. Establishment of financial accounting system for the American Passenger Railway Corporation by independent auditor.
See. 678. Restructuring of long-term debt and capital leases.
Sec. 679. Authorization of appropriations.

(b) AMENDMENT OF TITLE 49.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

SUBTITLE A—NETWORK RESTRUCTURING AND COST-SHARING

PART 1—RESTRUCTURING

SEC. 611. STATEMENT OF PURPOSE OF CORPORATE RESTRUCTURING.

Section 24101 is amended to read as follows:

§ 24101. Findings, purpose, and goals

''(a) FINDINGS.—

''(1) It is in the public interest of the United States to encourage and promote the development of various modes of transportation and transportation infrastructure to efficiently maximize the mobility of passengers and goods.

''(2) Despite Federal subsidies of nearly $27 billion over the past 34 years, intercity rail passenger service still accounts for less than 1 percent of all intercity travel.

''(3) Intercity rail passenger service can be competitive with other modes of transportation and achieve a significant share of the travel market in short-distance corridors connecting metropolitan areas.

''(4) Rail passenger transportation can help alleviate overcrowding of airways and airports, and can provide needed intermodal connections to airports, bus terminals, and mass transit services.

''(5) Short-distance corridor trains account for approximately 85 percent of Amtrak's ridership but only one-third of Amtrak's operating losses, excluding depreciation.

''(6) A number of Amtrak's long-distance routes may be more efficiently operated and attract higher ridership as connected corridors.

''(7) Service over long-distance routes that cannot be restructured as connected corridors, do not receive State financial support, or are not an essential link to the rest of the intercity passenger rail network, should be consolidated or discontinued.

''(8) Some States with short-distance corridor services provide significant financial support for such services, while other States with short-distance routes and all states with long-distance routes contribute nothing for such services. More equitable cost-sharing is needed to justify Federal investment in intercity rail passenger service.

''(9) The need to invest taxpayer dollars in intercity rail passenger service demands that fair and open competition be permitted for the provision of such services to ensure that service is provided in the most efficient manner, without jeopardizing the safety of such operations.

''(10) A greater degree of cooperation is necessary among intercity passenger service operators, freight railroads, State, regional, and local governments, the private sector, labor organizations, and suppliers of services and equipment to achieve the performance sufficient to justify the expenditure of additional public money on intercity rail passenger service.

''(11) Transportation services provided by the private freight railroads are vital to the economy and national defense and should not be disadvantaged by the operation of intercity passenger rail service over their rights-of-way.

''(12) The Northeast Corridor is a valuable resource of the United States used by intercity and commuter rail passenger transportation and freight transportation and should be restored to a state of good repair.

''(b) PURPOSE.—The purpose of this chapter is to assist in the preservation and development of conventional and high-speed intercity rail passenger services where such services can play an important role in facilitating passenger mobility in the United States.

''(e) GOALS.—The goals of this chapter are—

''(1) to move toward a national network of interconnected short-distance passenger rail corridor services,

''(2) to return the Northeast Corridor to a state of good repair;

''(3) to establish a framework for the development of new conventional and high-speed rail services;

''(4) to allow for train services to be operated under contract to a State or group of States, with the operator of the service selected by the State or group of States;

''(5) to establish equitable cost-sharing for capital expenses and operating losses with the States; and

''(6) to encourage greater participation in the provision of intercity rail passenger services by the private sector.''.

SEC. 612. PASSENGER RAIL SERVICE RESTRUCTURING.

(a) IN GENERAL.—Chapter 243 is amended by inserting before section 24301 the following:

''§ 24300. Restructuring mandate

''(a) IN GENERAL.—Within 6 months after the date of enactment of the Rail Passenger Service Restructuring, Reauthorization, and Development Act, the Amtrak Reform Board shall restructure Amtrak as 2 independent entities, as follows:

''(1) THE NATIONAL RAILROAD PASSENGER CORPORATION.—One entity shall be the National Railroad Passenger Corporation, otherwise known as Amtrak, that shall provide overall supervision of the restructuring of the intercity passenger rail program.

''(2) THE AMERICAN PASSENGER RAILWAY CORPORATION.—The other entity shall be a for profit corporation, to be known as the American Passenger Railway Corporation, that shall be responsible for conducting the passenger operations, infrastructure maintenance, and related services, including operation of reservation centers and ownership and management of rolling stock, that were conducted by Amtrak before the restructuring required by this subsection.

''(b) ARTICLES OF INCORPORATION AND OTHER DOCUMENTATION.—The Amtrak Reform Board shall—

''(1) file appropriate articles of incorporation under State law for the American Passenger Railway Corporation; and

''(2) amend the articles of incorporation and bylaws of the National Railroad Passenger Corporation to reflect its changed functions and responsibilities.

''(c) ROLES AND RESPONSIBILITIES OF THE AMERICAN PASSENGER RAILWAY CORPORATION.—

''(1) RAILROAD ACTIVITIES.—Consistent with the business corporation law of the State of incorporation of the American Passenger Railway Corporation, the Corporation shall be qualified to undertake railroad activities of an operational or infrastructure nature.

''(2) RAIL OPERATIONS AND RELATED FUNCTIONS.—The American Passenger Railway Corporation—

''(A) shall have the exclusive right, until October 1, 2005, to continue to provide the intercity passenger service provided by Amtrak on the date of enactment of the Rail Passenger Service Restructuring, Reauthorization, and Development Act;

''(B) shall, beginning October 1, 2005, operate intercity passenger service only on a contractual basis under negotiated terms an(1 conditions;

''(C) shall operate a national reservations system; and

''(D) subject to fulfillment of its contractual obligations, shall have the exclusive right, until management of the mainline of the Northeast Corridor between Boston, Massachusetts, and Washington, District of Columbia, is transferred to the interstate compact created under section 624 or to another entity, to continue to provide the train operations, dispatching, maintenance, and infrastructure services that are being provided by Amtrak on the date of enactment of the Rail Passenger Service Restructuring, Reauthorization, and Development Act, but may provide such services beginning October 1, 2005, only on a contractual basis with the National Railroad Passenger Corporation under negotiated terms and conditions.

''(4) STATUS OF CORPORATION.—

''(A) The American Passenger Railway Corporation—

''(1) is a railroad carrier under section 20102(2) and chapters 261 and 281 of this title;

''(ii) shall be operated and managed as a for-profit corporation; and

''(iii) is not a department, agency, or instrumentality of the United States Government nor a Government corporation (as defined in section 103 of title 5).

''(B) Chapter 105 of this title does not apply to the Corporation, except that laws and regulations governing safety, employee representation for collective bargaining purposes, the handling of disputes between carriers and employees, employee retirement, annuity, and unemployment systems, and other dealings with employees that apply to a rail carrier providing transportation subject to chapter 105 apply to the Corporation.

''(C) Subsections (c) through (1) of section 24301 of this title shall apply to the Corporation.

''(5) CHIEF EXECUTIVE OFFICER.—Subject to further action by the board of directors of the American Passenger Railway Corporation, the president of Amtrak on the date of enactment of the Rail Passenger Service Restructuring, Reauthorization, and Development Act shall be offered the position of chief executive officer of the American Passenger Railway Corporation.''.

§ 24300A. American Passenger Railway Corporation board of directors

'(a) IN GENERAL.—

''(1) MEMBERSHIP.—The American Passenger Railway Corporation shall be governed by a board of directors consisting of 7 members appointed by the President, by and with the advice and consent of the Senate. No individual who is an officer or employee of the United States may serve as a member of the board.

''(2) TERM OF OFFICE.—Each member shall serve for a term of 5 years. An individual may not serve for more than 2 terms.

''(3) QUORUM.—A majority of the board members who have been lawfully appointed and qualified at any moment shall constitute a quorum for the conduct of business.

''(b) BYLAWS.—The board of directors shall adopt bylaws governing the corporation consistent with the provisions of this section arid its articles of incorporation, and may amend, repeal, and otherwise modify the bylaws from time to time as necessary or appropriate.

''(c) TRANSITION BOARD MEMBERS.—Individuals who are serving as members of the Amtrak Reform Board on the day before the date on which the American Passenger Railway Corporation is established, with the exception of the Secretary of Transportation, shall serve as members of the board of directors of the American Passenger Railway Corporation until 4 members of that board have been appointed and qualified.

''§ 24300B. National Railroad Passenger Corporation board after restructuring

''(a) IN GENERAL.—After the American Passenger Railway Corporation is established, the Reform Board established under section 24302(a) shall be dissolved, and Amtrak shall be governed by a board of directors consisting of—

''(1) the Secretary of Transportation;

''(2) the Federal Railroad Administrator or another officer of the United States within the Department of Transportation compensated under the Executive Schedule under title 5, United States Code, who is designated by the Secretary; and

''(3) the Federal Transit Administrator or another officer of the United States within the Department of Transportation compensated under the Executive Schedule under title 5, who is designated by the Secretary.

''(b) ROLES AND RESPONSIBILITIES.—

''(1) SUPERVISION AND MANAGEMENT.—After the board of directors described in subsection (a) takes office, the National Railroad Passenger Corporation shall—

''(A) provide overall supervision of the restructuring of the intercity passenger rail program;

''(B) provide management of residual responsibilities; and

''(C) retain and manage Amtrak's legal rights, including it's legal right of access to other railroads, and ownership of Amtrak's real property, until that property is transferred to the Secretary of Transportation under section 622.

''(2) CONTRACTS FOR SERVICE.—The National Railroad Passenger Corporation shall, by contract, permit an operator to provide intercity passenger rail service over routes operated by Amtrak on the date prior to the date the restructuring required by this Act becomes effective, at the frequencies in effect on that date, on its behalf and to use its right of access to any segment of rail line owned by another rail carrier and needed for the operation of that train. The operator may be the American Passenger Railway Corporation or another operator designated by the Secretary, but there shall be no more than 1 intercity passenger rail operator at a time over any segment of rail line owned by another rail carrier, except in terminal areas as determined by the Secretary or as may otherwise be provided by agreement among the National Railroad Passenger Corporation, the operators, and the owner of the rail line.

''(3) USE OF AMTRAK NAME.—

''(A) IN GENERAL.—Amtrak shall retain all legal rights pertaining to the name 'Amtrak,' and may, at its option, license or otherwise make the name 'Amtrak' commercially available in connection with intercity passenger rail and related services.

''(B) USE BY AMERICAN PASSENGER RAILWAY CORPORATION.—Amtrak shall by contract, permit the American Passenger Railway Corporation to market its services under the Amtrak name.

''(4) AMTRAK PERSONNEL.—All Amtrak employees shall become American Passenger Railway Corporation employees unless retained by the National Railroad Passenger Corporation. The American Passenger Railway Corporation shall succeed to the collective bargaining agreements in effect between Amtrak and labor organizations that are in effect on the day before the date on which that Corporation is established. An employee who elects employment with National Railroad Passenger Corporation shall become an employee of that Corporation, with only such rights regarding pay and benefits as that Corporation shall determine.

''(5) FREIGHT AND COMMUTER OPERATIONS.—The National Railroad Passenger Corporation shall ensure that the implementation of the restructuring required by section 24300 gives due consideration to the needs of freight and commuter operations that, as of the date of enactment of the Rail Passenger Service Restructuring, Reauthorization, and Development Act, operate on the Northeast Corridor using Amtrak rights-of-way.

''(6) ROLLING STOCK.—The National Railroad Passenger Corporation shall set the terms under which the American Passenger Railway Corporation must make available to any replacement operator the legacy equipment associated with any intercity passenger rail service provided as of the date of enactment of that Act.''.

(b) SPINNING-OFF OF RESERVATIONS SYSTEM.—Not later than 2 years after the date of enactment of the Rail Passenger Service Restructuring, Reauthorization, and Development Act, the American Passenger Railway Corporation shall provide to the Secretary of Transportation, the Senate Committee on Commerce, Science, and Transportation, and the House of Representatives Committee on Transportation and Infrastructure recommendations on the feasibility, advantages, and disadvantages of spinning off the reservation system as a private for-profit entity.

(c) CONFORMING AMENDMENT.—The chapter analysis for chapter 243 is amended by inserting the following after the item relating to section 24309:

''24300. Restructuring mandate
''24300A. American Passenger Railway Corporation board of directors
''24300B. Amtrak board after restructuring''.

SEC. 613. DEFINITIONS.

Section 24102 is amended—

(1) by striking paragraph (2) and redesignating paragraphs (3) through (9) as paragraphs (2) through (8), respectively;

(2) by redesignating paragraphs (3) through (8), as redesignated, as paragraphs (4) through (9), respectively, and inserting after paragraph (2) the following:

''(3) 'corridor train' means—

''(A) a train route operated by Amtrak as of January 1, 2004, with a route length of 750 miles or less; or

''(B) a new conventional or high-speed route eligible for funding under chapter 244 of this title.'';

(3) by redesignating paragraphs (6) through (9), as redesignated, as paragraphs (7) through (10), respectively, and inserting after paragraph (5) the following:

''(6) 'long distance train' means a train route operated by Amtrak as of January 1, 2004, with a route length greater than 750 miles.''.

SEC. 614. OPERATING GRANTS FOR CORRIDOR ROUTES.

(a) IN GENERAL.—Chapter 243 is amended by adding at the end the following:

"§ 24316. Operating grants for corridor routes

''(a) IN GENERAL.—

''(1) OPERATING GRANT AUTHORITY.—Beginning on October 1, 2005, the Secretary of Transportation may make grants to States for operating assistance under the authority of this section, and not under any other provision of law, to reimburse operators of corridor routes over which intercity passenger service was provided on the date of enactment of the Rail Passenger Service Restructuring, Reauthorization, and Development Act for the operating expenses incurred in operating those routes or those frequencies to provide intercity passenger rail transportation.

''(2) CONDITIONS.—A grant under this section shall be subject to the terms, conditions, requirements, and provisions the Secretary decides are necessary or appropriate for the purposes of this section, including limitations on what operating expenses are eligible for reimbursement.

''(b) FEDERAL SHARE OF OPERATING LOSSES.—

''(1) REIMBURSABLE AMOUNT.—A grant to a State under this section for any fiscal year may not exceed an amount equal to the lower of—

''(A) the applicable percentage of the Federal operating subsidy for that fiscal year; or

''(B) the percentage of the operating subsidy for a route not borne by a State during the last fiscal year ending before the date of enactment of the Rail Passenger Service Restructuring, Reauthorization, and Development Act.

''(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage of the operating subsidy for a fiscal year is—

''(A) 70 percent for fiscal year 2006;

''(B) 60 percent for fiscal year 2007;

''(C) 50 percent for fiscal year 2008;

''(D) 40 percent for fiscal year 2009; and

''(E) 30 percent for fiscal year 2010.

''(c) DETERMINATION OF EXPENSES ELIGIBLE FOR REIMBURSEMENT.—

''(1) ANNUAL DETERMINATION OF SUBSIDY.—On an annual basis, the Inspector General for the Department of Transportation shall analyze and advise the Secretary of Transportation as to the operating subsidy required on corridor routes operated by the American Passenger Railway Corporation under contract with a State without competitive bid. The operating loss on such routes shall—

''(A) reflect the fully allocated costs of operating the route, including an appropriate share of overhead expenses, including general and administrative expenses; and

''(B) exclude depreciation and interest expense on long-term debt.

''(2) AGGREGATION OF NORTHEAST CORRIDOR LOSSES.—Operating losses on corridor trains operated exclusively on the mainline of the Northeast Corridor extending from Washington, D.C. to Boston, MA may be aggregated for purposes of determining the operating subsidy required on the routes.

''(3) DETERMINATION WITH COMPETITIVE BIDDING.—Expenses eligible for Federal support pursuant to paragraph (b)(2) for reimbursement for a corridor route that has been competitively bid shall consist of the operating subsidy agreed upon by the State, group of States, or other entity and the operator.

''(d) EXCEPTION TO DATE COST-SHARING REQUIRED.—For any State whose legislature has not convened in regular session after the date of enactment of the Rail Passenger Service Restructuring, Reauthorization, and Development Act and before October 1, 2005, the additional cost-sharing requirements of this section shall become effective on October 1, 2006.

''(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this section—

''(1) $125,000,000 for fiscal year 2006;

''(2) $100,000,000 for fiscal year 2007;

''(3) $90,000,000 for fiscal year 2008;

''(4) $75,000,000 for fiscal year 2009; and

''(5) $50,000,000 for fiscal year 2010.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 243 is amended by adding at the end the following:

''24316. Operating grants for corridor routes''.

SEC. 615. OPERATING GRANTS FOR LONG DISTANCE ROUTES.

(a) IN GENERAL.—Chapter 243, as amended by section 614, is amended by adding at the end the following:

"§ 24317. Operating grants for long distance routes

''(a) IN GENERAL.—

''(1) OPERATING GRANT AUTHORITY.—Beginning on October 1, 2005, the Secretary of Transportation may make grants to the American Passenger Railway Corporation or to a State for operating assistance under the authority of this section, and not under any other provision of law, to reimburse operators of long distance routes over which intercity passenger service was provided on the date of enactment of the Rail Passenger Service Restructuring, Reauthorization, and Development Act, for operating subsidies required in operating those routes or those frequencies to provide intercity passenger rail transportation.

''(2) CONDITIONS.—

''(A) A grant under this section shall be subject to the terms, conditions, requirements, and provisions the Secretary decides are necessary or appropriate for the purposes of this section, including limitations on what operating expenses are eligible for reimbursement.

''(B) The Secretary shall require the American Passenger Railway Corporation, as a condition of a grant under this section, to systematically reduce its fiscal year 2003 route and system-wide overhead expenses by a minimum of 5 percent annually through fiscal year 2010. A contract between the National Railroad Passenger Corporation and the American Passenger Railway Corporation for the operation of a long distance route or routes must provide for reimbursement of operating losses to be reduced to reflect such cost reductions and productivity enhancements.

''(3) ANNUAL DETERMINATION OF SUBSIDY.—On an annual basis, the Inspector General for the Department of Transportation shall analyze and advise the Secretary of Transportation as to the operating subsidy required on long distance routes operated by the American Passenger Railway Corporation.

''(b) FEDERAL SHARE OF OPERATING LOSSES.—Pending completion of the restructuring of long distance intercity passenger rail routes required by sections 615 through 617 of the Rail Passenger Service Restructuring, Reauthorization, and Development Act, the Federal share for an operating grant may be 100 percent of the qualifying operating subsidy for the route.

''(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation to carry out this section—

''(1) $550,000,000 for fiscal year 2006;

''(2) $400,000,000 for fiscal year 2007;

''(3) $350,000,000 for fiscal year 2008;

''(4) $325,000,000 for fiscal year 2009; and

''(5) $300,000,000 for fiscal year 2010.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 243, as amended by section 614 of this Act, is amended by adding at the end the following:

''24317. Operating grants for long distance routes

SEC. 616. LONG DISTANCE ROUTE RESTRUCTURING COMMISSION.

(a) ESTABLISHMENT.—There is established an independent commission to be known as the Long Distance Route Restructuring Commission.

(b) DUTY.—

(1) IN GENERAL.—The Commission shall submit a plan to Congress for restructuring long distance intercity passenger rail routes on a timely basis by—

(A) retaining routes that provide a unique service that can be contracted out by the National Railroad Passenger Corporation on a for-profit basis;

(B) restructuring other routes as linked corridor routes between major metropolitan areas; and

(C) consolidating or discontinuing service over remaining routes.

(2) PRESERVATION OF NATIONAL NETWORK.—The restructuring plan submitted by the Commission shall ensure that no corridor train is completely isolated from the rest of the intercity passenger rail network.

(3) EXCEPTIONS.—

(A) IN GENERAL.—A route will be excluded from consideration for restructuring, consolidation, or closure if a State or group of States commits, by contractual arrangement with the American Passenger Railway Corporation or another operator selected through a competitive process, to provide financial operating support at a level sufficient to offset at least

(i) 30 percent of the operating subsidy for fiscal year 2007;

(ii) 40 percent of the operating subsidy for fiscal year 2008; and

(iii) 50 percent of the operating subsidy thereafter.

(B) FAILURE OF SUPPORT.—If a State or group of States fails to provide the support to which it committed under this paragraph, then service over the route shall be discontinued.

(4) CONSULTATION REQUIRED.—In carrying out its duties, the Commission shall consult with the American Passenger Railway Corporation, State and local officials, freight railroads, companies with expertise in intercity passenger transportation, and other persons with an interest in the restructuring of the long distance train routes.

(c) APPOINTMENT.—

(1) The Commission shall be composed of 7 members appointed by the President within 6 months after the date of enactment of this Act.

(2) The Commission members shall elect 1 member to serve as Chairman.

(d) TERMINATION.—The Commission shall terminate 90 days after the Commission's recommendations for consolidation and closure are submitted to Congress.

(e) VACANCIES.—A vacancy on the Commission shall be filled in the same manner as the original appointment.

(f) DETAILEES.—Upon the request of the Chairman of the Commission, the head of any Federal department or agency may detail personnel of that department or agency to the Commission to assist the Commission in carrying out its duties.

(g) COMPENSATION; REIMBURSEMENT.—Members of the Commission shall serve without pay, but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with section 5702 and 5703 of title 5, United States Code.

(h) OTHER AUTHORITY.—

(1) The Commission may procure by contract, to the extent funds are available, the

temporary or intermittent services of experts or consultants pursuant to section 3109 of title 5, United States Code.

(2) The Commission may lease space and acquire personal property to the extent funds are available.

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the use of the Commission in carrying out its responsibilities under this section for each of fiscal years 2005 and 2006, $4,000,000, such sums to remain available until expended.

SEC. 617. CRITERIA FOR RESTRUCTURING.

(a) RESTRUCTURING AS LINKED CORRIDORS.—

(1) PREREQUISITE FOR RESTRUCTURING.—A long distance route or portion thereof may be recommended for restructuring as a linked corridor if—

(A) the origin-to-destination travel time of each corridor link in the new route, at conventional train speeds, including all station stops, will be competitive with other modes of transportation;

(B) each corridor link in the new route connects at least 2 major metropolitan areas or provides a link between 2 or more existing corridor trains;

(C) the restructured train can be reasonably expected to attract at least 10 percent of the combined common carrier market in the markets served;

(D) the projected cash operating loss of each of the restructured links does not exceed 11 cents per passenger-mile on a fully allocated cost basis; and

(E) the Federal operating subsidy will not be more than 50 percent of the operating subsidy for the route for fiscal year 2003.

(2) HOURS OF OPERATION.—In addition to the eligibility criteria in paragraph (1), any long distance routes recommended for restructuring as linked corridors shall be designed to operate between the hours of 6:00 a.m. and 11:00 p.m.

(3) MODIFICATION OF ROUTES.—With the concurrence of the affected States, existing routes may be modified to improve ridership and financial performance.

(4) NEW CAPITAL PLANS.—As part of the restructuring plan for reconfigured routes, the Commission shall develop a capital plan, if additional capital is needed to reconfigure the route as linked corridors.

(b) CONTRACTING-OUT OF PROFITABLE LONG DISTANCE ROUTES AND SERVICES.—The Commission shall determine which long distance routes or services on such routes, including auto-ferry transportation, food service, and sleeping accommodations, could be contracted to a private operator on a for-profit basis. In making these determinations, the Commission shall solicit expressions of interest from the private sector in operating long distance routes or services, including the conditions under which private companies may be interested in operating such services.

(e) CONSOLIDATION AND CLOSURE.—The Commission shall make recommendations to Congress for consolidating and closing long distance train routes or portions of routes that cannot be restructured under subsection (a) or contracted out under subsection (b), to reduce the Federal operating subsidy required by at least 50 percent compared to the operating subsidy required in fiscal year 2003, taking into consideration—

(1) the operating loss on a fully allocated cost basis, including capital costs, of the route or portion thereof;

(2) the extent to which train service is the only available public transportation to the cities and towns along the route or portion;

(3) whether an alternate route could significantly reduce operating losses or increase ridership;

(4) available capacity on the rights-of-way of the host railroad or railroads; and

(5) interest from the private sector in operating the route or portion thereof on a subsidized basis.

(d) COOPERATION OF AMERICAN PASSENGER RAILWAY CORPORATION.—

(1) The American Passenger Railway Corporation shall cooperate and comply, subject to the agreement of the Commission to protect the confidentiality of proprietary information, with all requests for financial, marketing, and other information affecting the routes under consideration by the Commission.

(2) The Secretary of Transportation may withhold all or part of an operating or capital grant to the Corporation if the Secretary determines the American Passenger Railway Corporation is not cooperating with the Commission as required by this Act.

(e) REPORT.—The Commission shall submit its recommendations for consolidation and closure to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure within 18 months after the date of enactment of this Act. The report shall include a description of—

(1) the analysis performed by the Commission to reach its conclusions;

(2) options considered in the development of a restructuring plan;

(3) the impact of the restructuring on employees of the American Passenger Railway Corporation for any long distance route restructured under this section; and

(4) the costs and benefits of implementing the plan.

SEC. 618. IMPLEMENTATION OF RESTRUCTURING PLAN.

(a) IN GENERAL.—Subject to subsection (b), the Secretary of Transportation shall implement the restructuring plan submitted by the Long Distance Route Restructuring Commission in its report to Congress pursuant to section 617 unless a joint resolution is enacted by the Congress disapproving such recommendations of the Commission before the earlier of—

(A) the end of the 45-day period beginning on the date the Commission submits its report to Congress; or

(B) the adjournment of Congress sine die for the session during which such report is submitted.

(2) For purposes of paragraph (1) of this subsection, the days on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain shall be excluded in the computation of a period.

PART 2—NORTHEAST CORRIDOR

SEC. 621. REDEMPTION OF COMMON STOCK.

(a) VALUATION.—The Secretary of Transportation shall arrange, at the National Railroad Passenger Corporation's expense, for a valuation of all Amtrak assets and liabilities with an estimated value in excess of $1,000,000 as of the date of enactment of this Act by the Secretary of the Treasury, or by a contractor selected by the Secretary of the Treasury. The valuation shall be conducted in accordance with the Uniform Standards of Professional Appraisal Practice of the Appraisal Foundation's Appraisal Standards Board and shall be completed within 1 year after the date of enactment of this Act.

(b) REDEMPTION.—

(1) Prior to the transfer of assets to the Secretary directed by section 622 of this Act, and within 3 months after the completion of the valuation under subsection (a), the National Railroad Passenger Corporation shall redeem all common stock in Amtrak issued prior to the date of enactment of this Act at the fair market value of such stock, based on the valuation performed under subsection (a).

(2) No provision of this Act, or amendments made by this Act, provide to the owners of the common stock a priority over holders of indebtedness or other stock of Amtrak.

(c) ACQUISITION THROUGH EMINENT DOMAIN.—In the event that the National Railroad Passenger Corporation and the owners of the Amtrak common stock have not completed the redemption of such stock within 3 months after the completion of the valuation under subsection (a), the National Railroad Passenger Corporation shall exercise its right of eminent domain under section 24311 of title 49, United States Code, to acquire that stock. The value assigned to the common stock under subsection (a) shall be deemed to constitute just compensation except to the extent that the owners of the common stock demonstrate that the valuation is less than the constitutional minimum value of the stock.

(d) AMENDMENT OF SECTION 24311.—Section 24311 (a) (1) is amended—

(1) by striking ''or'' at the end of subparagraph (A);

(2) by striking ''Amtrak.'' in subparagraph (B) and inserting ''Amtrak; or''; and

(3) by adding at the end the following:

''(C) necessary to redeem Amtrak's common stock from any, holder thereof, including a rail carrier.''.

(e) CONVERSION OF PREFERRED STOCK TO COMMON.—

(1) Subsequent to the redemption of the common stock in the corporation issued prior to the date of enactment of this Act, the Secretary of Transportation shall convert the one share of the preferred stock of Amtrak retained under section 622 of this Act for 10 shares of common stock in the National Railroad Passenger Corporation.

(2) The National Railroad Passenger Corporation may not issue any other common stock, and may not issue preferred stock, without the express written consent of the Secretary.

(f) TERMINATION OF SECTION 24907 NOTE AND MORTGAGE AUTHORITY.—Section 24907 is amended by adding at the end the following:

''(d) TERMINATION OF AUTHORITY.—The authority of the Secretary to obtain a note of indebtedness from, and make a mortgage agreement with, the American Passenger Railway Corporation under subsection (a) is terminated as of the date of the transfer of assets under section 622 of the Rail Passenger Service Restructuring, Reauthorization, and Development Act.''.

SEC. 622. RETIREMENT OF PREFERRED STOCK; TRANSFER OF ASSETS.

(a) TRANSFER.—Not later than 30 days after the redemption or acquisition of stock under section 621 of this Act, the National Railroad Passenger Corporation shall, in return for the consideration specified in subsection (c), transfer to the Secretary of Transportation title to—

(1) the portions of the Northeast Corridor currently owned or leased by the Corporation as well as any improvements made to these assets, including the rail right-of-way, stations, track, signal equipment, electric traction facilities, bridges, tunnels, repair facilities, and all other improvements owned by the Corporation between Boston, Massachusetts, and Washington, District of Columbia (including the route through Springfield, Massachusetts, and the routes to Harrisburg, Pennsylvania, and Albany, New York, from the Northeast Corridor mainline);

(2) Chicago Union Station and rail-related assets in the Chicago Metropolitan area; and

(3) all other track and right-of-way, stations, repair facilities, and other real property owned or leased by the Corporation.

(b) EXISTING ENCUMBRANCES.—

(1) ASSUMPTION BY FEDERAL GOVERNMENT.—Any outstanding debt on the mainline of the Northeast Corridor (other than debt associated with rolling stock) shall become a debt obligation of the United States as of the date of transfer of title under subsection (a)(1).

(2) RESTRUCTURING.—Except as provided in paragraph (1), the obligation of the American Passenger Railway Corporation or its successors or assigns to repay in full any indebtedness to the United States incurred since January, 1990, is not affected by this Act or an amendment made by this Act.

(c) CONSIDERATION.—In consideration for the assets transferred to the United States under subsection (a), the Secretary shall—

(1) deliver to the National Passenger Railroad Corporation all but one share of the preferred stock of Amtrak field by the Secretary and forgive Amtrak's legal obligation to pay any dividends, including accrued but unpaid dividends as of the date of transfer, evidenced by the preferred stock certificates; and

(2) release Amtrak from all mortgages and liens held by the Secretary that were in existence on January 1, 1990.

(d) AGREEMENT.—Prior to accepting title to the assets transferred under this section, the Secretary shall enter into a contract with American Passenger Railway Corporation under which American Passenger Railway Corporation w111 exercise care, custody, maintenance, and operational control of the assets to be transferred. The term of the contract shall be for 1 year, which shall be renewed annually without action on the part of either party unless canceled by either party with 90 days notice.

(e) FURTHER TRANSFERS.—

(1) The Secretary may, for appropriate consideration, transfer title to all or part of Chicago Union Station and rail-related assets in the Chicago metropolitan area acquired under this section to a regional public transportation agency that has significant operations in Chicago Union Station on the date of enactment of this Act.

(2) The Secretary may, for appropriate consideration, transfer to the underlying States title to real estate properties owned by the Corporation between Boston, Massachusetts, and Washington, District of Columbia, that constitute the route through Springfield, Massachusetts, and the routes to Harrisburg, Pennsylvania, and Albany, New York, from the Northeast Corridor mainline.

(3) The Secretary may, for appropriate consideration, transfer title to all or part of the assets acquired under subsection (a)(3) to a State, a public agency, a railroad, or other entity deemed appropriate by the Secretary.

(f) USE OF PROCEEDS.—Notwithstanding section 3302 of title 31, United States Code, any proceeds from the transfer of the assets described in subsection (e) shall be credited as off-setting collection to the account that finances debt and interest payments to the American Passenger Railway Corporation. Funds available for corridor development under chapter 244 of title 49, United States Code, shall be increased by an amount equal to the amounts credited under the preceding sentence.

SEC. 623. REAL ESTATE AND ASSET SALES; OTHER.

(a) IN GENERAL.—Within 3 years after the date of enactment of this Act, the Secretary of Transportation shall transfer all stations, track, and other fixed facilities outside the Northeast Corridor mainline to which the Secretary has assumed title under section 622 of this title, other than equipment repair facilities, to States, municipalities, railroads, or other entities for maximum consideration.

(b) USE OF PROCEEDS.—Notwithstanding section 3302 of title 31, United States Code, any proceeds from the transfer of assets under this section shall be credited as off-setting collections to the account that finances debt and interest payments to the American Passenger Railway Corporation. Funds available for corridor development under chapter 244 of title 49, United States Code, shall be increased by an amount equal to the amounts credited under the preceding sentence.

SEC. 624. INTERSTATE COMPACT FOR THE NORTHEAST CORRIDOR.

(a) CONSENT TO COMPACT.—

(1) IN GENERAL.—The States and the District of Columbia that constitute the Northeast Corridor, as defined in section 24102 of title 49, United States Code, may enter into a multistate compact, not in conflict with any other law of the United States, to be known as the Northeast Corridor Compact, to manage railroad operations and rail service and conduct related activities on the Northeast Corridor mainline between Boston, Massachusetts, and Washington, District of Columbia.

(2) CONGRESSIONAL APPROVAL REQUIRED.—The Northeast Corridor Compact shall be submitted to Congress for its consent. It is the sense of the Congress that rapid consent to the Compact is a priority matter for the Congress.

(b) COMPACT COMMISSION.—

(1) IN GENERAL.—There is hereby established a commission to be known as the Northeast Corridor Compact Commission. The Commission shall be composed of—

(A) 2 members (or their designees), to be selected by the Secretary of Transportation;

(B) 2 members (or their designees), to be selected by agreement of—

(i) the governors of Maryland, Delaware, Pennsylvania, New Jersey, New York, Connecticut, Rhode Island, and Massachusetts (hereinafter referred to as the ''participating States''); and

(ii) the mayor of the District of Colombia; and

(C) 1 member to be selected by the 4 members selected under subparagraphs (A) and (B).

(2) ADMINISTRATIVE PROVISIONS.—

(A) Members of the Commission shall be appointed for the life of the Commission.

(B) A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(C) Members shall serve without pay but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(D) The Chairman of the Commission shall be elected by the members.

(E) The Commission may appoint and fix the pay of such personnel as it considers appropriate.

(F) Upon the request of the Commission, the head of any department or agency of the United States may detail, on a reimbursable basis, any of the personnel of that department or agency to the Commission to assist it in carrying out its duties under this section.

(G) Upon the request of the Commission, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support services necessary for the Commission to carry out its responsibilities under this section.

(c) FUNCTIONS.—

(1) The Commission shall prepare for the consideration of and adoption by participating States, the District of Columbia, and the Secretary of Transportation an interstate compact that provides for—

(A) full authority for 99 years to succeed to the responsibilities of the American Passenger Railway Corporation as operator of the Northeast Corridor, subject to the provisions of a lease from the Department of Transportation, including—

(i) responsibility for Corridor maintenance and improvement;

(ii) operation of intercity passenger rail service;

(iii) arrangements for operation of freight railroad operations and commuter operations;

(iv) authority to make use of the Corridor for non-rail purposes; and

(v) assumption of financial responsibility for Northeast Corridor functions;

(B) execution of a lease of the Northeast Corridor from the Department of Transportation, for a period of 99 years, subject to appropriate provisions protecting the lessor's interests, including reversion of all lease interests to the lessor in the event the lessee fails to meet its financial obligations or otherwise assume financial responsibility for Northeast Corridor functions; and

(C) participation by the Department of Transportation, as the non-voting representative of the United States.

(2) The compact terms shall, at a minimum, conform to the requirements of subsections (e) through (i) of this section.

(d) FINAL COMPACT PROPOSAL.—

(1) The Commission shall submit a final compact proposal to participating States, the District of Columbia, and the Federal Government not later than 18 months after the date of enactment of this Act.

(2) The Commission shall terminate on the 180th day following the date of transmittal of the final compact proposal under this subsection.

(e) GOVERNANCE AND FUNDING REQUIREMENTS FOR COMPACT.—

(1) The governance provisions of the compact shall provide a mechanism to ensure voting representation for the participating States and the District of Columbia and for non-voting representation for the Secretary of Transportation and a freight railroad that conducts operations on the Northeast Corridor as ex officio members participating in all Compact affairs.

(2) The provisions of the compact shall establish the financial obligations of each compact member and shall provide for its management of rail services in the Northeast Corridor.

(f) FEDERAL INTEREST REQUIREMENTS FOR COMPACT.—The provisions of the Compact shall hold the United States Government harmless as to the actions of the Compact under the lease of rights to the Northeast Corridor by the United States Government.

(g) COMPACT BORROWING AUTHORITY.—

(1) The borrowing authority provisions of the Compact may authorize it to issue bonds or other debt instruments from time to time at its discretion for purposes that include paying any part of the cost of rail service improvements, construction, and rehabilitation and the acquisition of real and personal property, including operating equipment, except that debt issued by the Compact may be secured only by revenues to the Compact and may not be a debt of a participating State, the District of Columbia, or the Federal Government.

(2) The debt authorized by this subsection shall under no circumstances be backed by the full faith and credit of the United States, and a grant made under the authority of this Act or under the authority of part C of subtitle V of title 49, United States Code, shall include an express acknowledgement by the grantee that the debt does not constitute an obligation of the United States.

(h) ADOPTION OF COMPACT; TURNOVER.—

(1) IN GENERAL.—The participating States and the District of Columbia shall adopt a final compact agreement within 5 years after

the date of enactment of this Act, and the Compact shall thereafter assume responsibility for the Northeast Corridor operations on a date that is not later than 6 months after adoption of the Compact.

(2) OPERATIONS.—Upon leasing the Northeast Corridor to the Compact, the Secretary shall assign to the Compact and the Compact shall assume the then-current contract for operation of the Northeast Corridor. Upon the termination of that contract, the Compact may make such arrangements for operation of the Northeast Corridor as it sees fit consistent with its lease and this Act. If the Compact chooses to use a contractor to operate the Northeast Corridor, the contract shall be awarded competitively.

(3) MAINTENANCE.—Upon leasing the Northeast Corridor to the Compact, the Secretary shall assign to the Compact and the Compact shall assume the then-current contract for maintenance of the Northeast Corridor. Upon the termination of that contract, the Compact may make such arrangements for maintenance of the Northeast Corridor as it sees fit consistent with its lease and this Act. If the Compact chooses to use a contractor to maintain the Northeast Corridor, the contract shall be awarded competitively.

(4) NON-COMPACT ALTERNATIVE.—In the event that the participating States and the District of Columbia do not adopt the final compact agreement and make it operational under the schedule set forth in this section, the Secretary of Transportation, through a competitive bidding process, may contract with another public or private entity to manage the Northeast Corridor, with a goal of maximizing the return to the Federal government from such operations.

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation to carry out this section—

(1) $3,000,000 for fiscal year 2005, and

(2) $2,000,000 for fiscal year 2006,

such sums to remain available until expended.

SEC. 625. SHUT-DOWN OF COMMUTER OR FREIGHT OPERATIONS.

(a) IN GENERAL.—Section 11123 is amended by striking ''National Railroad Passenger Corporation'' each place it appears and inserting ''American Passenger Railway Corporation''.

(b) AUTHORIZATION OF APPROPRIATIONS.—From the funds made available for the American Passenger Railway Corporation for fiscal years 2005 through 2010, the Secretary of Transportation shall in each fiscal year hold in reserve such sums as may be necessary to carry out directed service orders issued under section 1123 of title 49, United States Code, to respond to the shut-down of commuter rail operations or freight operations due to a shut-down of operations by the American Passenger Railway Corporation. The Secretary shall make the reserved funds available through an appropriate grant instrument during the fourth quarter of each fiscal year to the extent that no grant orders have been issued by the Surface Transportation Board during that fiscal year prior to the date of transfer of the reserved funds or there is a balance of reserved funds not needed by the Board to pay for any directed service order in that fiscal year.

(c) EFFECTIVE DATE FOR SUBSECTION (a).—The amendment made by subsection (a) shall take effect on the date, determined by the Secretary of Transportation, on which the restructuring required by sections 24300, 24300A, and 24300B of title 49, United States Code, is completed.

SEC. 626. CAPITAL GRANTS FOR NORTHEAST CORRIDOR.

(a) IN GENERAL.—Chapter 243, as amended by section 615, is amended by adding at the end the following:

''§ 24318. Capital authorizations for the Northeast Corridor

''(a) IN GENERAL.—The Secretary of Transportation, in consultation with State and regional transportation officials, shall develop and implement a capital program to restore the rail infrastructure on the mainline Northeast Corridor between Boston, Massachusetts, and Washington, District of Columbia, to a state of good repair.

''(b) AUTHORIZATION OF APPROPRIATIONS FOR CAPITAL PROJECTS ON THE NORTHEAST CORRIDOR.—There are authorized to be appropriated to the Secretary of Transportation to make capital grants under this section $200,000,000 for fiscal year 2005 and $300,000,000 for each of fiscal years 2006 through 2010.

''(c) ACHIEVEMENT OF STATE-OF-GOOD-REPAIR ON NORTHEAST CORRIDOR.—

''(1) USE OF FUNDS.—Sums authorized for the Northeast Corridor under subsection (b) may be used solely for the purpose of funding deferred maintenance and safety projects, including the negotiated Federal share for life-safety improvements in the New York Penn Station tunnels.

''(2) STATE OF GOOD REPAIR.—The Northeast Corridor shall be considered to be in a state of good repair upon the completion of the capital program developed under subsection (a).''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 243, as amended by section 615, is amended by adding at the end thereof the following:

''24318. Capital authorizations for the Northeast Corridor''.

PART 3—RELATED MATTERS

SEC. 631. FAIR AND OPEN COMPETITION.

(a) IN GENERAL.—The Secretary of Transportation shall consult with States that competitively bid intercity passenger rail services to ensure that their bidding processes provide for fair and open competition for all bidders, including the American Passenger Railway Corporation.

(b) USE OF FEDERAL OR STATE FUNDS.—The Secretary shall ensure that the American Passenger Railway Corporation may not use Federal or State financial support for a passenger rail route to subsidize a competitive bid to operate intercity passenger rail service on another route.

SEC. 632. ACCESS TO OTHER RAILROADS.

(a) TERMS AND CONDITIONS FOR ACCESS TO OTHER RAILROADS.—

(1) EXISTING ROUTES AND FREQUENCIES.—

(A) IN GENERAL.—The National Railroad Passenger Corporation shall be responsible for negotiating the terms and conditions under which the American Passenger Railway Corporation, a State, or other entity may access the property of any freight railroad to provide intercity passenger rail service over routes operated by Amtrak on the day before the date, determined by the Secretary of Transportation, on which the restructuring required by sections 24300, 24300A, and 24300B of title 49, United States Code, is completed at the frequencies in effect on that clay.

(B) PRESERVATION OF RAILROAD BENEFITS.—The access and liability terms and conditions of the contracts between the National Railroad Passenger Corporation and railroads following that restructuring shall be no less favorable to the host railroads than the access and liability terms and conditions under contracts in effect on the day before the date, as so determined by the Secretary, on which the restructuring is completed.

(C) INCENTIVE PAYMENTS; PENALTIES.—The Secretary shall retain a system of incentive payments and performance penalties in negotiating compensation payments to freight railroads under subparagraph (A) that encourages on-time performance.

(3) CONDITIONS FOR NEW ROUTES AND TRAIN FREQUENCIES.—

(A) IN GENERAL.—The terms and conditions for the operation of a new intercity passenger rail route or frequency added after the date of enactment of this Act shall be determined by negotiation and mutual agreement between the host railroad and the operator or sponsor of the route or frequency to be added, with no preferential right of access.

(B) STANDARD OF COMPENSATION.—The standard of compensation for the rental change shall be fully allocated costs, excluding capital investments associated with an added route or frequency.

(C) FAILURE OF NEGOTIATION.—If the parties cannot agree on the terms and conditions of the rental charge, either party may seek a prescription of appropriate terms and conditions under section 24308 of title 49, United States Code.

(b) FITNESS QUALIFICATIONS FOR PASSENGER RAIL.—

(1) IN GENERAL.—No person may operate intercity passenger rail service over freight railroad property unless that person demonstrates to the satisfaction of the Secretary of Transportation that—

''(A) its intercity passenger rail operations will meet all applicable Federal safety rules and regulations;

''(B) it will operate the service on a sound financial basis; and

''(C) it has the technical expertise to operate intercity passenger rail service.''.

(2) MINIMUM STANDARDS.—Within 6 months after the date of enactment of this Act, the Secretary of Transportation shall by regulation establish minimum safety and financial qualifications for operators of intercity passenger rail service.

SEC. 633. LIMITATIONS ON RAIL PASSENGER TRANSPORTATION LIABILITY.

Section 28103 is amended by striking ''Amtrak shall maintain a total'' in subsection (c) and inserting ''each operator of intercity passenger rail service shall maintain''.

SEC. 634. TRAIN OPERATIONS INSURANCE POOL.

(a) IN GENERAL.—Chapter 281 is amended by adding at the end the following:

''§ 28104. Train operations insurance pool

''(a) IN GENERAL.—The Secretary of Transportation is authorized to encourage and otherwise assist insurance companies and other insurers that meet the requirements prescribed under subsection (b) of this section to form, associate, or otherwise join together in a pool—

''(1) to provide the insurance coverage required by section 28103; and

''(2) for the purpose of assuming, on such terms and conditions as may be agreed upon, such financial responsibility as will enable such companies and other insurers to assume a reasonable proportion of responsibility for the adjustment and payment of claims under section 28103.

''(b) REGULATIONS TO ESTABLISH INSURER QUALIFICATION REQUIREMENTS.—In order to promote the effective administration of the intercity rail passenger program, and to assure that the objectives of this chapter are furthered, the Secretary is authorized to prescribe requirements for insurance companies and other insurers participating in an insurance pool under subsection (a), including minimum requirements for capital or surplus or assets.

(c) AUTHORITY TO COLLECT AND PAY PREMIUMS AND OTHER COSTS.—In order to provide adequate insurance coverage at affordable cost to operators of intercity passenger rail service at no cost to the United States, the Secretary is authorized to divide the insurance premiums and all other costs of forming

and operating the insurance pool created pursuant to this section, including the costs of any contractors or consultants the Secretary may hire, among all the operators of intercity passenger rail service and collect from each operator of intercity passenger rail service the insurance premiums and other costs the Secretary has allocated to it. Notwithstanding any other provisions of law, the Secretary may receive funds collected under this section directly from each operator of intercity passenger rail service, credit the appropriation charged for the insurance premiums and other costs of forming and operating the insurance pool, and use those funds to pay insurance premiums and other costs of forming and operating the insurance pool, including the costs of any contractors or consultants the Secretary may hire. The Secretary may advance such sums as may be necessary to pay insurance premiums and other costs of forming and operating the insurance pool from unobligated balances available to the Federal Railroad Administration for intercity passenger rail service, to be reimbursed from payments received from operators of intercity passenger rail service. Where the Secretary is making a grant of operating funds for a route, the Secretary may collect the insurance premiums and other costs the Secretary has allocated to it by withholding those funds from the grant and crediting them to the appropriation charged for the insurance premiums and other costs of forming and operating the insurance pool.

"§ 28105. Use of insurance pool, companies, or other private organizations for certain payments

''(a) AUTHORIZATION TO ENTER INTO CONTRACTS FOR CERTAIN REQUIREMENTS.—In order to provide for maximum efficiency in the administration of the intercity rail passenger program, the Secretary of 'Transportation may enter into contracts with the pool formed or otherwise created under section 28104, or any insurance company or other private organizations, for the purpose of securing performance by such pool, company, or organization of any or all of the following responsibilities:

''(1) Estimating and later determining any amounts of payments to be made.

''(2) Receiving from the Secretary, disbursing, and accounting for payments of insurance premiums.

''(3) Making such audits of the records of any insurance company or other insurer, insurance agent or broker, or insurance adjustment organization as may be necessary to assure that proper payments are made.

''(4) Otherwise assisting in such manner as the contract may provide to further the purposes of this chapter.

''(b) TERMS AND CONDITIONS OF CONTRACT.—Any contract with the pool or an insurance company or other private organization under this section may contain such terms and conditions as the Secretary finds necessary or appropriate for carrying out responsibilities under subsection (a) of this section, and may provide for payment of any costs which the Secretary determines are incidental to carrying out such responsibilities which are covered by the contract.

''(e) COMPETITIVE BIDDING.—Any contract entered into under subsection (a) of this section may be entered into without regard to section 5 of title 41 or any other provision of law requiring competitive bidding.

''(d) FINDINGS OF SECRETARY.—No contract may be entered into under this section unless the Secretary finds that the pool, company, or organization will perform its obligations under the contract efficiently and effectively, and will meet such requirements as to financial responsibility, legal authority, and other matters as the Secretary finds pertinent.

''(e) BOND; LIABILITY OF CERTIFYING OFFICERS AND DISBURSING OFFICERS.—

''(1) SURETY BOND.—Any contract entered into under subsection (a) of this section may require the pool, company, or organization or any of its officers or employees certifying payments or disbursing funds pursuant to the contract, or otherwise participating in carrying out the contract, to give surety bond to the United States in such amount as the Secretary may deem appropriate.

''(2) PERSONAL LIABILITY FOR CERTIFICATION.—No individual designated pursuant to a contract under this section to certify payments shall, in the absence of gross negligence or intent to defraud the United States, be liable with respect to any payment certified by that individual under this section.

''(3) PERSONAL LIABILITY FOR PAYMENT.—No officer disbursing funds shall in the absence of gross negligence or intent to defraud the United States, be liable with respect to any payment by that officer under this section if it was based upon a voucher signed by an individual designated to certify such payments.

''(f) TERM OF CONTRACT; RENEWALS; TERMINATION.—Any contract entered into under this section shall be for a term of 1 year, and may be made automatically renewable from term to term in the absence of notice by either party of an intention to terminate at the end of the current term; except that the Secretary may terminate any such contract at any time (after reasonable notice to the pool, company, or organization involved) if the Secretary finds that the pool, company, or organization has failed substantially to carry out the contract, or is carrying out the contract in a manner inconsistent with the efficient and effective administration of the intercity rail passenger program.

"§ 28106. Reinsurance coverage

''(a) AVAILABILITY FOR EXCESS LOSSES.—The Secretary of Transportation is authorized to take such action as may be necessary in order to make available, to the pool formed or otherwise created under section 28104, reinsurance for losses which are in excess of losses assumed by such pool in accordance with the excess loss agreement entered into under subsection (c) of this section.

''(b) AVAILABILITY PURSUANT TO CONTRACT, AGREEMENT, OR OTHER ARRANGEMENT; PAYMENT OF PREMIUM, FEE, OR OTHER CHARGE.—Reinsurance shall be made available pursuant to contract, agreement, or any other arrangement, in consideration of such payment of a premium, fee, or other charge as the Secretary finds necessary to cover anticipated losses and other costs of providing such reinsurance.

''(c) EXCESS LOSS AGREEMENT; NEGOTIATION.—The Secretary is authorized to negotiate an excess loss agreement, from time to time, under which the amount of insurance retained by the pool, after ceding reinsurance, shall be adequate to further the purposes of this chapter, consistent with the objective of maintaining appropriate financial participation and risk sharing to the maximum extent practicable on the part of participating insurance companies and other insurers.

''(d) SUBMISSION OF EXCESS LOSSES ON PORTFOLIO BASIS.—All reinsurance claims for losses in excess of losses assumed by the pool shall be submitted on a portfolio basis by such pool in accordance with terms and conditions established by the Secretary.''.

(b) CONFORMING AMENDMENTS.—

(1) Chapter 281 is amended by striking ''LAW ENFORCEMENT'' in the chapter heading and inserting ''LAW ENFORCEMENT; LIABILITY; INSURANCE''.

(2) The part analysis of subtitle V is amended by striking the item relating to chapter 281 and inserting, the following:

''281. Law enforcement; liability; insurance ..... 28101''.

(3) The table of contents of the title is amended by striking the item relating to chapter 281 and inserting the following:

''281. Law enforcement; liability; insurance ..... 28101''.

(4) The chapter analysis for chapter 281 is amended by adding at the end the following:

''28104. Train operations insurance pool
''28105. Use of insurance pool, companies, or other private organizations for certain payments
''28106. Reinsurance coverage''.

SEC. 635. COLLECTIVE BARGAINING ARRANGEMENTS.

(a) STATUS AS EMPLOYER OR CARRIER.—

(1) IN GENERAL.—Any entity providing intercity passenger railroad transportation (within the meaning of section 20102 of title 49, United States Code) that begins operations after the date of enactment of this Act shall be considered an employer for purposes of the Railroad Retirement Act of 1974 (45 U.S.C. 231 et seq.) and considered a carrier for purposes of the Railway Labor Act (45 U.S.C. 151 et seq.).

(2) COLLECTIVE BARGAINING AGREEMENT.—Any entity providing intercity passenger railroad transportation (within the meaning of section 20102 of title 49, United States Code) that begins operations after the date of enactment of this Act and replaces intercity rail passenger service that was provided by another entity as of the date of enactment of this Act, shall enter into an agreement with the authorized bargaining agent or agents for employees of the predecessor provider that—

(A) gives each employee of the predecessor provider priority in hiring according to the employee's seniority on the predecessor provider for each position with the replacing entity that is in the employee's craft or class and is available within three years after the termination of the service being replaced;

(B) establishes a procedure for notifying such an employee of such positions;

(C) establishes a procedure for such an employee to apply for such positions; and

(D) establishes rates of pay, rules, and working conditions.

(3) REPLACEMENT OF EXISTING RAIL PASSENGER SERVICE.—

(A) NEGOTIATIONS.—An entity providing replacement intercity rail passenger service under paragraph (2) shall give written notice of its plan to replace existing rail passenger service to the authorized collective bargaining agent or agents for the employees of the predecessor provider at least 90 days prior to the date it plans to commence service. Within 5 days after the date of receipt of such written notice, negotiations between the replacing entity and the collective bargaining agent or agents for the employees of the predecessor provider shall commence for the purpose of reaching agreement with respect to all matters set forth in subparagraphs (A) through (D) of paragraph (2). The negotiations shall continue for 30 days or until an agreement is reached, whichever is sooner. If at the end of 30 days the parties have not entered into an agreement with respect to all such matters, the unresolved issues shall be submitted for arbitration in accordance with the procedure set forth in subparagraph (B).

(B) ARBITRATION.—If an agreement has not been entered into with respect to all matters set forth in subparagraphs (A) through (D) of

paragraph (2) as provided in subparagraph (A) of this paragraph, the parties shall select an arbitrator. If the parties are unable to agree upon the selection of such arbitrator within 5 days, either or both parties shall notify the National Mediation Board, which shall provide a list of 7 arbitrators with experience in arbitrating rail labor protection disputes. Within 5 days after such notification, the parties shall alternately strike names from the list until only one name remains, and that person shall serve as the neutral arbitrator. Within 45 days after selection of the arbitrator, the arbitrator shall conduct a hearing on the dispute and shall render a decision with respect to the unresolved issues set forth in subparagraphs (A) through (D) of paragraph (2). This decision shall be final, binding, and conclusive upon the parties. The salary and expenses of the arbitrator shall be borne equally by the parties, but all other expenses shall be paid by the party incurring them.

(C) SERVICE COMMENCEMENT.—An entity providing replacement intercity rail passenger service under paragraph (2) shall commence service only after an agreement is entered into with respect to the matters set forth in subparagraphs (A) through (D) of paragraph (2) or the decision of the arbitrator has been rendered.

(b) REGULATIONS.—Not later than 6 months after the date of the enactment of this Act, the Secretary of Transportation shall issue regulations for carrying out this section.

SUBTITLE B—RAIL DEVELOPMENT

SEC. 651. CAPITAL ASSISTANCE FOR INTERCITY PASSENGER RAIL SERVICE.

(a) IN GENERAL.—Part C of subtitle V is amended by inserting after chapter 243 the following:

''CHAPTER 244—INTERCITY PASSENGER RAIL SERVICE CORRIDOR CAPITAL ASSISTANCE

''Sec.
''24401. Definitions
''24402. Capital investment grants to support intercity passenger rail service
''24403. Project management oversight
''24404. Operating expenses
''24405. Local share and maintenance of effort
''24406. Grants for maintenance and modernization

''§ 24401. Definitions

''In this chapter:

''(1) APPLICANT.—The term 'applicant' means a State, a group of States, including an Interstate Compact formed under section 410 of the Amtrak Reform and Accountability Act of 1997 (49 U.S.C. 24101 note), or a public corporation, board, commission, or agency established by one or more States designated as the lead agency of a State for providing intercity passenger rail service.

''(2) CAPITAL PROJECT.—The term 'capital project' means a project for—

''(A) acquiring or constructing equipment or a facility for use in intercity passenger rail service, expenses incidental to the acquisition or construction (including designing, inspecting, supervising, engineering, location surveying, mapping, environmental studies, and acquiring rights-of-way), alternatives analysis related to the development of such train services, capacity improvements on the property over which the service will be conducted, passenger rail-related intelligent transportation systems, highway-rail grade crossing improvements or closures on routes used for intercity passenger rail service, relocation assistance, acquiring replacement housing sites, and acquiring, constructing, relocating, and rehabilitating replacement housing;

''(B) rehabilitating or remanufacturing rail rolling stock and associated facilities used primarily in intercity passenger rail service;

''(C) leasing equipment or a facility for use in intercity passenger rail service, subject to regulations (to be prescribed by the Secretary of Transportation) limiting such leasing arrangements to arrangements that are more cost-effective than purchase or construction;

''(D) modernizing existing intercity passenger rail service facilities and information systems;

''(E) the introduction of new technology, through innovative and improved products, other than magnetic levitation; or

''(F) defraying, with respect to new service established under section 24402, the cost of rental charges to freight railroads.

''(3) INTERCITY CORRIDOR PASSENGER RAIL SERVICE.—The term 'intercity corridor passenger rail service' means the transportation of passengers between major metropolitan areas by rail, including high-speed rail (as defined in section 26105(2) of this title), in corridors of 300 miles or less in length with trip times of 4 hours or less, and multiple frequencies daily.

''(4) NET PROJECT COST.—The term 'net project cost' means that portion of the cost of a project than cannot be financed from revenues reasonably expected to be generated by the project.

''§ 24402. Capital investment grants to support new intercity passenger rail service

''(a) GENERAL AUTHORITY.—

''(1) GRANTS.—The Secretary of Transportation may make grants under this section to an applicant to assist in financing capital investments for new high-speed intercity passenger rail service, the establishment of new, conventional services, or the expansion of existing high-speed or conventional service by adding additional frequencies.

''(2) TERMS AND CONDITIONS.—The Secretary shall require that a grant under this section be subject to the terms, conditions, requirements, and pro visions the Secretary decides are necessary or appropriate for the purposes of this section, including requirements for the disposition of net increases in value of real property resulting from the project assisted under this section.

''(3) APPLICATION WITH CHAPTER 53.—A grant under this section may not be made for a project or program of projects that qualifies for financial assistance under chapter 53 of this title.

''(b) PROJECT AS PART OF APPROVED PROGRAM.—

''(1) IN GENERAL.—The Secretary may not approve a grant for a project under this section unless the Secretary finds that the project is part of an approved corridor plan and program developed under section 135 of title 23 and that the applicant or recipient has or will have the legal, financial, and technical capacity to carry out the project (including safety and security aspects of the project), satisfactory continuing control over the use of the equipment or facilities, and the capability and willingness to maintain the equipment or facilities.

''(2) ELIGIBILITY INFORMATION.—An applicant shall provide sufficient information upon which the Secretary can make the findings required by this subsection.

''(3) PROPOSED OPERATOR JUSTIFICATION.—If an applicant has not selected the proposed operator of its service competitively, the applicant shall provide written justification to the Secretary showing why the proposed operator is the best, taking into account price and other factors, and that use of the proposed operator will not increase the capital cost of the project.

''(4) RAIL AGREEMENT.—The Secretary of Transportation may not approve a grant under this section unless the applicant demonstrates that the railroad or railroads over which the intercity passenger rail service will operate concur with the applicant's operating plans and infrastructure improvement requirements.

''(c) CRITERIA FOR GRANTS FOR INTERCITY CORRIDOR PASSENGER RAIL PROJECTS.—

''(1) IN GENERAL.—The Secretary may approve a grant under this section for a capital project only if the Secretary determines that the proposed project is—

''(A) based on the results of an alternatives analysis and preliminary engineering;

''(B) justified based on a comprehensive review of its mobility improvements, environmental benefits, cost effectiveness, and operating efficiencies; and

''(C) supported by an acceptable degree of State and local financial commitment, including evidence of stable and dependable financing sources to construct, maintain, and operate the system or extension.

''(2) ALTERNATIVES ANALYSIS AND PRELIMINARY ENGINEERING.—In evaluating a project under paragraph (1)(A), the Secretary shall analyze and consider the results of the alternatives analysis and preliminary engineering for the project.

''(3) PROJECT JUSTIFICATION.—In evaluating a project under paragraph (1)(B), the Secretary shall—

''(A) consider the direct and indirect costs of relevant alternatives;

''(B) consider the ability of the service to compete with other modes of transportation;

''(C) consider the extent to which the project fills an unmet transportation need;

''(D) consider the ability of the service to fund its operating expenses from fare revenues;

''(E) consider population density in the corridor;

''(F) consider the technical capability of the grant recipient to construct the project;

''(G) consider factors such as congestion relief, improved mobility, air pollution, noise pollution, energy consumption, and all associated ancillary and mitigating cost increases necessary to carry out each alternative analyzed;

''(H) consider the level of private sector financial participation and risk sharing in the project;

''(I) adjust the project justification to reflect differences in local land, construction, and operating costs; and

''(J) consider other factors that the Secretary determines appropriate to carry out this chapter.

''(4) LOCAL FINANCIAL COMMITMENT.—

''(A) EVALUATION OF PROJECT.—In evaluating a project under paragraph (1)(C), the Secretary shall require that—

''(i) the proposed project plan provides for the availability of contingency amounts that the Secretary determines to be reasonable to cover unanticipated cost increases;

''(ii) each proposed State or local source of capital and operating financing is stable, reliable, and available within the proposed project timetable; and

''(iii) State or local resources are available to operate the proposed service.

''(B) CONSIDERATIONS.—In assessing the stability, reliability, and availability of proposed sources of local financing under subparagraph (A), the Secretary shall consider—

''(i) existing grant commitments;

''(ii) the degree to which financing sources are dedicated to the purposes proposed;

''(iii) any debt obligation that exists or is proposed by the applicant for the proposed project or other intercity passenger rail service purpose; and

''(iv) the extent to which the project has a local financial commitment that exceeds the required non-Federal share of the cost of the project.

''(5) REGULATIONS.—Not later than 120 days after the date of enactment of the Rail Passenger Service Restructuring, Reauthorization, and Development Act, the Secretary

shall issue regulations on the manner in which the Secretary will evaluate and rate the projects based on the results of alternatives analysis, project justification, and the degree of local financial commitment, as required under this subsection.

''(6) PROJECT EVALUATION AND RATING.—A proposed project may advance from alternatives analysis to preliminary engineering, and may advance from preliminary engineering to final design and construction, only if the Secretary finds that the project meets the requirements of this section and there is a reasonable likelihood that the project will continue to meet such requirements. In making such findings, the Secretary shall evaluate and rate the project as 'highly recommended', 'recommended', or 'not recommended', based on the results of alternatives analysis, the project justification criteria, and the degree of local financial commitment, as required under this subsection. In rating the projects, the Secretary shall provide, in addition to the overall project rating, individual ratings for each of the criteria established under the regulations issued under paragraph (5).

''(7) PULL FUNDING GRANT AGREEMENT.—A project financed under this subsection shall be carried out through a full funding grant agreement. The Secretary shall enter into a full funding grant agreement based on the evaluations and ratings required under this subsection. The Secretary shall not enter into a full funding grant agreement for a project unless that project is authorized for final design and construction.

''(d) LETTERS OF INTENT, FULL FUNDING GRANT AGREEMENTS, AND EARLY SYSTEMS WORK AGREEMENTS.—

''(1) LETTER OF INTENT.—

''(A) The Secretary may issue a letter of intent to an applicant announcing an intention to obligate, for a project under this section, an amount from future available budget authority specified in law that is not more than the amount stipulated as the financial participation of the Secretary in the project.

''(B) At least 60 days before issuing a letter under subparagraph (A) of this paragraph or entering into a full funding grant agreement, the Secretary shall notify in writing the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure, and the House of Representatives and Senate Committees on Appropriations of the proposed letter or agreement. The Secretary shall include with the notification a copy of the proposed letter or agreement as well as the evaluations and ratings for the project.

''(C) The issuance of a letter is deemed not to be an obligation under sections 1108(c) and (d), 1501, and 1502(a) of title 31, or an administrative commitment.

''(D) An obligation or administrative commitment may be made only when amounts are appropriated.

''(2) FULL FUNDING AGREEMENT.—

''(A) The Secretary may make a full funding grant agreement with an applicant. The agreement shall—

''(i) establish the terms of participation by the United States Government in a project under this section;

''(ii) establish the maximum amount of Government financial assistance for the project, which, with respect to a high-speed rail project, shall be sufficient to complete at least an operable segment;

''(iii) cover the period of time for completing the project, including a period extending beyond the period of an authorization; and

''(iv) make timely and efficient management of the project easier according to the law of the United States.

''(B) An agreement under this paragraph obligates an amount of available budget authority specified in law and may include a commitment, contingent on amounts to be specified in law in advance for commitments under this paragraph, to obligate an additional amount from future available budget authority specified in law. The agreement shall state that the contingent commitment is not an obligation of the Government and is subject to the availability of appropriations made by Federal law and to Federal laws in force on or enacted after the date of the contingent commitment. Interest and other financing costs of efficiently carrying out a part of the project within a reasonable time are a cost of carrying out the project under a full funding grant agreement, except that eligible costs may not be more than the cost of the most favorable financing terms reasonably available for the project at the time of borrowing. The applicant shall certify, in a way satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financing terms.

''(3) EARLY SYSTEMS WORK AGREEMENT.—

''(A) The Secretary may make an early systems work agreement with an applicant if a record of decision under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) has been issued on the project and the Secretary finds there is reason to believe—

''(i) a full funding grant agreement for the project will be made; and

''(ii) the terms of the work agreement will promote ultimate completion of the project more rapidly and at less cost.

''(B) A work agreement under this paragraph obligates an amount of available budget authority specified in law and shall provide for reimbursement of preliminary costs of carrying out the project, including land acquisition, timely procurement of system elements for which specifications are decided, and other activities the Secretary decides are appropriate to make efficient, long-term project management easier. A work agreement shall cover the period of time the Secretary considers appropriate. The period may extend beyond the period of current authorization. Interest and other financing costs of efficiently carrying out the work agreement within a reasonable time are a cost of carrying out the agreement, except that eligible costs may not be more than the cost of the most favorable financing terms reasonably available for the project at the time of borrowing. The applicant shall certify, in a way satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financing terms. If an applicant does not carry out the project for reasons within the control of the applicant, the applicant shall repay all Government payments made under the work agreement plus reasonable interest and penalty charges the Secretary establishes in the agreement.

''(4) LIMIT ON TOTAL OBLIGATIONS AND COMMITMENTS.—The total estimated amount of future obligations of the Government and contingent commitments to incur obligations covered by all outstanding letters of intent, full funding grant agreements, and early systems work agreements under this section, when combined with obligations under section 5309 of this title, may be not more than the amount authorized under section 5338(b) of this title, less an amount the Secretary reasonably estimates is necessary for grants under this section not covered by a letter. The total amount covered by new letters and contingent commitments included in full funding grant agreements and early systems work agreements may be not more than a limitation specified in law.

''(e) FEDERAL SHARE OF NET PROJECT COST.—

''(1) IN GENERAL.—

''(A) Based on engineering studies, studies of economic feasibility, and information on the expected use of equipment or facilities, the Secretary shall estimate the net project cost.

''(B) A grant for the project may be for up to 50 percent of the net project cost. The remainder shall be provided in cash from non-Federal sources.

''(f) UNDERTAKING PROJECTS IN ADVANCE.—

''(1) IN GENERAL.—The Secretary may pay the Federal share of the net capital project cost to an applicant that carries out any part of a project described in this section according to all applicable procedures and requirements if—

''(A) the applicant applies for the payment,

''(B) the Secretary approves the payment; and

''(C) before carrying out a part of the project, the Secretary approves the plans and specifications for the part in the same way as other projects under this section.

''(2) INTEREST COSTS.—The cost of carrying out part of a project includes the amount of interest earned and payable on bonds issued by the applicant to the extent proceeds of the bonds are expended in carrying out the part. The amount of interest includable as cost under this paragraph may not be more than the most favorable interest terms reasonably available for the project at the time of borrowing. The applicant shall certify, in a manner satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financial terms.

''(3) USE OF COST INDICES.—The Secretary shall consider changes in capital project cost indices when determining the estimated cost under paragraph (2) of this subsection.

''(g) FUNDING.—

''(1) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation for purposes of this section—

''(A) $525,000,000 for fiscal year 2006,

''(B) $550,000,000 for fiscal year 2007,

''(C) $675,000,000 for fiscal year 2008,

''(D) $750,000,000 for fiscal year 2009, and

''(E) $800,000,000 for fiscal year 2010, such sums to remain available until expended.

''§ 24403. Project management oversight

''(a) PROJECT MANAGEMENT PLAN REQUIREMENTS.—To receive Federal financial assistance for a major capital project under this chapter, an applicant shall prepare and carry out a project management plan approved by the Secretary of Transportation. The plan shall provide for—

''(1) adequate recipient staff organization with well-defined reporting relationships, statements of functional responsibilities, job descriptions, and job qualifications;

''(2) a budget covering the project management organization, appropriate consultants, property acquisition, utility relocation, systems demonstration staff, audits, and miscellaneous payments the recipient may be prepared to justify;

''(3) a construction schedule for the project;

''(4) a document control procedure and recordkeeping system;

''(5) a change order procedure that includes a documented, systematic approach to handling the construction change orders;

''(6) organizational structures, management skills, and staffing levels required throughout the construction phase;

''(7) quality control and quality assurance functions, procedures, and responsibilities for construction, system installation, and integration of system components;

''(8) material testing policies and procedures;

''(9) internal plan implementation and reporting requirements,

''(10) criteria and procedures to be used for testing the operational system or its major components;

''(11) periodic updates of the plan, especially related to project budget and project schedule, financing, and ridership estimates; and

''(12) the recipient's commitment to submit a project budget and project schedule to the Secretary each month.

''(b) PLAN APPROVAL.—

''(1) 60-day decision.—The Secretary shall approve or disapprove a plan not later than 60 days after it is submitted. If the approval process cannot be completed within 60 days, the Secretary shall notify the recipient, explain the reasons for the delay, and estimate the additional time that will be required.

''(2) EXPLANATION OF DISAPPROVAL.—If the Secretary disapproves a plan, the Secretary shall inform the applicant of the reasons for disapproval of the plan.

''(c) SECRETARIAL OVERSIGHT.—

''(1) IN GENERAL.—The Secretary may use no more than 0.5 percent of amounts made available in a fiscal year for capital projects under this chapter to enter into contracts to oversee the construction of such projects.

''(2) USE OF FUNDS.—The Secretary may use amounts available under paragraph (1) of this subsection to make contracts for safety, procurement, management, and financial compliance reviews and audits of a recipient of amounts under paragraph (1).

''(3) FEDERAL SHARE.—The Federal Government shall pay the entire cost of carrying out a contract under this subsection.

''(d) ACCESS TO SITES AND RECORDS.—Each recipient of assistance under this chapter shall provide the Secretary and a contractor the Secretary chooses under subsection (b) of this section with access to the construction sites and records of the recipient when reasonably necessary.

''(e) REGULATIONS.—The Secretary shall prescribe regulations necessary to carry out this section. The regulations shall include—

''(1) a definition of 'major capital project' for this section;

''(2) a requirement that oversight begin during the preliminary engineering stage of a project, unless the Secretary finds it more appropriate to begin oversight during another stage of a project, to maximize the transportation benefits and cost savings associated with project management oversight; and

''(3) a formula based on infrastructure ownership, boardings, and passenger-miles traveled in the prior fiscal year by which the funds authorized for modernization of existing services will be allocated among the States; and

''(4) a requirement that, if a State does not apply for its share of formula grant funds under paragraph (3) of this subsection in a timely manner, those funds will be made available to other States.

''(f) FINANCIAL PLAN.—A recipient of financial assistance for a project under this section with an estimated total cost of $100,000,000, or more shall submit to the Secretary an annual financial plan for the project. The plan shall be based on detailed annual estimates of the cost to complete the remaining elements of the project and on reasonable assumptions, as determined by the Secretary, of future increases in the cost to complete the project.

''§ 24404. Operating expenses

''The Secretary of Transportation may not make grants under this chapter for operating expenses.

''§ 24405. Local share and maintenance of effort

''(a) IN GENERAL.—Notwithstanding any other provision of law, a recipient of assistance under this title may use, as part of the local matching funds for a capital project, the proceeds from the issuance of revenue bonds.

''(b) MAINTENANCE OF EFFORT.—The Secretary of Transportation shall approve the use of proceeds from the issuance of revenue bonds for the non-Federal share of the net project cost only if the aggregate amount of financial support for intercity passenger rail service from the State is not less than the average annual amount provided by the State during the preceding 3 years.

''§ 24406. Grants for maintenance and modernization

''(a) IN GENERAL.—The Secretary of Transportation may make capital grants for maintenance and modernization of intercity passenger rail services to—

''(1) the American Passenger Railway Corporation for services it operates under contract with the Secretary of Transportation; or

''(2) to States for intercity passenger rail services operated under a contract with a State or group of States.

''(b) USE OF FUNDS.—Grants under this section may be used—

''(1) to purchase, lease, rehabilitate, or remanufacture rolling stock and associated facilities used primarily in intercity passenger rail service;

''(2) to modernize existing intercity passenger rail service facilities and information systems; or

''(3) to defray the cost of rental charges to freight railroads for the addition of train frequencies.

''(c) FEDERAL SHARE.—The Federal share for a capital grant under this section may be 100 percent, except that the Federal share for a grant made under subsection (b)(3) may not exceed 50 percent.

''(d) ALLOCATION FORMULA.—Funds made available by this section shall be allocated equitably among the States based on a formula to be determined by the Secretary.

''(e) SLEEPING AND DINING CARS.—Pending the restructuring of long distance routes under sections 615 through 617 of the Rail Passenger Service Restructuring, Reauthorization, and Development Act, grants may be made to the American Passenger Railway Corporation for sleeping and dining cars only to the extent necessary to maintain the equipment in good working order and not for the purpose of refurbishing, rebuilding, or renewing such equipment to extend the equipment's useful life.

''(f) LONG DISTANCE RESTRUCTURING PLAN.—Unless the restructuring plan submitted by the Long Distance Route Restructuring Commission under section 617 of the Rail Passenger Service Restructuring, Reauthorization, and Development Act is disapproved by Congress, from the sums authorized for capital projects outside of the Northeast Corridor, the Secretary may reserve up to $20,000,000 in each of fiscal years 2007 through 2010 to assist in the restructuring of long distance routes as linked corridors, and the Federal share of such assistance shall be 100 percent.

''(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation $200,000,000 for each of fiscal years 2005 through 2010 to carry out this section.''.

SEC. 652. FINAL REGULATIONS ON APPLICATIONS BY STATES FOR DEVELOPMENT GRANTS.

Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation shall issue final regulations setting forth procedures for application and minimum requirements for the award of grants under chapter 244 of title 49, United States Code.

SEC. 653. AUTHORITY FOR INTERSTATE COMPACTS FOR CORRIDOR DEVELOPMENT.

(a) CONSENT TO COMPACTS.—

(1) 2 or more States with an interest in a specific form, route, or corridor of intercity passenger rail service (including high speed rail service) may enter into interstate compacts to implement the service, including—

(A) retaining an existing service or commencing a new service;

(B) assembling rights-of-way; and

(C) performing capital improvements, including—

(i) the construction and rehabilitation of maintenance facilities;

(ii) the purchase of rolling stock; and

(iii) operational improvements, including communications, signals, and other systems.

(2) A compact entered into under the authority of this section shall be submitted to Congress for its consent. It is the sense of Congress that rapid consent to the Compact is a priority for the Congress.

(b) FINANCING.—

(1) An interstate compact established by States under subsection (a) may provide that, in order to carry out the compact, the States may—

(A) accept contributions from a unit of State or local government or a person;

(B) use any Federal or State funds made available for intercity passenger rail service (except funds made available for Amtrak);

(C) on such terms and conditions as the States consider advisable—

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

(ii) issue bonds; and

(D) obtain financing by other means permitted under Federal or State law.

(2) Bonds and other indebtedness incurred under the authority of this subsection shall under no circumstances be backed by the full faith and credit of the United States.

SUBTITLE C—AMTRAK REFORMS

SEC. 671. MANAGEMENT OF SECURED DEBT.

Except as approved by the Secretary of Transportation to refinance existing secured debt, Amtrak (until the American Passenger Railway Corporation is established) and the American Passenger Railway Corporation thereafter, may not enter into any obligation secured by assets of the Corporation after the date of enactment of this Act. This section does not prohibit unsecured lines of credit used for working capital purposes.

SEC. 672. EMPLOYEE ASSISTANCE.

(a) TRANSITION FINANCIAL INCENTIVES.—

(1) IN GENERAL.—To reduce operating expenses in preparation for competition from other rail carriers, the American Passenger Railway Corporation may institute a program under which it may, at its discretion, provide financial incentives to employees who voluntarily terminate their employment with the Corporation and relinquish any legal rights to receive termination-related payments under any contractual agreement with the Corporation.

(2) CONDITIONS FOR FINANCIAL INCENTIVES.—As a condition for receiving financial assistance grants under this section, the American Passenger Railway Corporation shall certify to the Secretary of Transportation that—

(A) the financial assistance results in a net reduction in the total number of employees equal to the number receiving financial incentives;

(B) the financial assistance results in a net reduction in total employment expenses equivalent to the total employment expenses

associated with the employees receiving financial incentives; and

(C) the total number of employees eligible for termination-related payments will not be increased without the express written consent of the Secretary.

(3) AMOUNT OF FINANCIAL INCENTIVES.—The financial incentives authorized under this section may not exceed 1 year's base pay.

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation $25,000,000 for each of fiscal years 2005, 2006, and 2007 to make grants to the American Passenger Railway Corporation to fund financial incentive payments to employees under this subsection.

(b) LABOR PROTECTION FOR EMPLOYEES OF THE AMERICAN PASSENGER RAILWAY CORPORATION.—

(1) IN GENERAL.—The American Passenger Railway Corporation, or other operator of intercity passenger rail transportation service, shall be responsible for obligations imposed by law or collective bargaining agreement for compensation and benefits payable to employees terminated in connection with the restructuring of passenger rail service under this title and the amendments made by this title. The responsibility of the Corporation and such other operator under the preceding sentence, and the obligations for which it is responsible under that sentence, may not be transferred to any other entity in connection with such restructuring by contract or otherwise.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation for the use of the American Passenger Railway Corporation in meeting its responsibility under paragraph (1) $75,000,000 for each of fiscal years 2007 through 2010.

SEC. 673. TERMINATION OF AUTHORITY FOR GSA TO PROVIDE SERVICES TO AMTRAK.

Section 1110 of division A of H.R. 5666 (114 Stat. 2763A–202), as enacted by section 1(a)(4) of the Consolidated Appropriations Act, 2001, is repealed.

SEC. 674. AMTRAK REFORM BOARD OF DIRECTORS.

Section 24302 is amended by adding at the end the following:

''(d) ASSET TRANSITION COMMITTEE.—

''(1) IN GENERAL.—The Reform Board shall form an asset transition committee comprised of the Secretary or the Secretary's designee, and 2 other members, or 1 other member if 2 other members are not lawfully appointed.

''(2) POWERS AND DUTIES.—In addition to other powers and duties assigned by the board, the Asset Transition Committee has the duty to ensure that the public interest is served in board decisions and Amtrak management actions that change the use of or status of—

''(A) the contractual right of access of Amtrak to rail lines of other railroads;

''(B) Amtrak's secured debt;

''(C) Northeast Corridor real property and assets; and

''(D) rolling stock.

''(3) APPROVAL REQUIRED.—The board may not take an action with regard to the assets or secured debt specified in paragraph (2), or permit Amtrak management action with regard to those assets, that is not approved by the asset transition committee.''.

SEC. 675. LIMITATIONS ON AVAILABILITY OF GRANTS.

(a) IN GENERAL.—Chapter 243, as amended by section 627 of this Act is amended by inserting after section 24318 the following:

''§ 24319. Limitations on availability of grants

''Grants under this title to the American Passenger Railway Corporation are subject to the following conditions:

''(1) The Secretary of Transportation may approve funding to cover operating losses or operating expenses (including advance purchase orders) only after receiving and approving a grant request for each specific train route to which the grant relates.

''(2) Each such grant request shall be accompanied by a detailed financial analysis, revenue projection, and capital expenditure program justifying the Federal support to the Secretary's satisfaction.

''(3) Not later than December 31st prior to each fiscal year in which grants are made to the American Passenger Railway Corporation, the Corporation shall transmit to the Secretary of Transportation, the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Transportation and Infrastructure of the House of Representatives, and the House of Representatives and Senate Committees on Appropriations a business plan for operating and capital improvements to be funded in the fiscal year under section 24104(a) of this title.

''(4) The business plan shall include—

''(A) targets, as applicable, for ridership, revenues, and capital and operating expenses;

''(B) a separate accounting for such targets—

''(i) on the Northeast Corridor;

''(ii) each intercity train route;

''(iii) as a group for long distance trains and corridor services; and

''(iv) commercial activities, including contract operations and mail and express; and

''(C) a description of the work to be funded, along with cost estimates and an estimated timetable for completion of the projects covered by the business plan.

''(5) Each month of each fiscal year in which grants are made to the American Passenger Railway Corporation, the Corporation shall submit to the Secretary of Transportation, the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Transportation and Infrastructure of the House of Representatives, and the House of Representatives and Senate Committees on Appropriations a supplemental report in electronic format regarding the business plan, which shall describe the work completed to date, any changes to the business plan, and the reasons for such changes.

''(6) None of the funds authorized by this subtitle or the Rail Passenger Service Restructuring, Reauthorization, and Development Act may be disbursed to the American Passenger Railway Corporation for operating expenses, including advance purchase orders and capital projects not approved by the Secretary nor in the American Passenger Railway Corporation's business plan.

''(7) The American Passenger Railway Corporation shall display the business plan and all subsequent supplemental plans on its website within a reasonable time after they are submitted to the Secretary and the Congress under this section.

''(8) The Secretary may not make any grant to the American Passenger Railway Corporation until Amtrak agrees to continue abiding by the provisions of paragraphs (1), (2), (5), (9), and (11) of the summary of conditions on the direct loan agreement of June 28, 2002, until the loan is repaid.

''(9) No grant authorized by this title shall be made to the American Passenger Railway Corporation unless, within 6 months after the date of enactment of the Rail Passenger Service Restructuring, Reauthorization, and Development Act, the Corporation prepares a capital spending plan that addresses capital needs, consistent with the funding levels authorized to bring the Northeast Corridor capital assets to a state of good repair, as defined by the Secretary, and transmits that plan to the Secretary.

''(10) With respect to any route on which intercity passenger rail service is provided on the day before the date on which the restructuring required by sections 24300, 24300A, and 24300B is completed (as determined by the Secretary), the American Passenger Railway Corporation shall make available to any replacement operator the legacy equipment that is associated with the service on the route.

(11) The American Passenger Railway Corporation shall provide interline reservations services to any other provider of intercity passenger rail transportation on the same basis and at the same rates as those services are provided to the operating entities that provide passenger rail service within Amtrak as of the date of enactment of the Rail Passenger Service Restructuring, Reauthorization, and Development Act''.

(b) INTERIM APPLICATION OF SECTION 24319.—Until the restructuring required by sections 24300, 24300A, and 24300B of title 49, United States Code, is completed (as determined by the Secretary of Transportation), section 24319 of title 49, United States Code, as added by subsection (a), shall be applied by substituting ''Amtrak'' for ''American Passenger Railway Corporation'' or ''the Corporation'' each place it appears.

(c) CONFORMING AMENDMENT.—The chapter analysis for chapter 243 is amended by inserting after the item relating to section 24318 the following:

''24319. Limitations on availability of grants''.

SEC. 676. REPEAL OF OBSOLETE AND EXECUTED PROVISIONS OF LAW.

(a) IN GENERAL.—The following sections are repealed:

(1) Section 24701.

(2) Section 24706.

(3) Section 24901.

(4) Section 24902.

(5) Section 24904.

(6) Section 24906.

(7) Section 24909.

(b) AMENDMENT OF SECTION 24305.—Section 24305 is amended—

(1) by striking paragraph (2) of subsection (a) and redesignating paragraph (3) as paragraph (2); and

(2) by inserting ''With regard to items acquired with funds provided by the Federal Government,'' before ''Amtrak'' in subsection (f)(2).

(c) CONFORMING AMENDMENTS.—The chapter analyses for chapters 243, 247, and 249 are amended, as appropriate, by striking the items relating to sections 24307, 24701, 24706, 24901, 24902, 24904, 24906, 24908, and 24909.

SEC. 677. ESTABLISHMENT OF FINANCIAL ACCOUNTING SYSTEM FOR THE AMERICAN PASSENGER RAILWAY CORPORATION BY INDEPENDENT AUDITOR.

(a) IN GENERAL.—The Inspector General of the Department of Transportation shall employ an independent financial consultant—

(1) to assess Amtrak's financial accounting and reporting system and practices as of the date of enactment of this Act,

(2) to design and assist the American Passenger Railway Corporation in implementing a modern financial accounting and reporting system, on the basis of the assessment, that will produce accurate and timely financial information in sufficient detail—

(A) to enable the American Passenger Railway Corporation to assign revenues and expenses appropriately to each of its lines of business and to each major activity within each line of business activity, including train operations, equipment maintenance, ticketing, and reservations;

(B) to aggregate expenses and revenues related to infrastructure and distinguish them from expenses and revenues related to rail operations; and

(C) to provide ticketing and reservation information on a real-time basis.

(b) VERIFICATION OF SYSTEM; REPORT.—The Inspector General of the Department of Transportation shall review the accounting system designed and implemented under subsection (a) to ensure that it accomplishes the purposes for which it is intended. The Inspector General shall report his findings and conclusions, together with any recommendations, to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure.

(C) SEPARATE FINANCIAL STATEMENTS FOR NORTHEAST CORRIDOR INFRASTRUCTURE.—Beginning with fiscal year 2006, the American Passenger Railway Corporation shall issue separate financial statements for activities related to the infrastructure of the Northeast Corridor.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation $2,500,000 for fiscal year 2005 to carry out subsection (a), such sums to remain available until expended.

SEC. 678. RESTRUCTURING OF LONG-TERM DEBT AND CAPITAL LEASES.

(a) IN GENERAL.—The Secretary of the Treasury, in consultation with the Secretary of Transportation and Amtrak, shall restructure Amtrak's indebtedness as of the date of enactment of this Act.

(b) DEBT REDEMPTION.—The Secretary of Transportation, in consultation with the Secretary of the Treasury, shall enter into negotiations with the holders of Amtrak debt, including leases, that is outstanding on the date of enactment of this Act for the purpose of redeeming or restructuring that debt. The Secretary, in consultation with the Secretary of the Treasury, shall secure agreements for repayment on such terms as the Secretary deems favorable to the interests of the Government. Payments for such redemption may be made after October 1, 2005, in either a single payment or a series of payments, but in no case shall the repayment period extend beyond September 30, 2009.

(c) CRITERIA.—In redeeming or restructuring Amtrak's indebtedness, the Secretaries and Amtrak—

(1) shall ensure that the restructuring imposes the least practicable burden on taxpayers; and

(2) take into consideration repayment costs, the term of any loan or loans, and market conditions.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary for fiscal years 2005 through 2009 to restructure or redeem Amtrak's secured debt.

(e) AMTRAK PRINCIPAL AND INTEREST PAYMENTS.—

(1) PRINCIPAL ON DEBT SERVICE.—Unless the Secretary of Transportation and the Secretary of the Treasury restructure or redeem the debt, there are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak (before the date, determined by the Secretary of Transportation, on which the restructuring required by sections 24300, 24300A, and 24300B of title 49, United States Code, is completed) and the American Passenger Railway Corporation (after that date) for retirement of principal on loans for capital equipment, or capital leases, not more than the following amounts:

(A) For fiscal year 2005, $110,000,000.
(B) For fiscal year 2006, $115,000,000.
(C) For fiscal year 2007, $205,000,000.
(D) For fiscal year 2008, $165,000,000.
(E) For fiscal year 2009, $155,000,000.
(F) For fiscal year 2010, $150,000,000.

(2) INTEREST ON DEBT.—Unless the Secretary of Transportation and the Secretary of the Treasury restructure or redeem the debt, there are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak (before the date, determined by the Secretary of Transportation, on which the restructuring required by sections 24300, 24300A, and 24300B of title 49, United States Code, is completed) and the American Passenger Railway Corporation (after that date) for the payment of interest on loans for capital equipment, or capital leases, the following amounts:

(A) For fiscal year 2005, $155,000,000.
(B) For fiscal year 2006, $150,000,000.
(C) For fiscal year 2007, $140,000,000.
(D) For fiscal year 2008, $130,000,000.
(E) For fiscal year 2009, $125,000,000.
(F) For fiscal year 2010, $115,000,000.

(3) REDUCTIONS IN AUTHORIZATION LEVELS.—Whenever action taken by the Secretary of the Treasury under subsection (c) results in reductions in amounts of principle and interest that Amtrak must service on existing debt, Amtrak shall submit to the Senate Committee on Commerce, Science and Transportation, the House of Representatives Committee on Transportation and Infrastructure, the Senate Committee on Appropriations, and House of Representatives Committee on Appropriations revised requests for amounts authorized by paragraphs (1) and (2) that reflect the such reductions.

(g) LEGAL EFFECT OF PAYMENTS UNDER THIS SECTION.—The payment of principal and interest secured debt with the proceeds of grants under subsection (f) shall not—

(1) modify the extent or nature of any indebtedness of the National Railroad Passenger Corporation to the United States in existence of the date of enactment of this Act;

(2) change the private nature of Amtrak's or its successors' liabilities; or

(3) imply any Federal guarantee or commitment to amortize Amtrak's outstanding indebtedness.

SEC. 679. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary of Transportation for the benefit of Amtrak for fiscal year 2005 $750,000,000 for operating expenses.

SA 2325. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 476, line 18, strike the period and the closing quotation marks and insert the following:

"§ 512. Transportation Analysis Simulation System

''(a) CONTINUATION OF TRANSIMS DEVELOPMENT.—

''(1) The Secretary shall continue the development and deployment of the advanced transportation model known as the 'Transportation Analysis Simulation System' (referred to in this section as 'TRANSIMS' '' developed by the Los Alamos National Laboratory.

''(2) REQUIREMENTS AND CONSIDERATIONS.—In carrying out paragraph (1), the Secretary shall—

''(A) further improve TRANSIMS to reduce the cost and complexity of using the model;

''(B) continue development of TRANSIMS for applications to transportation planning, regulatory compliance, and response to natural disasters and other transportation disruptions; and

''(C) assist State departments of transportation and metropolitan planning organizations, especially smaller metropolitan planning organizations, in the implementation of TRANSIMS by providing training and technical assistance;

''(b) ELIGIBLE ACTIVITIES.—The Secretary shall use funds made available to carry out this section to—

''(1) further develop TRANSIMS for additional applications, including congestion analyses, major investment studies, economic impact analyses, alternative analyses, freight movement studies, emergency evacuation studies, port studies, and airport access studies;

''(2) provide training and technical assistance with respect to the implementation and application of TRANSIMS to States, local governments, and metropolitan planning organizations with responsibility for travel modeling;

''(3) develop methods to simulate the national transportation infrastructure as a single, integrated system of the movement of people and goods; and

''(4) provide funding to state transportation departments and metropolitan planning organizations for implementation of TRANSIMS.

''(c) ALLOCATION OF FUNDS.—Of the funds made available to carry out this section for each fiscal year, not less than 15 percent of the funds shall be allocated to activities in subsection (b)(3).

''(d) FUNDING.—Of the amounts made available under section 2001(a) of the Safe, Accountable, Flexible and Efficient Transportation Act of 2003 for each of fiscal years 2004 through 2009, the Secretary shall use $6,000,000 to carry out this section.

''(e) AVAILABILITY OF FUNDS.—Funds made available under this section shall be available to the Secretary through the Transportation Planning, Research, and Development Account of the Office of the Secretary of Transportation.''.

SA 2326. Mr. BINGAMAN (for himself and Mr. DOMENICI) submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 389, between lines 15 and 16, insert the following:

SEC. 18___. AUTHORIZATION OF CONTRACT AUTHORITY FOR STATES WITH INDIAN RESERVATIONS.

Section 1214(d) of the Transportation Equity Act for the 21st Century (23 U.S.C. 202 note; 112 Stat. 206) is amended—

(1) in paragraph (1), by inserting ''(except Arizona)'' after ''each State''; and

(2) in paragraph (5)(A), by striking ''$1,500,000 for each of fiscal years 1998 through 2003'' and inserting ''$1,800,000 for each of fiscal years 2004 through 2009''.

SA 2327. Mr. BOND proposed an amendment to amendment SA 2311 proposed by Mrs. CLINTON (for herself, Mr. BINGAMAN, Mr. BYRD, Mr. DODD, Mr. SARBANES, Mr. CORZINE, Mr. LIEBERMAN, Mr. ROCKEFELLER, Mr. HARKIN, and Ms. STABENOW) to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the language proposed to be inserted, insert the following:

SEC. 1409. RENTED OR LEASED MOTOR VEHICLES.

(a) IN GENERAL.—Subchapter I of chapter 301 of title 49, United States Code, is amended by adding at the end the following:

"§ 30106. Rented or leased motor vehicle safety and responsibility

''(a) IN GENERAL.—Provided that there is no negligence or criminal wrongdoing on the part of the owner of a motor vehicle, no such owner engaged in the trade or business of renting or leasing motor vehicles may be held liable under State law for harm caused by a person to himself or herself, another person, or to property, which results or arises from that person's use, operation, or possession of a rented or leased motor vehicle, by reason of being the owner of such motor vehicle.

''(b) CONSTRUCTION.—Subsection (a) shall not apply if such owner does not maintain the required limits of financial responsibility for such vehicle, as required by State law in the State in which the vehicle is registered.

''(c) APPLICABILITY AND EFFECTIVE DATE.—Notwithstanding any other provision of law, this section shall apply with respect to any action commenced on or after the date of enactment of this section without regard to whether the harm that is the subject of the action or the conduct that caused the harm occurred before such date of enactment.

''(d) DEFINITIONS.—In this section:

''(1) MOTOR VEHICLE.—The term 'motor vehicle' shall have the meaning given the term under section 13102(14) of this title.

''(2) OWNER.—The term 'owner' means a person who is—

''(A) a record or beneficial owner, lessor, or lessee of a motor vehicle;

''(B) entitled to the use and possession of a motor vehicle subject to a security interest in another person; or

''(C) a lessor, lessee, or bailee of a motor vehicle, in the trade or business of renting or leasing motor vehicles, having the use or possession of such motor vehicle, under a lease, bailment, or otherwise.

''(3) PERSON.—The term 'person' means any individual, corporation, company, limited liability company, trust, association, firm, partnership, society, joint stock company, or any other entity.

''(4) STATE.—The term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, any other territory or possession of the United States, or any political subdivision of any such State, commonwealth, territory, or possession.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 301 of title 49, United States Code, is amended by inserting after the item relating to section 30105 the following:

''30106. Rented or leased motor vehicle safety and responsibility.''.

SA 2328. Mr. DEWINE submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 792, between lines 15 and 16, insert the following:

PART 3—MISCELLANEOUS PROVISIONS

SEC. 4171. DRIVER LICENSING AND EDUCATION.

(a) NATIONAL OFFICE OF DRIVER LICENSING AND EDUCATION.—Section 105 of title 49, United States Code, is amended by adding at the end the following new subsection:

''(f)(1) There is a National Office of Driver Licensing and Education in the National Highway Traffic Safety Administration.

''(2) The head of the National Office of Driver Licensing and Education is the Director.

''(3) The functions of the National Office of Driver Licensing and Education are as follows:

''(A) To provide States with services for coordinating the motor vehicle driver training and licensing programs of the States.

''(B) To develop and make available to the States a recommended comprehensive model for motor vehicle driver education and graduated licensing that incorporates the best practices in driver education and graduated licensing, including best practices with respect to—

''(i) vehicle handling and crash avoidance;

''(ii) driver behavior and risk reduction;

''(iii) roadway features and associated safety implications;

''(iv) roadway interactions involving all types of vehicles and road users, such as car-truck and pedestrian-car interactions;

''(v) parent education; and

''(vi) other issues identified by the Director.

''(C) To carry out such research (pursuant to cooperative agreements or otherwise) and undertake such other activities as the Director determines appropriate to develop and, on an ongoing basis, improve the recommended comprehensive model.

''(D) To provide States with technical assistance for the implementation and deployment of the motor vehicle driver education and licensing comprehensive model recommended under subparagraph (B).

''(E) To develop and recommend to the States methods for harmonizing the presentation of motor vehicle driver education and licensing with the requirements of multistage graduated licensing systems, including systems described in section 410(c)(4) of title 23, and to demonstrate and evaluate the effectiveness of those methods in selected States.

''(F) To assist States with the development and implementation of programs to certify driver education instructors, including the development and implementation of proposed uniform certification standards.

''(G) To provide States with financial assistance under section 412 of title 23 for—

''(i) the implementation of the motor vehicle driver education and licensing comprehensive model recommended under subparagraph (B);

''(ii) the establishment or improved administration of multistage graduated licensing systems; and

''(iii) the support of other improvements in motor vehicle driver education and licensing programs.

''(H) To evaluate the effectiveness of the comprehensive model recommended under subparagraph (B).

''(I) To examine different options for delivering driver education in the States.

''(J) To perform such other functions relating to motor vehicle driver education or licensing as the Secretary may require.

''(4) Not later than 42 months after the date of the enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004, the Director shall submit to Congress a report on the progress made by the National Office of Driver Licensing and Education with respect to the functions under paragraph (3).''.

(b) GRANT PROGRAM FOR IMPROVEMENT OF DRIVER EDUCATION AND LICENSING.—

(1) AUTHORITY.—

(A) IN GENERAL.—Chapter 4 of title 23, United States Code, is amended by adding at the end the following new section:

"SEC. 412. DRIVER EDUCATION AND LICENSING.

''(a) AUTHORITY.—

''(1) IN GENERAL.—The Secretary shall carry out a program to provide States, by grant, with financial assistance to support the improvement of motor vehicle driver education programs and the establishment and improved administration of graduated licensing systems, including systems described in section 410(c)(4) of this title.

''(2) ADMINISTRATIVE OFFICE.—The Secretary shall administer the program under this section through the Director of the National Office of Driver Licensing and Education.

''(b) ELIGIBILITY REQUIREMENTS.—

''(1) REGULATIONS.—The Secretary shall prescribe in regulations the eligibility requirements, application and approval procedures and standards, and authorized uses of grant proceeds for the grant program under this section. The regulations shall, at a minimum, authorize use of grant proceeds for the following activities:

''(A) Quality assurance testing, including follow-up testing to monitor the effectiveness of—

''(i) driver licensing and education programs;

''(ii) instructor certification testing; and

''(iii) other statistical research designed to evaluate the performance of driver education and licensing programs.

''(B) Improvement of motor vehicle driver education curricula.

''(C) Training of instructors for motor vehicle driver education programs.

''(D) Testing and evaluation of motor vehicle driver performance.

''(E) Public education and outreach regarding motor vehicle driver education and licensing.

''(F) Improvements with respect to State graduated licensing programs, as well as related enforcement activities.

''(2) CONSULTATION REQUIREMENT.—In prescribing the regulations, the Secretary shall consult with the following:

''(A) The Administrator of the National Highway Traffic Safety Administration.

''(B) The heads of such other departments and agencies of the United States as the Secretary considers appropriate on the basis of relevant interests or expertise.

''(C) Appropriate officials of the governments of States and political subdivisions of States.

''(D) Other relevant experts.

''(c) MAXIMUM AMOUNT OF GRANT.—The maximum amount of a grant of financial assistance for a program, project, or activity under this section may not exceed 75 percent of the total cost of such program, project, or activity.''.

(B) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

''412. Driver education and licensing.''.

(2) TIME FOR PROMULGATION OF REGULATIONS.—The Secretary of Transportation shall promulgate the regulations under section 412(b) of title 23, United States Code (as added by paragraph (1)), not later than October 1, 2005.

(3) AUTHORIZATION OF APPROPRIATIONS.—Of the amounts available to carry out section 403 of title 23, United States Code, for each of the fiscal years 2005 through 2010, $5,000,000 may be made available for each such fiscal year to carry out section 412 of title 23, United States Code (as added by paragraph (1)).

(c) GRANT PROGRAM FOR PUBLIC AWARENESS OF ORGAN DONATION THROUGH DRIVER LICENSING PROGRAMS.—

(1) AUTHORITY.—

(A) IN GENERAL.—Chapter 4 of title 23, United States Code (as amended by subsection (b)), is further amended by adding at the end the following new section:

"SEC. 413. ORGAN DONATION THROUGH DRIVER LICENSING.

''(a) AUTHORITY.—

''(1) IN GENERAL.—The Secretary shall carry out a program to provide eligible recipients, by grant, with financial assistance to carry out campaigns to increase public awareness of, and training on, authority and procedures under State law to provide for the donation of organs through a declaration recorded on a motor vehicle driver license.

''(2) ADMINISTRATIVE OFFICE.—The Secretary shall administer the program under this section through the Director of the National Office of Driver Licensing and Education.

''(b) ELIGIBILITY REQUIREMENTS.—

''(1) REGULATIONS.—The Secretary shall prescribe in regulations the eligibility requirements, application and approval procedures and standards, and authorized uses of grant proceeds for the grant program under this section.

''(2) CONSULTATION REQUIREMENT.—In prescribing the regulations, the Secretary shall consult with the following:

''(A) The Administrator of the National Highway Traffic Safety Administration.

''(B) The heads of such other departments and agencies of the United States as the Secretary considers appropriate on the basis of relevant interests or expertise.

''(C) Appropriate officials of the governments of States and political subdivisions of States.

''(D) Representatives of private sector organizations recognized for relevant expertise.''.

(B) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

''413. Organ donation through driver licensing.''.

(2) TIME FOR PROMULGATION OF REGULATIONS.—The Secretary of Transportation shall promulgate the regulations under section 413(b) of title 23, United States Code (as added by paragraph (1)), not later than October 1, 2005.

(3) AUTHORIZATION OF EXPENDITURES.—Of the amounts available under Section 412(c)(3), as amended, no more than $1,000,000 may be utilized for this program annually.

(d) STUDY OF NATIONAL DRIVER EDUCATION STANDARDS.—

(1) REQUIREMENT FOR STUDY.—The Secretary of Transportation shall carry out a study to determine whether the establishment and imposition of nationwide minimum standards of motor vehicle driver education would improve national highway traffic safety or the performance and legal compliance of novice drivers.

(2) TIME FOR COMPLETION OF STUDY.—The Secretary shall complete the study not later than 2 years after the date of the enactment of this Act.

(3) REPORT.—The Secretary shall publish a report on the results of the study under this section not later than 2 years after the study is completed.

SEC. 4172. AMENDMENT OF AUTOMOBILE INFORMATION DISCLOSURE ACT.

(a) SAFETY LABELING REQUIREMENT.—Section 3 of the Automobile Information Disclosure Act (15 U.S.C. 1232) is amended by adding at the end the following:

''(g) if one or more safety ratings for such automobile have been assigned and formally published or released by the National Highway Traffic Safety Administration under the New Car Assessment Program, information about safety ratings that—

''(1) includes a graphic depiction of the number of stars that corresponds to each such assigned safety rating displayed in a clearly differentiated fashion from stars indicating the unattained safety rating;

''(2) refers to frontal impact crash tests, side impact crash tests, and rollover resistance tests (whether or not such automobile has been assigned a safety rating for such tests), including statements that—

''(A) frontal impact crash test ratings are based on risk of head and chest injury;

''(B) side impact crash test ratings are based on risk of chest injury; and

''(C) rollover resistance ratings are based on risk of rollover in the event of a single automobile crash;

''(3) is presented in a legible, visible, and prominent fashion and covers at least—

''(A) 8 percent of the total area of the label; or

''(B) an area with a minimum length of 4 ½ inches and a minimum height of 3 ½ inches; and

''(4) contains a heading titled 'Government Safety Information' and a disclaimer including the following text: 'Star ratings for frontal impact crash tests can only be compared to other vehicles in the same weight class and those plus or minus 250 pounds. Side impact and rollover ratings can be compared across all vehicle weights and classes. For more information on safety and testing, please visit http://www.nhtsa.dot.gov'; and

''(h) if an automobile has not been tested by the National Highway Traffic Safety Administration under the New Car Assessment Program, or safety ratings for such automobile have not been assigned in one or more rating categories, a statement to that effect.''.

(b) REGULATIONS.—Not later than January 1, 2005, the Secretary of Transportation shall prescribe regulations to implement the labeling requirements added pursuant to subsection (a).

(c) CONFORMING AND TECHNICAL AMENDMENTS.—Section 3 of such Act is further amended—

(1) in subsection (e), by striking ''and'' after the semicolon; and

(2) in subsection (f)—

(A) by adding ''and'' at the end of paragraph (3); and

(B) by striking the period at the end and inserting a semicolon.

(d) EFFECTIVE DATE.—The amendments made by subsection (a) and subsection (c) shall take effect on a production year basis not earlier than one year after the regulations are prescribed, and no later than Sept. 1, 2006.

SEC. 4173. CHILD SAFETY.

(a) INCORPORATION OF CHILD DUMMIES IN SAFETY TESTS.—

(1) RULEMAKING REQUIRED.—Not later than 2 years after the date of the enactment of this Act, the Administrator of the National Highway Traffic Safety Administration shall conduct a rulemaking to increase utilization of child dummies, including Hybrid-III child dummies, in motor vehicle safety tests, including crash tests, conducted by the Administration.

(2) CRITERIA.—In conducting the rulemaking under subsection (a), the Administrator shall select motor vehicle safety tests in which the inclusion of child dummies will lead to—

(A) increased understanding of crash dynamics with respect to children; and

(B) measurably improved child safety.

(3) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary of Transportation shall publish a report regarding the implementation of this section.

(b) CHILD SAFETY IN ROLLOVER CRASHES.—

(1) CONSUMER INFORMATION PROGRAM.—Not later than 2 years after the date of the enactment of this Act, the Secretary of Transportation shall implement a consumer information program relating to child safety in rollover crashes. The Secretary shall make information related to the program available to the public following completion of the program.

(2) CHILD DUMMY DEVELOPMENT.—

(A) IN GENERAL.—The Administrator of the National Highway Traffic Safety Administration shall initiate the development of a biofidelic child crash test dummy capable of measuring injury forces in a simulated rollover crash.

(B) REPORTS.—The Secretary shall submit to Congress a report on progress related to such development—

(i) not later than 1 year after the date of the enactment of this Act; and

(ii) not later than 3 years after the date of the enactment of this Act.

(c) REPORT ON ENHANCED VEHICLE SAFETY TECHNOLOGIES.—Not later than 2 years after the date of the enactment of this Act, the Secretary of Transportation shall submit to Congress a report that describes, evaluates, and determines the relative effectiveness of—

(1) currently available and emerging technologies, including auto-reverse functions and child-safe window switches, that are designed to prevent and reduce the number of injuries and deaths to children left unattended inside parked motor vehicles, including injuries and deaths that result from hyperthermia or are related to power windows or power sunroofs; and

(2) currently available and emerging technologies that are designed to improve the performance of safety belts with respect to the safety of occupants aged between 4 and 8 years old.

(d) COMPLETION OF RULEMAKING REGARDING POWER WINDOWS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Transportation shall—

(1) complete the rulemaking initiated by the National Highway Traffic Safety Administration that is ongoing on the date of the enactment of this Act and relates to a requirement that window switches be designed to reduce the accidental closing by children of power windows; and

(2) issue performance-based regulations to take effect not later than September 1, 2006, requiring that window switches or related technologies be designed to prevent the accidental closing by children of power windows.

(e) DATABASE ON INJURIES AND DEATHS IN NONTRAFFIC, NONCRASH EVENTS.—

(1) IN GENERAL.—The Secretary of Transportation shall establish a new database of, and collect data regarding, injuries and deaths in nontraffic, noncrash events involving motor vehicles. The database shall include information regarding—

(A) the number, types, and proximate causes of injuries and deaths resulting from such events;

(B) the characteristics of motor vehicles involved in such events;

(C) the characteristics of the motor vehicle operators and victims involved in such events; and

(D) the presence or absence in motor vehicles involved in such events of advanced technologies designed to prevent such injuries and deaths.

(2) RULEMAKING.—The Secretary shall conduct a rulemaking regarding how to structure and compile the database.

(3) AVAILABILITY.—The Secretary shall make the database available to the public.

SEC. 4174. SAFE INTERSECTIONS.

(a) IN GENERAL.—Chapter 2 of title 18, United States Code, is amended by adding at the end the following:

"§ 39. Traffic signal preemption transmitters

''(a) OFFENSES.—

''(1) SALE.—A person who provides for sale to unauthorized users a traffic signal preemption transmitter in or affecting interstate or foreign commerce shall be fined not more than $10,000, imprisoned not more than 1 year, or both.

''(2) POSSESSION.—A person who is an unauthorized user in possession of a traffic signal preemption transmitter in or affecting interstate or foreign commerce shall be fined not more than $10,000, imprisoned not more than 6 months, or both.

''(b) DEFINITIONS.—In this section, the following definitions apply:

''(1) TRAFFIC SIGNAL PREEMPTION TRANSMITTER.—The term 'traffic signal preemption transmitter' means any device or mechanism that can change a traffic signal's phase.

''(2) UNAUTHORIZED USER.—The term 'unauthorized user' means a user of a traffic signal preemption transmitter who is not a government approved user.''.

(b) CHAPTER ANALYSIS.—The chapter analysis for chapter 2 of title 18, United States Code, is amended by adding at the end the following:

''39. Traffic signal preemption transmitters.''.

SEC. 4175. STUDY ON INCREASED SPEED LIMITS.

(a) STUDY.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary shall conduct a study to examine the effects of increased speed limits enacted by States after 1995.

(2) REQUIREMENTS.—The study shall collect empirical data regarding—

(A) increases or decreases in driving speeds on Interstate highways since 1995;

(B) correlations between changes in driving speeds and accident, injury, and fatality rates;

(C) correlations between posted speed limits and observed driving speeds;

(D) the overall impact on motor vehicle safety resulting from the repeal of the national maximum speed limit in 1995; and

(E) such other matters as the Secretary determines to be appropriate.

(b) REPORT.—Not later than 1 year after the date of completion of the study under subsection (a), the Secretary shall submit to Congress a report that describes the results of the study.

SA 2329. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 338, after line 13, insert the following:

''(iii) $50,000,000 to the State of California to be used for the seismic retrofit and homeland security protection of the Golden Gate Bridge, San Francisco, California.

SA 2330. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE VII—BORDER SECURITY PROVISIONS

SEC. 7101. SECURE AND FAST ENTRY AT THE BORDER.

(a) SHORT TITLE.—This section may be cited as the ''Secure and Fast Entry at the Border Act of 2004'' or the ''SAFE Border Act of 2004'' .

(b) PORTPASS PROGRAM.—

(1) FINDINGS.—Congress finds the following:

(A) Port Passenger Accelerated Service System (PortPASS) is a group of pre-inspection technology programs used at ports of entry to facilitate the speedy passage of low-risk travelers.

(B) Ports of entry constitute vital links in our Nation's economic and social life.

(C) Southern and northern land border inspections combined comprise over 80 percent of the total number of inspections performed at all ports of entry.

(D) PortPASS programs strengthen our borders without impeding legitimate traffic needed for our Nation's economic health.

(E) Secure Electronic Network for Travelers Rapid Inspection (SENTRI), a PortPASS program, incorporates an extensive screening process to move pre-screened, low-risk travelers quickly and safely through the inspection process while preserving border security. There are currently over 45,000 SENTRI participants.

(F) PortPASS programs must expand their existing infrastructure to meet border management issues. The success and effectiveness of the programs demonstrate they are deserving of increased resource allocation to meet growth and security challenges.

(2) AMENDMENT TO IMMIGRATION AND NATIONALITY ACT.—Section 286(q)(1)(A) of the Immigration and Nationality Act (8 U.S.C. 1356(q)(1)(A)) is amended adding at the end the following:

''(iv) The Port Passenger Accelerated Service System (PortPASS) is authorized as a permanent land border inspection project under this subparagraph.''.

(3) SENTRI PARTICIPATION APPROVALS.—

(A) EXTENSION OF VALIDITY OF SENTRI APPROVALS FOR PARTICIPATION.—Notwithstanding any other provision of law, and beginning not later than 30 days after the date of enactment of this Act, approval shall be issued for participation in the Secure Electronic Network for Travelers Rapid Inspection (SENTRI), carried out by the Bureau of Citizenship and Immigration Services within the Department of Homeland Security, for non-commercial vehicle border crossers. Such approval shall be valid for not less than 2 years.

(B) PRECLUSION OF CERTAIN PERSONS.—Any person convicted of a felony or under active criminal investigation shall be prohibited from participating in the Secure Electronic Network for Travelers Rapid Inspection (SENTRI) program.

(4) SENSE OF CONGRESS.—It is the sense of the Congress that—

(A) the Department of Homeland Security must ensure the permanence of the Port Passenger Accelerated Service System (PortPASS) in the transition of PortPASS from the Department of Justice to the Department of Homeland Security;

(B) all land PortPASS programs should utilize interoperable technology to offer program enrollees increased access at all participating dedicated commuter lanes;

(C) the Secretary of Homeland Security should—

(i) appoint dedicated staff with appropriate training and instruction to the Secure Electronic Network for Travelers Rapid Inspection (SENTRI) program;

(ii) increase staffing under the SENTRI program for actual inspections and necessary administrative tasks; and

(iii) allocate greater resources to the program to facilitate and expedite the processing of applications for SENTRI; and

(D) the Secretary of Homeland Security should create a pre-inspection low-risk traveler dedicated commuter lane for pedestrian land border crossers.

SA 2331. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 460, strike line 18 and all that follows through page 462, line 24, and insert the following:

''(2) IDENTIFICATION OF CENTERS.—The university transportation centers established under this section shall—

''(A) comply with applicable requirements under subsection (c); and

''(B) be located at the institutions of higher learning specified in paragraph (3).

''(3) IDENTIFICATION OF GROUPS.—For the purpose of making grants under this subsection, the following grants are identified:

''(A) GROUP A.—Group A shall consist of the 10 regional centers selected under subsection (b).

''(B) GROUP B.—Group B shall consist of the following:

''(i) [_____].
''(ii) [_____].
''(iii) [_____].
''(iv) [_____].
''(v) [_____].
''(vi) [_____].
''(vii) [_____].
''(viii) [_____]
''(ix) [_____].
''(x) [_____].
''(xi) [_____].

''(C) GROUP C.—Group C shall consist of the following:

''(i) [_____].
''(ii) [_____].
''(iii) [_____].
''(iv) [_____].
''(v) [_____].
''(vi) [_____].
''(vii) [_____].
''(viii) [_____].
''(ix) [_____].
''(x) [_____].
''(xi) [_____].

''(D) GROUP D.—Group D shall consist of the following:

''(i) [_____].
''(ii) [_____].
''(iii) [_____].
''(iv) [_____].
''(v) [_____].
''(vi) [_____].
''(vii) [_____].
''(viii) [_____].

SA 2332. Mr. HARKIN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 145, strike lines 13 through 23 and insert the following:

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall promulgate regulations—

(1) to decrease the probability of worker injury;

(2) to maintain the free flow of vehicular traffic by requiring workers whose duties place the workers on, or in close proximity to, a Federal-aid highway (as defined in section 101 of title 23, United States Code) to wear high-visibility clothing; and

(3) to require such other worker-safety measures for workers described in paragraph (2) as the Secretary determines appropriate.

(b) VEGETATION CONTROL.—To lower operating expenses and improve safety during road construction, rehabilitation, and maintenance, the Secretary shall strongly encourage State departments of transportation and local transportation authorities to use devices that have been approved by the Federal Highway Administration to control vegetation near structures in the rights-of-way of highways.

SA 2333. Mr. HARKIN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 389, between lines 15 and 16, insert the following:

SEC. 18___. PRIORITY FOR PEDESTRIAN AND BICYCLE FACILITY ENHANCEMENT PROJECTS.

Section 133(e)(5) of title 23, United States Code, is amended by adding at the end the following:

''(D) PRIORITY FOR PEDESTRIAN AND BICYCLE FACILITY ENHANCEMENT PROJECTS.—The Secretary shall encourage States to give priority to pedestrian and bicycle facility enhancement projects that include a coordinated physical activity or healthy lifestyles program.''.

SA 2334. Mrs. CLINTON submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 893, between lines 23 and 24, insert the following:

''(C) RESPONSIBILITY OF STATES.—

''(i) IN GENERAL.—Each State shall be responsible for ensuring that subrecipients of Federal funds with the State under this section have emission reduction strategies for fleets of vehicles that are—

''(I) used in construction projects located in nonattainment and maintenance areas; and

''(II) funded under this title.

''(ii) REQUIREMENTS FOR STRATEGIES.—The emission reduction strategies referred to in clause (i) shall be consistent with guidance developed by the Administrator of the Environmental Protection Agency, in consultation with the Secretary, including guidance on—

''(I) contract preferences;

''(II) requirements for the use of anti-idling equipment;

''(III) diesel retrofits; and

''(IV) such other matters as the Administrator of the Environmental Protection Agency, in consultation with the Secretary, determine to be appropriate.

''(iii) USE OF CMAQ FUNDS.—A State may use funds made available for the congestion mitigation and air quality program to ensure the deployment of the emission reduction strategies described in clause (i).

SA 2335. Mrs. DOLE submitted an amendment intended to be proposed by her to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

SECTION 1. TAX TREATMENT OF STATE ACQUISITION OF RAILROAD REAL ESTATE INVESTMENT TRUST.

(a) IN GENERAL.—If a State acquires all of the outstanding stock of a real estate investment trust which is a non-operating class III railroad and substantially all of the activities of which consist of the ownership, leasing, and operation by such trust of facilities, equipment, and other property used by the trust or other persons in railroad transportation, then, for purposes of section 115 of the Internal Revenue Code of 1986—

(1) such activities shall be treated as the exercise of an essential governmental function, and

(2) income derived from such activities shall be treated as accruing to the State.

(b) GAIN OR LOSS NOT RECOGNIZED ON CONVERSION.—Notwithstanding section 337(d) of the Internal Revenue Code of 1986, no gain or less shall be recognized under section 336 or 337 of such Code because of the change of status of the real estate investment trust to a tax-exempt entity by reason of the application of subsection (a).

(c) TAX-EXEMPT FINANCING.—Any obligation issued by the entity described in subsection (a) shall be treated as an obligation of the State for purposes of applying section 103 and part IV of subchapter B of chapter 1 of the Internal Revenue Code of 1986.

(d) DEFINITIONS.—For purposes of this section—

(1) REAL ESTATE INVESTMENT TRUST.—The term ''real estate investment trust'' has the meaning given such term by section 856(a) of the Internal Revenue Code of 1986.

(2) NON-OPERATING CLASS III RAILROAD.—The term ''non-operating class III railroad'' has the meaning given such term by part A of subtitle IV of title 49, United States Code (49 U.S.C. 10101 et seq.) and the regulations thereunder.

(3) STATE.—The term ''State'' includes—

(A) the District of Columbia and any possession of the United States, and

(B) any authority, agency, or public corporation of a State.

(e) APPLICABILITY.—This section shall apply on and after the date of any acquisition described in subsection (a).

SA 2336. Mr. COLEMAN (for himself and Mr. DAYTON) submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following new title:

TITLE V—MISCELLANEOUS PROVISIONS

SEC. 5001. REIMBURSEMENT OF CERTAIN TRANSPORTATION COSTS INCURRED BY MEMBERS OF THE UNITED STATES ARMED FORCES ON REST AND RECUPERATION LEAVE.

The Secretary of Defense shall reimburse a member of the United States Armed Forces (out of funds available for the Armed Forces for operation and maintenance for the relevant fiscal year) for transportation expenses incurred by such member for one round trip by such member between two locations within the United States in connection with leave taken under the Central Command Rest and Recuperation Leave Program during the period beginning on September 25, 2003, and ending on December 18, 2003.

SA 2337. Mr. COLEMAN (for himself and Mr. DAYTON) submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following new title:

TITLE V—MISCELLANEOUS PROVISIONS

SEC. 5001. REIMBURSEMENT OF CERTAIN TRANSPORTATION COSTS INCURRED BY MEMBERS OF THE UNITED STATES ARMED FORCES ON REST AND RECUPERATION LEAVE.

The Secretary of Defense shall reimburse a member of the United States Armed Forces (out of funds available for the Armed Forces for operation and maintenance for the relevant fiscal year) for transportation expenses incurred by such member for one round trip by such member between two locations within the United States in connection with leave taken under the Central Command Rest and Recuperation Leave Program during the period beginning on September 25, 2003, and ending on December 18, 2003.

SA 2338. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, add the following:

SEC. 201. ALTERNATIVE MOTOR VEHICLE CREDIT.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 (relating to foreign tax credit, etc.) is amended by adding at the end the following new section:

"SEC. 30B. ALTERNATIVE MOTOR VEHICLE CREDIT.

''(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

''(1) the new qualified fuel cell motor vehicle credit determined under subsection (b),

''(2) the new qualified hybrid motor vehicle credit determined under subsection (c), and

''(3) the new qualified alternative fuel motor vehicle credit determined under subsection (d).

''(b) NEW QUALIFIED FUEL CELL MOTOR VEHICLE CREDIT.—

''(1) IN GENERAL.—For purposes of subsection (a), the new qualified fuel cell motor vehicle credit determined under this subsection with respect to a new qualified fuel cell motor vehicle placed in service by the taxpayer during the taxable year is—

''(A) $4,000, if such vehicle has a gross vehicle weight rating of not more than 8,500 pounds,

''(B) $10,000, if such vehicle has a gross vehicle weight rating of more than 8,500 pounds but not more than 14,000 pounds,

''(C) $20,000, if such vehicle has a gross vehicle weight rating of more than 14,000 pounds but not more than 26,000 pounds, and

''(D) $40,000, if such vehicle has a gross vehicle weight rating of more than 26,000 pounds.

''(2) INCREASE FOR FUEL EFFICIENCY.—

''(A) IN GENERAL.—The amount determined under paragraph (1)(A) with respect to a new qualified fuel cell motor vehicle which is a passenger automobile or light truck shall be increased by—

''(i) $1,000, if such vehicle achieves at least 150 percent but less than 175 percent of the 2002 model year city fuel economy,

''(ii) $1,500, if such vehicle achieves at least 175 percent but less than 200 percent of the 2002 model year city fuel economy,

''(iii) $2,000, if such vehicle achieves at least 200 percent but less than 225 percent of the 2002 model year city fuel economy,

''(iv) $2,500, if such vehicle achieves at least 225 percent but less than 250 percent of the 2002 model year city fuel economy,

''(v) $3,000, if such vehicle achieves at least 250 percent but less than 275 percent of the 2002 model year city fuel economy,

''(vi) $3,500, if such vehicle achieves at least 275 percent but less than 300 percent of the 2002 model year city fuel economy, and

''(vii) $4,000, if such vehicle achieves at least 300 percent of the 2002 model year city fuel economy.

''(B) 2002 MODEL YEAR CITY FUEL ECONOMY.—For purposes of subparagraph (A), the 2002 model year city fuel economy with respect to a vehicle shall be determined in accordance with the following tables:

''(i) In the case of a passenger automobile:

"If vehicle inertia weight class is:	The 2002 model year city fuel economy is:
1,500 or 1,750 lbs	45.2 mpg
2,000 lbs	39.6 mpg
2,250 lbs	35.2 mpg
2,500 lbs	31.7 mpg
2,750 lbs	28.8 mpg
3,000 lbs	26.4 mpg
3,500 lbs	22.6 mpg
4,000 lbs	19.8 mpg
4,500 lbs	17.6 mpg
5,000 lbs	15.9 mpg
5,500 lbs	14.4 mpg
6,000 lbs	13.2 mpg
6,500 lbs	12.2 mpg
7,000 to 8,500 lbs	11.3 mpg.

''(ii) In the case of a light truck:

"If vehicle inertia weight class is:	The 2002 model year city fuel economy is:
1,500 or 1,750 lbs	39.4 mpg
2,000 lbs	35.2 mpg
2,250 lbs	31.8 mpg
2,500 lbs	29.0 mpg
2,750 lbs	26.8 mpg
3,000 lbs	24.9 mpg
3,500 lbs	21.8 mpg
4,000 lbs	19.4 mpg
4,500 lbs	17.6 mpg
5,000 lbs	16.1 mpg
5,500 lbs	14.8 mpg
6,000 lbs	13.7 mpg
6,500 lbs	12.8 mpg
7,000 to 8,500 lbs	12.1 mpg.

''(C) VEHICLE INERTIA WEIGHT CLASS.—For purposes of subparagraph (B), the term 'vehicle inertia weight class' has the same meaning as when defined in regulations prescribed by the Administrator of the Environmental Protection Agency for purposes of the administration of title II of the Clean Air Act (42 U.S.C. 7521 et seq.).

''(3) NEW QUALIFIED FUEL CELL MOTOR VEHICLE.—For purposes of this subsection, the term 'new qualified fuel cell motor vehicle' means a motor vehicle—

''(A) which is propelled by power derived from one or more cells which convert chemical energy directly into electricity by combining oxygen with hydrogen fuel which is stored on board the vehicle in any form and may or may not require reformation prior to use,

''(B) which, in the case of a passenger automobile or light truck—

''(i) for 2002 and later model vehicles, has received a certificate of conformity under the Clean Air Act and meets or exceeds the equivalent qualifying California low emission vehicle standard under section 243(e)(2) of the Clean Air Act for that make and model year, and

''(ii) for 2004 and later model vehicles, has received a certificate that such vehicle meets or exceeds the Bin 5 Tier II emission level established in regulations prescribed by the Administrator of the Environmental Protection Agency under section 202(i) of the Clean Air Act for that make and model year vehicle,

''(C) the original use of which commences with the taxpayer,

''(D) which is acquired for use or lease by the taxpayer and not for resale, and

''(E) which is made by a manufacturer.

''(c) NEW QUALIFIED HYBRID MOTOR VEHICLE CREDIT.—

''(1) IN GENERAL.—For purposes of subsection (a), the new qualified hybrid motor vehicle credit determined under this subsection with respect to a new qualified hybrid motor vehicle placed in service by the taxpayer during the taxable year is the credit amount determined under paragraph (2).

''(2) CREDIT AMOUNT.—

''(A) IN GENERAL.—The credit amount determined under this paragraph shall be determined in accordance with the following tables:

''(i) In the case of a new qualified hybrid motor vehicle which is a passenger automobile or light truck and which provides the following percentage of the maximum available power:

"If percentage of the maximum available power is:	The credit amount is:
At least 4 percent but less than 10 percent.	$250
At least 10 percent but less than 20 percent.	$500
At least 20 percent but less than 30 percent.	$750
At least 30 percent	$1,000.

''(ii) In the case of a new qualified hybrid motor vehicle which is a heavy duty hybrid motor vehicle and which provides the following percentage of the maximum available power:

''(I) If such vehicle has a gross vehicle weight rating of not more than 14,000 pounds:

"If percentage of the maximum available power is:	The credit amount is:
At least 20 percent but less than 30 percent.	$1,000
At least 30 percent but less than 40 percent.	$1,750
At least 40 percent but less than 50 percent.	$2,000
At least 50 percent but less than 60 percent.	$2,250
At least 60 percent	$2,500.

''(II) If such vehicle has a gross vehicle weight rating of more than 14,000 but not more than 26,000 pounds:

"If percentage of the maximum available power is:	The credit amount is:
At least 20 percent but less than 30 percent.	$4,000
At least 30 percent but less than 40 percent.	$4,500
At least 40 percent but less than 50 percent.	$5,000
At least 50 percent but less than 60 percent.	$5,500
At least 60 percent	$6,000.

''(III) If such vehicle has a gross vehicle weight rating of more than 26,000 pounds:

"If percentage of the maximum available power is:	The credit amount is:
At least 20 percent but less than 30 percent.	$6,000
At least 30 percent but less than 40 percent.	$7,000
At least 40 percent but less than 50 percent.	$8,000
At least 50 percent but less than 60 percent.	$9,000
At least 60 percent	$10,000.

''(B) INCREASE FOR FUEL EFFICIENCY.—

''(i) AMOUNT.—The amount determined under subparagraph (A)(i) with respect to a new qualified hybrid motor vehicle which is a passenger automobile or light truck shall be increased by—

''(I) $500, if such vehicle achieves at least 125 percent but less than 150 percent of the 2002 model year city fuel economy,

''(II) $1,000, if such vehicle achieves at least 150 percent but less than 175 percent of the 2002 model year city fuel economy,

''(III) $1,500, if such vehicle achieves at least 175 percent but less than 200 percent of the 2002 model year city fuel economy,

''(IV) $2,000, if such vehicle achieves at least 200 percent but less than 225 percent of the 2002 model year city fuel economy,

''(V) $2,500, if such vehicle achieves at least 225 percent but less than 250 percent of the 2002 model year city fuel economy, and

''(VI) $3,000, if such vehicle achieves at least 250 percent of the 2002 model year city fuel economy.

''(ii) 2002 MODEL YEAR CITY FUEL ECONOMY.—For purposes of clause (i), the 2002 model year city fuel economy with respect to a vehicle shall be determined using the tables provided in subsection (b)(2)(B) with respect to such vehicle.

''(C) INCREASE FOR ACCELERATED EMISSIONS PERFORMANCE.—The amount determined under subparagraph (A)(ii) with respect to an applicable heavy duty hybrid motor vehicle shall be increased by the increased credit amount determined in accordance with the following tables:

''(i) In the case of a vehicle which has a gross vehicle weight rating of not more than 14,000 pounds:

"If the model year is:	The increased credit amount is:
2003	$3,000
2004	$2,500
2005	$2,000
2006	$1,500.

''(ii) In the case of a vehicle which has a gross vehicle weight rating of more than 14,000 pounds but not more than 26,000 pounds:

"If the model year is:	The increased credit amount is:
2003	$7,750
2004	$6,500
2005	$5,250
2006	$4,000.

''(iii) In the case of a vehicle which has a gross vehicle weight rating of more than 26,000 pounds:

"If the model year is:	The increased credit amount is:
2003	$12,000

"If the model year is:	The increased credit amount is:
2004	$10,000
2005	$8,000
2006	$6,000.

''(D) DEFINITIONS.—

''(i) APPLICABLE HEAVY DUTY HYBRID MOTOR VEHICLE.—For purposes of subparagraph (C), the term 'applicable heavy duty hybrid motor vehicle' means a heavy duty hybrid motor vehicle which is powered by an internal combustion or heat engine which is certified as meeting the emission standards set in the regulations prescribed by the Administrator of the Environmental Protection Agency for 2007 and later model year diesel heavy duty engines, or for 2008 and later model year ottocycle heavy duty engines, as applicable.

''(ii) HEAVY DUTY HYBRID MOTOR VEHICLE.—For purposes of this paragraph, the term 'heavy duty hybrid motor vehicle' means a new qualified hybrid motor vehicle which has a gross vehicle weight rating of more than 10,000 pounds and draws propulsion energy from both of the following onboard sources of stored energy:

''(I) An internal combustion or heat engine using consumable fuel which, for 2002 and later model vehicles, has received a certificate of conformity under the Clean Air Act and meets or exceeds a level of not greater than 3.0 grams per brake horsepower–hour of oxides of nitrogen and 0.01 per brake horsepower–hour of particulate matter.

''(II) A rechargeable energy storage system.

''(iii) MAXIMUM AVAILABLE POWER.—

''(I) PASSENGER AUTOMOBILE OR LIGHT TRUCK.—For purposes of subparagraph (A)(i), the term 'maximum available power' means the maximum power available from the rechargeable energy storage system, during a standard 10 second pulse power or equivalent test, divided by such maximum power and the SAE net power of the heat engine.

''(II) HEAVY DUTY HYBRID MOTOR VEHICLE.—For purposes of subparagraph (A)(ii), the term 'maximum available power' means the maximum power available from the rechargeable energy storage system, during a standard 10 second pulse power or equivalent test, divided by the vehicle's total traction power. The term 'total traction power' means the sum of the peak power from the rechargeable energy storage system and the heat engine peak power of the vehicle, except that if such storage system is the sole means by which the vehicle can be driven, the total traction power is the peak power of such storage system.

''(3) NEW QUALIFIED HYBRID MOTOR VEHICLE.—For purposes of this subsection, the term 'new qualified hybrid motor vehicle' means a motor vehicle—

''(A) which draws propulsion energy from onboard sources of stored energy which are both—

''(i) an internal combustion or heat engine using combustible fuel, and

''(ii) a rechargeable energy storage system,

''(B) which, in the case of a passenger automobile or light truck—

''(i) for 2002 and later model vehicles, has received a certificate of conformity under the Clean Air Act and meets or exceeds the equivalent qualifying California low emission vehicle standard under section 243(e)(2) of the Clean Air Act for that make and model year, and

''(ii) for 2004 and later model vehicles, has received a certificate that such vehicle meets or exceeds the Bin 5 Tier II emission level established in regulations prescribed by the Administrator of the Environmental Protection Agency under section 202(i) of the Clean Air Act for that make and model year vehicle,

''(C) the original use of which commences with the taxpayer,

''(D) which is acquired for use or lease by the taxpayer and not for resale, and

''(E) which is made by a manufacturer.

''(d) NEW QUALIFIED ALTERNATIVE FUEL MOTOR VEHICLE CREDIT.—

''(1) ALLOWANCE OF CREDIT.—Except as provided in paragraph (5), the new qualified alternative fuel motor vehicle credit determined under this subsection is an amount equal to the applicable percentage of the incremental cost of any new qualified alternative fuel motor vehicle placed in service by the taxpayer during the taxable year.

''(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage with respect to any new qualified alternative fuel motor vehicle is—

''(A) 40 percent, plus

''(B) 30 percent, if such vehicle—

''(i) has received a certificate of conformity under the Clean Air Act and meets or exceeds the most stringent standard available for certification under the Clean Air Act for that make and model year vehicle (other than a zero emission standard), or

''(ii) has received an order certifying the vehicle as meeting the same requirements as vehicles which may be sold or leased in California and meets or exceeds the most stringent standard available for certification under the State laws of California (enacted in accordance with a waiver granted under section 209(b) of the Clean Air Act) for that make and model year vehicle (other than a zero emission standard).

''(3) INCREMENTAL COST.—For purposes of this subsection, the incremental cost of any new qualified alternative fuel motor vehicle is equal to the amount of the excess of the manufacturer's suggested retail price for such vehicle over such price for a gasoline or diesel fuel motor vehicle of the same model, to the extent such amount does not exceed—

''(A) $5,000, if such vehicle has a gross vehicle weight rating of not more than 8,500 pounds,

''(B) $10,000, if such vehicle has a gross vehicle weight rating of more than 8,500 pounds but not more than 14,000 pounds,

''(C) $25,000, if such vehicle has a gross vehicle weight rating of more than 14,000 pounds but not more than 26,000 pounds, and

''(D) $40,000, if such vehicle has a gross vehicle weight rating of more than 26,000 pounds.

''(4)NEW QUALIFIED ALTERNATIVE FUEL MOTOR VEHICLE.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'new qualified alternative fuel motor vehicle' means any motor vehicle—

''(i) which is only capable of operating on an alternative fuel,

''(ii) the original use of which commences with the taxpayer,

''(iii) which is acquired by the taxpayer for use or lease, but not for resale, and

''(iv) which is made by a manufacturer.

''(B) ALTERNATIVE FUEL.—The term 'alternative fuel' means compressed natural gas, liquefied natural gas, liquefied petroleum gas, hydrogen, and any liquid at least 85 percent of the volume of which consists of methanol.

''(5) CREDIT FOR MIXED-FUEL VEHICLES.—

''(A) IN GENERAL.—In the case of a mixed-fuel vehicle placed in service by the taxpayer during the taxable year, the credit determined under this subsection is an amount equal to—

''(i) in the case of a 75/25 mixed-fuel vehicle, 70 percent of the credit which would have been allowed under this subsection if such vehicle was a qualified alternative fuel motor vehicle, and

''(ii) in the case of a 90/10 mixed-fuel vehicle, 90 percent of the credit which would have been allowed under this subsection if such vehicle was a qualified alternative fuel motor vehicle.

''(B) MIXED-FUEL VEHICLE.—For purposes of this subsection, the term 'mixed-fuel vehicle' means any motor vehicle described in subparagraph (C) or (D) of paragraph (3), which—

''(i) is certified by the manufacturer as being able to perform efficiently in normal operation on a combination of an alternative fuel and a petroleum-based fuel,

''(ii) either—

''(I) has received a certificate of conformity under the Clean Air Act, or

''(II) has received an order certifying the vehicle as meeting the same requirements as vehicles which may be sold or leased in California and meets or exceeds the low emission vehicle standard under section 88.105-94 of title 40, Code of Federal Regulations, for that make and model year vehicle,

''(iii) the original use of which commences with the taxpayer,

''(iv) which is acquired by the taxpayer for use or lease, but not for resale, and

''(v) which is made by a manufacturer.

''(C) 75/25 MIXED-FUEL VEHICLE.—For purposes of this subsection, the term '75/25 mixed-fuel vehicle' means a mixed-fuel vehicle which operates using at least 75 percent alternative fuel and not more than 25 percent petroleum-based fuel.

''(D) 90/10 MIXED-FUEL VEHICLE.—For purposes of this subsection, the term '90/10 mixed-fuel vehicle' means a mixed-fuel vehicle which operates using at least 90 percent alternative fuel and not more than 10 percent petroleum-based fuel.

''(e) APPLICATION WITH OTHER CREDITS.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess (if any) of—

''(1) the regular tax for the taxable year reduced by the sum of the credits allowable under subpart A and sections 27, 29, and 30, over

''(2) the tentative minimum tax for the taxable year.

''(f) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) CONSUMABLE FUEL.—The term 'consumable fuel' means any solid, liquid, or gaseous matter which releases energy when consumed by an auxiliary power unit.

''(2) MOTOR VEHICLE.—The term 'motor vehicle' has the meaning given such term by section 30(c)(2).

''(3) CITY FUEL ECONOMY.—The city fuel economy with respect to any vehicle shall be measured in a manner which is substantially similar to the manner city fuel economy is measured in accordance with procedures under part 600 of subchapter Q of chapter I of title 40, Code of Federal Regulations, as in effect on the date of the enactment of this section.

''(4) OTHER TERMS.—The terms 'automobile', 'passenger automobile', 'light truck', and 'manufacturer' have the meanings given such terms in regulations prescribed by the Administrator of the Environmental Protection Agency for purposes of the administration of title II of the Clean Air Act (42 U.S.C. 7521 et seq.).

''(5) REDUCTION IN BASIS.—For purposes of this subtitle, the basis of any property for which a credit is allowable under subsection (a) shall be reduced by the amount of such credit so allowed (determined without regard to subsection (e)).

''(6) NO DOUBLE BENEFIT.—The amount of any deduction or other credit allowable under this chapter—

''(A) for any incremental cost taken into account in computing the amount of the

credit determined under subsection (d) shall be reduced by the amount of such credit attributable to such cost, and

''(B) with respect to a vehicle described under subsection (b) or (c), shall be reduced by the amount of credit allowed under subsection (a) for such vehicle for the taxable year.

''(7) PROPERTY USED BY TAX-EXEMPT ENTITIES.—In the case of a credit amount which is allowable with respect to a motor vehicle which is acquired by an entity exempt from tax under this chapter, the person which sells or leases such vehicle to the entity shall be treated as the taxpayer with respect to the vehicle for purposes of this section and the credit shall be allowed to such person, but only if the person clearly discloses to the entity at the time of any sale or lease the specific amount of any credit otherwise allowable to the entity under this section.

''(8) RECAPTURE.—The Secretary shall, by regulations, provide for recapturing the benefit of any credit allowable under subsection (a) with respect to any property which ceases to be property eligible for such credit (including recapture in the case of a lease period of less than the economic life of a vehicle).

''(9) PROPERTY USED OUTSIDE UNITED STATES, ETC., NOT QUALIFIED.—No credit shall be allowed under subsection (a) with respect to any property referred to in section 50(b) or with respect to the portion of the cost of any property taken into account under section 179.

''(10) ELECTION TO NOT TAKE CREDIT.—No credit shall be allowed under subsection (a) for any vehicle if the taxpayer elects to not have this section apply to such vehicle.

''(11) CARRYBACK AND CARRYFORWARD ALLOWED.—

''(A) IN GENERAL.—If the credit amount allowable under subsection (a) for a taxable year exceeds the amount of the limitation under subsection (e) for such taxable year (in this paragraph referred to as the 'unused credit year'), such excess shall be allowed as a credit carryback for each of the 3 taxable years beginning after the date of the enactment of this paragraph, which precede the unused credit year and a credit carryforward for each of the 20 taxable years which succeed the unused credit year.

''(B) RULES.—Rules similar to the rules of section 39 shall apply with respect to the credit carryback and credit carryforward under subparagraph (A).

''(12) INTERACTION WITH AIR QUALITY AND MOTOR VEHICLE SAFETY STANDARDS.—Unless otherwise provided in this section, a motor vehicle shall not be considered eligible for a credit under this section unless such vehicle is in compliance with—

''(A) the applicable provisions of the Clean Air Act for the applicable make and model year of the vehicle (or applicable air quality provisions of State law in the case of a State which has adopted such provision under a waiver under section 209(b) of the Clean Air Act), and

''(B) the motor vehicle safety provisions of sections 30101 through 30169 of title 49, United States Code.

''(g) REGULATIONS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall promulgate such regulations as necessary to carry out the provisions of this section.

''(2) COORDINATION IN PRESCRIPTION OF CERTAIN REGULATIONS.—The Secretary of the Treasury, in coordination with the Secretary of Transportation and the Administrator of the Environmental Protection Agency, shall prescribe such regulations as necessary to determine whether a motor vehicle meets the requirements to be eligible for a credit under this section.

''(h) TERMINATION.—This section shall not apply to any property purchased after—

''(1) in the case of a new qualified fuel cell motor vehicle (as described in subsection (b)), December 31, 2011, and

''(2) in the case of any other property, December 31, 2006.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 1016(a) is amended by striking ''and'' at the end of paragraph (27), by striking the period at the end of paragraph (28) and inserting '', and'', and by adding at the end the following new paragraph:

''(29) to the extent provided in section 30B(f)(5).''.

(2) Section 55(c)(2) is amended by inserting ''30B(e),'' after ''30(b)(3)''.

(3) Section 6501(m) is amended by inserting ''30B(f)(10),'' after ''30(d)(4),''.

(4) The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 30A the following new item:

''Sec. 30B. Alternative motor vehicle credit.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 202. MODIFICATION OF CREDIT FOR QUALIFIED ELECTRIC VEHICLES.

(a) AMOUNT OF CREDIT.—

(1) IN GENERAL.—Section 30(a) (relating to allowance of credit) is amended by striking ''10 percent of''.

(2) LIMITATION OF CREDIT ACCORDING TO TYPE OF VEHICLE.—Section 30(b) (relating to limitations) is amended—

(A) by striking paragraphs (1) and (2) and inserting the following new paragraph:

''(1) LIMITATION ACCORDING TO TYPE OF VEHICLE.—The amount of the credit allowed under subsection (a) for any vehicle shall not exceed the greatest of the following amounts applicable to such vehicle:

''(A) In the case of a vehicle which conforms to the Motor Vehicle Safety Standard 500 prescribed by the Secretary of Transportation, as in effect on the date of the enactment of the Energy Tax Incentives Act of 2003, the lesser of—

''(i) 10 percent of the manufacturer's suggested retail price of the vehicle, or

''(ii) $1,500.

''(B) In the case of a vehicle not described in subparagraph (A) with a gross vehicle weight rating not exceeding 8,500 pounds—

''(i) $3,500, or

''(ii) $6,000, if such vehicle is—

''(I) capable of a driving range of at least 100 miles on a single charge of the vehicle's rechargeable batteries as measured pursuant to the urban dynamometer schedules under appendix I to part 86 of title 40, Code of Federal Regulations, or

''(II) capable of a payload capacity of at least 1,000 pounds.

''(C) In the case of a vehicle with a gross vehicle weight rating exceeding 8,500 but not exceeding 14,000 pounds, $10,000.

''(D) In the case of a vehicle with a gross vehicle weight rating exceeding 14,000 but not exceeding 26,000 pounds, $20,000.

''(E) In the case of a vehicle with a gross vehicle weight rating exceeding 26,000 pounds, $40,000.'', and

(B) by redesignating paragraph (3) as paragraph (2).

(3) CONFORMING AMENDMENTS.—

(A) Section 53(d)(1)(B)(iii) is amended by striking ''section 30(b)(3)(B)'' and inserting ''section 30(b)(2)(B)''.

(3) Section 55(c)(2), as amended by this Act, is amended by striking ''30(b)(3)'' and inserting ''30(b)(2)''.

(b) QUALIFIED BATTERY ELECTRIC VEHICLE.—

(1) IN GENERAL.—Section 30(c)(1)(A) (defining qualified electric vehicle) is amended to read as follows:

''(A) which is—

''(i) operated solely by use of a battery or battery pack, or

''(ii) powered primarily through the use of an electric battery or battery pack using a flywheel or capacitor which stores energy produced by an electric motor through regenerative braking to assist in vehicle operation,''.

(2) LEASED VEHICLES.—Section 30(c)(1)(C) is amended by inserting ''or lease'' after ''use''.

(3) CONFORMING AMENDMENTS.—

(A) Subsections (a), (b)(2), and (c) of section 30 are each amended by inserting ''battery'' after ''qualified'' each place it appears.

(B) The heading of subsection (c) of section 30 is amended by inserting ''BATTERY'' after ''QUALIFIED''.

(C) The heading of section 30 is amended by inserting ''**battery**'' after ''**qualified**''.

(D) The item relating to section 30 in the table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by inserting ''battery'' after ''qualified''.

(E) Section 179A(c)(3) is amended by inserting ''battery'' before ''electric''.

(F) The heading of paragraph (3) of section 179A(c) is amended by inserting ''BATTERY'' before ''ELECTRIC''.

(c) ADDITIONAL SPECIAL RULES.—Section 30(d) (relating to special rules) is amended by adding at the end the following new paragraphs:

''(5) NO DOUBLE BENEFIT.—The amount of any deduction or other credit allowable under this chapter for any cost taken into account in computing the amount of the credit determined under subsection (a) shall be reduced by the amount of such credit attributable to such cost.

''(6) PROPERTY USED BY TAX-EXEMPT ENTITIES.—In the case of a credit amount which is allowable with respect to a vehicle which is acquired by an entity exempt from tax under this chapter, the person which sells or leases such vehicle to the entity shall be treated as the taxpayer with respect to the vehicle for purposes of this section and the credit shall be allowed to such person, but only if the person clearly discloses to the entity at the time of any sale or lease the specific amount of any credit otherwise allowable to the entity under this section.

''(7) CARRYBACK AND CARRYFORWARD ALLOWED.—

''(A) IN GENERAL.—If the credit amount allowable under subsection (a) for a taxable year exceeds the amount of the limitation under subsection (b)(2) for such taxable year (in this paragraph referred to as the 'unused credit year'), such excess shall be allowed as a credit carryback for each of the 3 taxable years beginning after the date of the enactment of this paragraph, which precede the unused credit year and a credit carryforward for each of the 20 taxable years which succeed the unused credit year.

''(B) RULES.—Rules similar to the rules of section 39 shall apply with respect to the credit carryback and credit carryforward under subparagraph (A).''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 203. CREDIT FOR INSTALLATION OF ALTERNATIVE FUELING STATIONS.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 (relating to foreign tax credit, etc.), as amended by this Act, is amended by adding at the end the following new section:

"SEC. 30C. CLEAN-FUEL VEHICLE REFUELING PROPERTY CREDIT.

''(a) CREDIT ALLOWED.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 50 percent of the amount paid or incurred by the taxpayer during the taxable year for the installation of qualified clean-fuel vehicle refueling property.

''(b) LIMITATION.—The credit allowed under subsection (a)—

''(1) with respect to any retail clean-fuel vehicle refueling property, shall not exceed $30,000, and

''(2) with respect to any residential clean-fuel vehicle refueling property, shall not exceed $1,000.

''(c) YEAR CREDIT ALLOWED.—The credit allowed under subsection (a) shall be allowed in the taxable year in which the qualified clean-fuel vehicle refueling property is placed in service by the taxpayer.

''(d) DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED CLEAN-FUEL VEHICLE REFUELING PROPERTY.—The term 'qualified clean-fuel vehicle refueling property' has the same meaning given such term by section 179A(d).

''(2) RESIDENTIAL CLEAN-FUEL VEHICLE REFUELING PROPERTY.—The term 'residential clean-fuel vehicle refueling property' means qualified clean-fuel vehicle refueling property which is installed on property which is used as the principal residence (within the meaning of section 121) of the taxpayer.

''(3) RETAIL CLEAN-FUEL VEHICLE REFUELING PROPERTY.—The term 'retail clean-fuel vehicle refueling property' means qualified clean-fuel vehicle refueling property which is installed on property (other than property described in paragraph (2)) used in a trade or business of the taxpayer.

''(e) APPLICATION WITH OTHER CREDITS.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess (if any) of—

''(1) the regular tax for the taxable year reduced by the sum of the credits allowable under subpart A and sections 27, 29, 30, and 30B, over

''(2) the tentative minimum tax for the taxable year.

''(f) BASIS REDUCTION.—For purposes of this title, the basis of any property shall be reduced by the portion of the cost of such property taken into account under subsection (a).

''(g) NO DOUBLE BENEFIT.—No deduction shall be allowed under section 179A with respect to any property with respect to which a credit is allowed under subsection (a).

''(h) REFUELING PROPERTY INSTALLED FOR TAX-EXEMPT ENTITIES.—In the case of qualified clean-fuel vehicle refueling property installed on property owned or used by an entity exempt from tax under this chapter, the person which installs such refueling property for the entity shall be treated as the taxpayer with respect to the refueling property for purposes of this section (and such refueling property shall be treated as retail clean-fuel vehicle refueling property) and the credit shall be allowed to such person, but only if the person clearly discloses to the entity in any installation contract the specific amount of the credit allowable under this section.

''(i) CARRYFORWARD ALLOWED.—

''(1) IN GENERAL.—If the credit amount allowable under subsection (a) for a taxable year exceeds the amount of the limitation under subsection (e) for such taxable year (referred to as the 'unused credit year' in this subsection), such excess shall be allowed as a credit carryforward for each of the 20 taxable years following the unused credit year.

''(2) RULES.—Rules similar to the rules of section 39 shall apply with respect to the credit carryforward under paragraph (1).

''(j) SPECIAL RULES.—Rules similar to the rules of paragraphs (4) and (5) of section 179A(e) shall apply.

''(k) REGULATIONS.—The Secretary shall prescribe such regulations as necessary to carry out the provisions of this section.

''(l) TERMINATION.—This section shall not apply to any property placed in service—

''(1) in the case of property relating to hydrogen, after December 31, 2011, and

''(2) in the case of any other property, after December 31, 2007.''.

(b) MODIFICATIONS TO EXTENSION OF DEDUCTION FOR CERTAIN REFUELING PROPERTY.—

(1) IN GENERAL.—Subsection (f) of section 179A is amended to read as follows:

''(f) TERMINATION.—This section shall not apply to any property placed in service—

''(1) in the case of property relating to hydrogen, after December 31, 2011, and

''(2) in the case of any other property, after December 31, 2007.''.

(2) EXTENSION OF PHASEOUT.—Section 179A(b)(1)(B), as amended by section 606(a) of the Job Creation and Worker Assistance Act of 2002, is amended—

(A) by striking ''calendar year 2004'' in clause (i) and inserting ''calendar years 2004 and 2005 (calendar years 2004 through 2009 in the case of property relating to hydrogen) '',

(B) by striking ''2005'' in clause (ii) and inserting ''2006 (calendar year 2010 in the case of property relating to hydrogen)'', and

(C) by striking ''2006'' in clause (iii) and inserting ''2007 (calendar year 2011 in the case of property relating to hydrogen)''.

(c) INCENTIVE FOR PRODUCTION OF HYDROGEN AT QUALIFIED CLEAN-FUEL VEHICLE REFUELING PROPERTY.—Section 179A(d) (defining qualified clean-fuel vehicle refueling property) is amended by adding at the end the following new flush sentence:

''In the case of clean-burning fuel which is hydrogen produced from another clean-burning fuel, paragraph (3)(A) shall be applied by substituting 'production, storage, or dispensing' for 'storage or dispensing' both places it appears.''.

(d) CONFORMING AMENDMENTS.—(1) Section 1016(a), as amended by this Act, is amended by striking ''and'' at the end of paragraph (28), by striking the period at the end of paragraph (29) and inserting '', and'', and by adding at the end the following new paragraph:

''(30) to the extent provided in section 30C(f).''.

(2) Section 55(c)(2), as amended by this Act, is amended by inserting ''30C(e),'' after ''30B(e)''.

(3) The table of sections for subpart B of part IV of subchapter A of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 30B the following new item:

''Sec. 30C. Clean-fuel vehicle refueling property credit.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 204. CREDIT FOR RETAIL SALE OF ALTERNATIVE FUELS AS MOTOR VEHICLE FUEL.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by inserting after section 40 the following new section:

"SEC. 40A. CREDIT FOR RETAIL SALE OF ALTERNATIVE FUELS AS MOTOR VEHICLE FUEL.

''(a) GENERAL RULE.—For purposes of section 38, the alternative fuel retail sales credit for any taxable year is the applicable amount for each gasoline gallon equivalent of alternative fuel sold at retail by the taxpayer during such year as a fuel to propel any qualified motor vehicle.

''(b) DEFINITIONS.—For purposes of this section—

''(1) APPLICABLE AMOUNT.—The term 'applicable amount' means the amount determined in accordance with the following table:

"In the case of any taxable year ending in—	**The applicable amount is—**
2003	30 cents
2004	40 cents
2005 and 2006	50 cents.

''(2) ALTERNATIVE FUEL.—The term 'alternative fuel' means compressed natural gas, liquefied natural gas, liquefied petroleum gas, hydrogen, and any liquid at least 85 percent of the volume of which consists of methanol or ethanol.

''(3) GASOLINE GALLON EQUIVALENT.—The term 'gasoline gallon equivalent' means, with respect to any alternative fuel, the amount (determined by the Secretary) of such fuel having a Btu content of 114,000.

''(4) QUALIFIED MOTOR VEHICLE.—The term 'qualified motor vehicle' means any motor vehicle (as defined in section 30(c)(2)) which meets any applicable Federal or State emissions standards with respect to each fuel by which such vehicle is designed to be propelled.

''(5) SOLD AT RETAIL.—

''(A) IN GENERAL.—The term 'sold at retail' means the sale, for a purpose other than resale, after manufacture, production, or importation.

''(B) USE TREATED AS SALE.—If any person uses alternative fuel (including any use after importation) as a fuel to propel any qualified alternative fuel motor vehicle (as defined in section 30B(d)(4)) before such fuel is sold at retail, then such use shall be treated in the same manner as if such fuel were sold at retail as a fuel to propel such a vehicle by such person.

''(c) NO DOUBLE BENEFIT.—The amount of any deduction or other credit allowable under this chapter for any fuel taken into account in computing the amount of the credit determined under subsection (a) shall be reduced by the amount of such credit attributable to such fuel.

''(d) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

''(e) TERMINATION.—This section shall not apply to any fuel sold at retail after December 31, 2006.''.

(b) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b) (relating to current year business credit) is amended by striking ''plus'' at the end of paragraph (14), by striking the period at the end of paragraph (15) and inserting '', plus'', and by adding at the end the following new paragraph:

''(16) the alternative fuel retail sales credit determined under section 40A(a).''.

(c) TRANSITIONAL RULE.—Section 39(d) (relating to transitional rules) is amended by adding at the end the following new paragraph:

''(11) NO CARRYBACK OF SECTION 40A CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the alternative fuel retail sales credit determined under section 40A(a) may be carried back to a taxable year ending on or before the date of the enactment of such section.''.

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 40 the following new item:

''Sec. 40A. Credit for retail sale of alternative fuels as motor vehicle fuel.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel sold at retail after the date of the enactment of this Act, in taxable years ending after such date.

SA 2339. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 5442.

SA 2342. Mr. TALENT (for himself, Mr. WYDEN, Mr. CORZINE, and Mr. COLEMAN) submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 1298, after line 24, add the following:

Subtitle H—Build America Bonds

SEC. 5671. SHORT TITLE; ETC.

(a) SHORT TITLE.—This subtitle may be cited as the ''Build America Bonds Act of 2004''.

(b) REFERENCES TO INTERNAL REVENUE CODE OF 1986.—Except as otherwise expressly provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 5672. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds the following:

(1) Our Nation's highways, public transportation systems, and rail systems drive our economy, enabling all industries to achieve growth and productivity that makes America strong and prosperous.

(2) The establishment, maintenance, and improvement of the national transportation network is a national priority, for economic, environmental, energy, security, and other reasons.

(3) The ability to move people and goods is critical to maintaining State, metropolitan, rural, and local economies.

(4) The construction of infrastructure requires the skills of numerous occupations, including those in the contracting, engineering, planning and design, materials supply, manufacturing, distribution, and safety industries.

(5) Investing in transportation infrastructure creates long-term capital assets for the Nation that will help the United States address its enormous infrastructure needs and improve its economic productivity.

(6) Investment in transportation infrastructure creates jobs and spurs economic activity to put people back to work and stimulate the economy.

(7) Every billion dollars in transportation investment has the potential to create up to 47,500 jobs.

(8) Every dollar invested in the Nation's transportation infrastructure yields at least $5.70 in economic benefits because of reduced delays, improved safety, and reduced vehicle operating costs.

(9) The proposed increases to the Transportation Equity Act for the 21st Century (TEA–21) will not be sufficient to compensate for the Nation's transportation infrastructure deficit.

(b) PURPOSE.—The purpose of this subtitle is to provide financing for long-term infrastructure capital investments that are not currently being met by existing transportation and infrastructure investment programs, including mega-projects, projects of national significance and high priority projects, multi-State transportation corridors, intermodal transportation facilities, replacement and reconstruction of deficient and obsolete bridges, interstate highways, public transportation systems, and rail systems.

SEC. 5673. CREDIT TO HOLDERS OF BUILD AMERICA BONDS.

(a) IN GENERAL.—Part IV of subchapter A of chapter 1 (relating to credits against tax) is amended by adding at the end the following new subpart:

"Subpart H—Nonrefundable Credit for Holders of Build America Bonds

''Sec. 54. Credit to holders of Build America bonds.

"SEC. 54. CREDIT TO HOLDERS OF BUILD AMERICA BONDS.

''(a) ALLOWANCE OF CREDIT.—In the case of a taxpayer who holds a Build America bond on a credit allowance date of such bond which occurs during the taxable year, there shall be allowed as a credit against the tax imposed by this chapter for such taxable year an amount equal to the sum of the credits determined under subsection (b) with respect to credit allowance dates during such year on which the taxpayer holds such bond.

''(b) AMOUNT OF CREDIT.—

''(1) IN GENERAL.—The amount of the credit determined under this subsection with respect to any credit allowance date for a Build America bond is 25 percent of the annual credit determined with respect to such bond.

''(2) ANNUAL CREDIT.—The annual credit determined with respect to any Build America bond is the product of—

''(A) the applicable credit rate, multiplied by

''(B) the outstanding face amount of the bond.

''(3) APPLICABLE CREDIT RATE.—For purposes of paragraph (2), the applicable credit rate with respect to an issue is the rate equal to an average market yield (as of the day before the date of sale of the issue) on outstanding long-term corporate debt obligations (determined in such manner as the Secretary prescribes).

''(4) CREDIT ALLOWANCE DATE.—For purposes of this section, the term 'credit allowance date' means—

''(A) March 15,

''(B) June 15,

''(C) September 15, and

''(D) December 15.

Such term includes the last day on which the bond is outstanding.

''(5) SPECIAL RULE FOR ISSUANCE AND REDEMPTION.—In the case of a bond which is issued during the 3-month period ending on a credit allowance date, the amount of the credit determined under this subsection with respect to such credit allowance date shall be a ratable portion of the credit otherwise determined based on the portion of the 3-month period during which the bond is outstanding. A similar rule shall apply when the bond is redeemed.

''(c) LIMITATION BASED ON AMOUNT OF TAX.—

''(1) IN GENERAL.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess of—

''(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(B) the sum of the credits allowable under this part (other than this subpart and subpart C).

''(2) CARRYOVER OF UNUSED CREDIT.—If the credit allowable under subsection (a) exceeds the limitation imposed by paragraph (1) for such taxable year, such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such taxable year.

''(d) CREDIT INCLUDED IN GROSS INCOME.—Gross income includes the amount of the credit allowed to the taxpayer under this section (determined without regard to subsection (c)) and the amount so included shall be treated as interest income.

''(e) BUILD AMERICA BOND.—For purposes of this part, the term 'Build America bond' means any bond issued as part of an issue if—

''(1) the net spendable proceeds from the sale of such issue are to be used—

''(A) for expenditures incurred after the date of the enactment of this section for any qualified project, or

''(B) for deposit in the Build America Trust Account for repayment of Build America bonds at maturity,

''(2) the bond is issued by the Transportation Finance Corporation, is in registered form, and meets the Build America bond limitation requirements under subsection (g),

''(3) the Transportation Finance Corporation certifies that it meets the State contribution requirement of subsection (k) with respect to such project, as in effect on the date of issuance,

''(4) the Transportation Finance Corporation certifies that the State in which an approved qualified project is located meets the requirement described in subsection (l),

''(5) except for bonds issued in accordance with subsection (g)(6), the term of each bond which is part of such issue does not exceed 30 years,

''(6) the payment of principal with respect to such bond is the obligation of the Transportation Finance Corporation, and

''(7) with respect to bonds described in paragraph (1)(A), the issue meets the requirements of subsection (h) (relating to arbitrage).

''(f) QUALIFIED PROJECT.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified project' means any—

''(A) qualified highway project,

''(B) qualified public transportation project, and

''(C) congestion relief project,

proposed by 1 or more States and approved by the Transportation Finance Corporation.

''(2) QUALIFIED HIGHWAY PROJECT.—The term 'qualified highway project' means a project for highway facilities or other facilities which are eligible for assistance under title 23, United States Code.

''(3) QUALIFIED PUBLIC TRANSPORTATION PROJECT.—The term 'qualified public transportation project' means a project for public transportation facilities or other facilities which are eligible for assistance under chapter 53 of title 49, United States Code.

''(4) CONGESTION RELIEF PROJECT.—The term 'congestion relief project' means an intermodal freight transfer facility, freight rail facility, freight movement corridor, intercity passenger rail or facility, intercity bus vehicle or facility, border crossing facility, or other public or private facility approved as a congestion relief project by the Secretary of Transportation. In making such

approvals, the Secretary of Transportation shall—

''(A) consider the economic, environmental, mobility, and national security improvements to be realized through the project, and

''(B) give preference to projects with national or regional significance, including any projects sponsored by a coalition of States or a combination of States and private sector entities, in terms of generating economic benefits, supporting international commerce, or otherwise enhancing the national transportation system.

''(g) LIMITATION ON AMOUNT OF BONDS DESIGNATED; ALLOCATION OF BOND PROCEEDS.—

''(1) NATIONAL LIMITATION.—There is a Build America bond limitation for each calendar year. Such limitation is—

''(A) with respect to bonds described in subsection (e)(1)(A),

''(i) $11,000,000,000 for 2004,

''(ii) $16,000,000,000 for 2005,

''(iii) $16,000,000,000 for 2006,

''(iv) $6,000,000,000 for 2007,

''(v) $3,500,000,000 for 2008,

''(vi) $3,500,000,000 for 2009, and

''(vii) except as provided in paragraph (5), zero thereafter, plus

''(B) with respect to bonds described in subsection (e)(1)(B), such amount each calendar year as determined necessary by the Transportation Finance Corporation to provide funds in the Build America Trust Account for the repayment of Build America bonds at maturity.

''(2) CONGESTION RELIEF PROJECTS.—From Build America bonds issued under the annual limitation in paragraph (1)(A), $1,000,000,000 of net spendable proceeds shall be reserved for each of the calendar years 2004, 2005, 2006, 2007, 2008, and 2009 for allocation to congestion relief projects.

''(3) ALLOCATION OF BONDS FOR HIGHWAY AND PUBLIC TRANSPORTATION PURPOSES.—Except with respect to qualified projects described in subsection (j)(3), and subject to paragraphs (2) and (4)—

''(A) QUALIFIED HIGHWAY PROJECTS.—From Build America bonds issued under the annual limitation in paragraph (1)(A), the Transportation Finance Corporation shall allocate 80 percent of the net spendable proceeds to the States for qualified highway projects in the following manner:

''(i) 50 percent of such allocation shall be in accordance with the formulas for apportioning funds under sections 104(b) and 144 of title 23, United States Code.

''(ii) 50 percent of such allocation shall be for projects, including projects of national significance and high priority projects, designated by law.

''(B) QUALIFIED PUBLIC TRANSPORTATION PROJECTS.—From Build America bonds issued under the annual limitation in paragraph (1)(A), the Transportation Finance Corporation shall allocate 20 percent of the net spendable proceeds to the States for qualified public transportation projects in the following manner:

''(i) 50 percent of such allocation shall be in accordance with the distribution of public transportation formula grants under sections 5307, 5308, 5310, 5311, and 5327 of title 49, United States Code.

''(ii) 50 percent of such allocation shall be for projects, including projects of national significance and high priority projects, designated by law.

''(4) MINIMUM ALLOCATIONS TO STATES.—In making allocations for each calendar year under paragraph (3), the Transportation Finance Corporation shall ensure that the amount allocated for qualified projects located in each State for such calendar year is not less than 1 percent of the total amount allocated for such year.

''(5) CARRYOVER OF UNUSED ISSUANCE LIMITATION.—If for any calendar year the limitation amount imposed by paragraph (1) exceeds the amount of Build America bonds issued during such year, such excess shall be carried forward to one or more succeeding calendar years as an addition to the limitation imposed by paragraph (1) and until used by issuance of Build America bonds.

''(6) ISSUANCE OF SMALL DENOMINATION BONDS.—From the Build America bond limitation for each year, the Transportation Finance Corporation shall issue a limited quantity of Build America bonds in small denominations suitable for purchase as gifts by individual investors wishing to show their support for investing in America's infrastructure.

''(h) SPECIAL RULES RELATING TO ARBITRAGE.—

''(1) IN GENERAL.—Subject to paragraph (2), an issue shall be treated as meeting the requirements of this subsection if as of the date of issuance, the Transportation Finance Corporation reasonably expects—

''(A) to spend at least 85 percent of the net spendable proceeds from the sale of the issue for 1 or more qualified projects within the 5-year period beginning on such date,

''(B) to incur a binding commitment with a third party to spend at least 10 percent of the net spendable proceeds from the sale of the issue, or to commence construction, with respect to such projects within the 12-month period beginning on such date, and

''(C) to proceed with due diligence to complete such projects and to spend the net spendable proceeds from the sale of the issue.

''(2) SPENT PROCEEDS.—Net spendable proceeds are considered spent by the Transportation Finance Corporation when a sponsor of a qualified project obtains a reimbursement from the Transportation Finance Corporation for eligible project costs.

''(3) RULES REGARDING CONTINUING COMPLIANCE AFTER 5-YEAR DETERMINATION.—If at least 85 percent of the net spendable proceeds from the sale of the issue is not expended for 1 or more qualified projects within the 5-year period beginning on the date of issuance, but the requirements of paragraph (1) are otherwise met, an issue shall be treated as continuing to meet the requirements of this subsection if the Transportation Finance Corporation uses all unspent net spendable proceeds from the sale of the issue to redeem bonds of the issue within 90 days after the end of such 5-year period.

''(4) REALLOCATION.—In the event the recipient of an allocation under subsection (g) fails to demonstrate to the satisfaction of the Transportation Finance Corporation that its actions will allow the Transportation Finance Corporation to meet the requirements under this subsection, the Transportation Finance Corporation may redistribute the allocation meant for such recipient to other recipients.

''(i) RECAPTURE OF PORTION OF CREDIT WHERE CESSATION OF COMPLIANCE.—

''(1) IN GENERAL.—If any bond which when issued purported to be a Build America bond ceases to be such a qualified bond, the Transportation Finance Corporation shall pay to the United States (at the time required by the Secretary) an amount equal to the sum of—

''(A) the aggregate of the credits allowable under this section with respect to such bond (determined without regard to subsection (c)) for taxable years ending during the calendar year in which such cessation occurs and the 2 preceding calendar years, and

''(B) interest at the underpayment rate under section 6621 on the amount determined under subparagraph (A) for each calendar year for the period beginning on the first day of such calendar year.

''(2) FAILURE TO PAY.—If the Transportation Finance Corporation fails to timely pay the amount required by paragraph (1) with respect to such bond, the tax imposed by this chapter on each holder of any such bond which is part of such issue shall be increased (for the taxable year of the holder in which such cessation occurs) by the aggregate decrease in the credits allowed under this section to such holder for taxable years beginning in such 3 calendar years which would have resulted solely from denying any credit under this section with respect to such issue for such taxable years.

''(3) SPECIAL RULES.—

''(A) TAX BENEFIT RULE.—The tax for the taxable year shall be increased under paragraph (2) only with respect to credits allowed by reason of this section which were used to reduce tax liability. In the case of credits not so used to reduce tax liability, the carryforwards and carrybacks under section 39 shall be appropriately adjusted.

''(B) NO CREDITS AGAINST TAX.—Any increase in tax under paragraph (2) shall not be treated as a tax imposed by this chapter for purposes of determining—

''(i) the amount of any credit allowable under this part, or

''(ii) the amount of the tax imposed by section 55.

''(j) BUILD AMERICA TRUST ACCOUNT.—

''(1) IN GENERAL.—The following amounts shall be held in a Build America Trust Account by the Transportation Finance Corporation:

''(A) The proceeds from the sale of all bonds issued under this section.

''(B) The amount of any matching contributions with respect to such bonds.

''(C) The investment earnings on proceeds from the sale of such bonds.

''(D) Any earnings on any amounts described in subparagraph (A), (B), or (C).

''(2) USE OF FUNDS.—Amounts in the Build America Trust Account may be used only to pay costs of qualified projects, redeem Build America bonds, and fund the operations of the Transportation Finance Corporation, except that amounts withdrawn from the Build America Trust Account to pay costs of qualified projects may not exceed the aggregate proceeds from the sale of Build America bonds described in subsection (e)(1)(A).

''(3) USE OF REMAINING FUNDS IN BUILD AMERICA TRUST ACCOUNT.—Upon the redemption of all Build America bonds issued under this section, any remaining amounts in the Build America Trust Account shall be available to the Transportation Finance Corporation to pay the costs of any qualified project.

''(4) COSTS OF QUALIFIED PROJECTS.—For purposes of this section, the costs of qualified projects which may be funded by amounts in the Build America Trust Account may only relate to capital investments in depreciable assets and may not include any costs relating to operations, maintenance, or rolling stock.

''(5) APPLICABILITY OF FEDERAL LAW.—The requirements of any Federal law, including titles 23, 40, and 49 of the United States Code, which would otherwise apply to projects to which the United States is a party or to funds made available under such law and projects assisted with those funds shall apply to—

''(A) funds made available under the Build America Trust Account for similar qualified projects, including contributions required under subsection (k), and

''(B) similar qualified projects assisted by the Transportation Finance Corporation through the use of such funds.

''(6) INVESTMENT.—It shall be the duty of the Transportation Finance Corporation to invest in investment grade obligations such portion of the Build America Trust Account

as is not, in the judgment of the Board of Directors of the Transportation Finance Corporation, required to meet current withdrawals. Such investments may be made in State and local transportation bonds.

''(k) STATE CONTRIBUTION REQUIREMENTS.—

''(1) IN GENERAL.—For purposes of subsection (e)(3), the State contribution requirement of this subsection is met with respect to any qualified project if the Transportation Finance Corporation has received from 1 or more States, not later than the date of issuance of the bond, written commitments for matching contributions of not less than 20 percent of the cost of the qualified project.

''(2) STATE MATCHING CONTRIBUTIONS MAY NOT INCLUDE FEDERAL FUNDS.—For purposes of this subsection, State matching contributions shall not be derived, directly or indirectly, from Federal funds, including any transfers from the Highway Trust Fund under section 9503.

''(l) UTILIZATION OF UPDATED CONSTRUCTION TECHNOLOGY FOR QUALIFIED PROJECTS.—For purposes of subsection (e)(4), the requirement of this subsection is met if the appropriate State agency relating to the qualified project has updated its accepted construction technologies to match a list prescribed by the Secretary of Transportation and in effect on the date of the approval of the project as a qualified project.

''(m) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) ADMINISTRATIVE COSTS.—The term 'administrative costs' shall only include costs of issuance of Build America bonds and operation costs of the Transportation Corporation.

''(2) BOND.—The term 'bond' includes any obligation.

''(3) NET SPENDABLE PROCEEDS.—The term 'net spendable proceeds' means the proceeds from the sale of any Build America bond issued under this section reduced by not more than 5 percent of such proceeds for administrative costs.

''(4) STATE.—The term 'State' shall have the meaning given such term by section 101 of title 23, United States Code.

''(5) TREATMENT OF CHANGES IN USE.—For purposes of subsection (e)(1)(A), the net spendable proceeds from the sale of an issue shall not be treated as used for a qualified project to the extent that the Transportation Finance Corporation takes any action within its control which causes such proceeds not to be used for a qualified project. The Secretary shall specify remedial actions which may be taken (including conditions to taking such remedial actions) to prevent an action described in the preceding sentence from causing a bond to fail to be a Build America bond.

''(6) PARTNERSHIP; S CORPORATION; AND OTHER PASS-THRU ENTITIES.—In the case of a partnership, trust, S corporation, or other pass-thru entity, rules similar to the rules of section 41(g) shall apply with respect to the credit allowable under subsection (a).

''(7) BONDS HELD BY REGULATED INVESTMENT COMPANIES.—If any Build America bond is held by a regulated investment company, the credit determined under subsection (a) shall be allowed to shareholders of such company under procedures prescribed by the Secretary.

''(8) CREDITS MAY BE STRIPPED.—Under regulations prescribed by the Secretary—

''(A) IN GENERAL.—There may be a separation (including at issuance) of the ownership of a Build America bond and the entitlement to the credit under this section with respect to such bond. In case of any such separation, the credit under this section shall be allowed to the person who on the credit allowance date holds the instrument evidencing the entitlement to the credit and not to the holder of the bond.

''(B) CERTAIN RULES TO APPLY.—In the case of a separation described in subparagraph (A), the rules of section 1286 shall apply to the Build America bond as if it were a stripped bond and to the credit under this section as if it were a stripped coupon.

''(9) CREDITS MAY BE TRANSFERRED.—Nothing in any law or rule of law shall be construed to limit the transferability of the credit or bond allowed by this section through sale and repurchase agreements.

''(10) REPORTING.—The Transportation Finance Corporation shall submit reports similar to the reports required under section 149(e).

''(11) PROHIBITION ON USE OF HIGHWAY TRUST FUND.—Notwithstanding any other provision of law, no funds derived from the Highway Trust Fund established under section 9503 shall be used to pay costs associated with the Build America bonds issued under this section.''.

(b) AMENDMENTS TO OTHER CODE SECTIONS.—

(1) REPORTING.—Subsection (d) of section 6049 (relating to returns regarding payments of interest) is amended by adding at the end the following new paragraph:

''(8) REPORTING OF CREDIT ON BUILD AMERICA BONDS.—

''(A) IN GENERAL.—For purposes of subsection (a), the term 'interest' includes amounts includible in gross income under section 54(d) and such amounts shall be treated as paid on the credit allowance date (as defined in section 54(b)(4)).

''(B) REPORTING TO CORPORATIONS, ETC.—Except as otherwise provided in regulations, in the case of any interest described in subparagraph (A), subsection (b)(4) shall be applied without regard to subparagraphs (A), (H), (I), (J), (K), and (L)(i) of such subsection.

''(C) REGULATORY AUTHORITY.—The Secretary may prescribe such regulations as are necessary or appropriate to carry out the purposes of this paragraph, including regulations which require more frequent or more detailed reporting.''.

(2) TREATMENT FOR ESTIMATED TAX PURPOSES.—

(A) INDIVIDUAL.—Section 6654 (relating to failure by individual to pay estimated income tax) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

''(m) SPECIAL RULE FOR HOLDERS OF BUILD AMERICA BONDS.—For purposes of this section, the credit allowed by section 54 to a taxpayer by reason of holding a Build America bond on a credit allowance date shall be treated as if it were a payment of estimated tax made by the taxpayer on such date.''.

(B) CORPORATE.—Subsection (g) of section 6655 (relating to failure by corporation to pay estimated income tax) is amended by adding at the end the following new paragraph:

''(5) SPECIAL RULE FOR HOLDERS OF BUILD AMERICA BONDS.—For purposes of this section, the credit allowed by section 54 to a taxpayer by reason of holding a Build America bond on a credit allowance date shall be treated as if it were a payment of estimated tax made by the taxpayer on such date.''.

(c) CLERICAL AMENDMENTS.—

(1) The table of subparts for part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

''Subpart H. Nonrefundable Credit for Holders of Build America Bonds.''.

(2) Section 6401(b)(1) is amended by striking ''and G'' and inserting ''G, and H''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

SEC. 5674. TRANSPORTATION FINANCE CORPORATION.

(a) ESTABLISHMENT AND STATUS.—There is established a body corporate to be known as the ''Transportation Finance Corporation'' (hereafter in this section referred to as the ''Corporation''). The Corporation is not a department, agency, or instrumentality of the United States Government, and shall not be subject to title 31, United States Code.

(b) PRINCIPAL OFFICE; APPLICATION OF LAWS.—The principal office and place of business of the Corporation shall be in the District of Columbia, and, to the extent consistent with this section, the District of Columbia Business Corporation Act (D.C. Code 29–301 et seq.) shall apply.

(c) FUNCTIONS OF CORPORATION.—The Corporation shall—

(1) issue Build America bonds for the financing of qualified projects as required under section 54 of the Internal Revenue Code of 1986,

(2) establish and operate the Build America Trust Account as required under section 54(j) of such Code,

(3) act as a centralized entity to provide financing for qualified projects,

(4) leverage resources and stimulate public and private investment in transportation infrastructure,

(5) encourage States to create additional opportunities for the financing of transportation infrastructure and to provide technical assistance to States, if needed,

(6) perform any other function the sole purpose of which is to carry out the financing of qualified projects through Build America bonds, and

(7) not later than February 15 of each year submit a report to Congress—

(A) describing the activities of the Corporation for the preceding year, and

(B) specifying whether the amounts deposited and expected to be deposited in the Build America Trust Account are sufficient to fully repay at maturity the principal of any outstanding Build America bonds issued pursuant to such section 54.

(d) POWERS OF CORPORATION.—The Corporation—

(1) may sue and be sued, complain and defend, in its corporate name, in any court of competent jurisdiction,

(2) may adopt, alter, and use a seal, which shall be judicially noticed,

(3) may prescribe, amend, and repeal such rules and regulations as may be necessary for carrying out the functions of the Corporation,

(4) may make and perform such contracts and other agreements with any individual, corporation, or other private or public entity however designated and wherever situated, as may be necessary for carrying out the functions of the Corporation,

(5) may determine and prescribe the manner in which its obligations shall be incurred and its expenses allowed and paid,

(6) may, as necessary for carrying out the functions of the Corporation, employ and fix the compensation of employees and officers,

(7) may lease, purchase, or otherwise acquire, own, hold, improve, use, or otherwise deal in and with such property (real, personal, or mixed) or any interest therein, wherever situated, as may be necessary for carrying out the functions of the Corporation,

(8) may accept gifts or donations of services or of property (real, personal, or mixed), tangible or intangible, in furtherance of the purposes of this Act, and

(9) shall have such other powers as may be necessary and incident to carrying out this Act.

(e) NONPROFIT ENTITY; RESTRICTION ON USE OF MONEYS; CONFLICT OF INTERESTS; AUDITS.—

(1) NONPROFIT ENTITY.—The Corporation shall be a nonprofit corporation and shall have no capital stock.

(2) RESTRICTION.—No part of the Corporation's revenue, earnings, or other income or property shall inure to the benefit of any of its directors, officers, or employees, and such revenue, earnings, or other income or property shall only be used for carrying out the purposes of this Act.

(3) CONFLICT OF INTERESTS.—No director, officer, or employee of the Corporation shall in any manner, directly or indirectly participate in the deliberation upon or the determination of any question affecting his or her personal interests or the interests of any corporation, partnership, or organization in which he or she is directly or indirectly interested.

(4) AUDITS.—

(A) AUDITS BY INDEPENDENT CERTIFIED PUBLIC ACCOUNTANTS.—

(i) IN GENERAL.—The Corporation's financial statements shall be audited annually in accordance with generally accepted auditing standards by independent certified public accountants that are certified by a regulatory authority of a State or other political subdivision of the United States. The audits shall be conducted at the place or places where the accounts of the Corporation are normally kept. All books, accounts, financial records, reports, files, and all other papers, things, or property belonging to or in use by the Corporation and necessary to facilitate the audit shall be made available to the person or persons conducting the audits, and full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians shall be afforded to such person or persons.

(ii) REPORTING REQUIREMENTS.—The report of each annual audit described in clause (i) shall be included in the annual report required by subsection (c)(8).

(B) RECORD KEEPING REQUIREMENTS.—The Corporation shall ensure that each recipient of assistance from the Corporation keeps—

(i) separate accounts with respect to such assistance,

(ii) such records as may be reasonably necessary to fully disclose—

(I) the amount and the disposition by such recipient of the proceeds of such assistance,

(II) the total cost of the project or undertaking in connection with which such assistance is given or used, and the extent to which such costs are for a qualified project, and

(III) the amount and nature of that portion of the cost of the project or undertaking supplied by other sources, and

(iii) such other records as will facilitate an effective audit.

(C) AUDIT AND EXAMINATION OF BOOKS.—The Corporation shall ensure that the Corporation, or any of the Corporation's duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of any recipient of assistance from the Corporation that are pertinent to such assistance.

(f) EXEMPTION FROM TAXES.—

(1) IN GENERAL.—The Corporation, including its franchise, capital, reserves, surplus, sinking funds, mortgages or other security holdings, and income, shall be exempt from all taxation now or hereafter imposed by the United States, by any territory, dependency, or possession thereof, or by any State, county, municipality, or local taxing authority, except that any real property of the Corporation shall be subject to State, territorial, county, municipal, or local taxation to the same extent according to its value as other real property is taxed.

(2) FINANCIAL OBLIGATIONS.—Build America bonds or other obligations issued by the Corporation and the interest on or tax credits with respect to its bonds or other obligations shall not be subject to taxation by any State, county, municipality, or local taxing authority.

(g) ASSISTANCE FOR TRANSPORTATION PURPOSES.—

(1) IN GENERAL.—In order to carry out the corporate functions described in subsection (c), the Corporation shall be eligible to receive discretionary grants, contracts, gifts, contributions, or technical assistance from any Federal department or agency, to the extent permitted by law.

(2) AGREEMENT.—In order to receive any assistance described in this subsection, the Corporation shall enter into an agreement with the Federal department or agency providing such assistance, under which the Corporation agrees—

(A) to use such assistance to provide funding and technical assistance only for activities which the Board of Directors of the Corporation determines are consistent with the corporate functions described in subsection (c), and

(B) to review the activities of State transportation agencies and other entities receiving assistance from the Corporation to assure that the corporate functions described in subsection (c) are carried out.

(3) CONSTRUCTION.—Nothing in this section shall be construed to establish the Corporation as a department, agency, or instrumentality of the United States Government, or to establish the members of the Board of Directors of the Corporation, or the officers and employees of the Corporation, as officers or employees of the United States Government.

(h) MANAGEMENT OF CORPORATION.—

(1) BOARD OF DIRECTORS; MEMBERSHIP; DESIGNATION OF CHAIRPERSON AND VICE CHAIRPERSON; APPOINTMENT CONSIDERATIONS; TERM; VACANCIES.—

(A) BOARD OF DIRECTORS.—The management of the Corporation shall be vested in a board of directors composed of 15 members appointed by the President, by and with the advice and consent of the Senate.

(B) CHAIRPERSON AND VICE CHAIRPERSON.—The President shall designate 1 member of the Board to serve as Chairperson of the Board and 1 member to serve as Vice Chairperson of the Board.

(C) INDIVIDUALS FROM PRIVATE LIFE.—Eleven members of the Board shall be appointed from private life.

(D) FEDERAL OFFICERS AND EMPLOYEES.—Four members of the Board shall be appointed from among officers and employees of agencies of the United States concerned with infrastructure development.

(E) APPOINTMENT CONSIDERATIONS.—All members of the Board shall be appointed on the basis of their understanding of and sensitivity to infrastructure development processes. Members of the Board shall be appointed so that not more than 8 members of the Board are members of any 1 political party.

(F) TERMS.—Members of the Board shall be appointed for terms of 3 years, except that of the members first appointed, as designated by the President at the time of their appointment, 5 shall be appointed for terms of 1 year and 5 shall be appointed for terms of 2 years.

(G) VACANCIES.—A member of the Board appointed to fill a vacancy occurring before the expiration of the term for which that member's predecessor was appointed shall be appointed only for the remainder of that term. Upon the expiration of a member's term, the member shall continue to serve until a successor is appointed and is qualified.

(2) COMPENSATION, ACTUAL, NECESSARY, AND TRANSPORTATION EXPENSES.—Members of the Board shall serve without additional compensation, but may be reimbursed for actual and necessary expenses not exceeding $100 per day, and for transportation expenses, while engaged in their duties on behalf of the Corporation.

(3) QUORUM.—A majority of the Board shall constitute a quorum.

(4) PRESIDENT OF CORPORATION.—The Board of Directors shall appoint a president of the Corporation on such terms as the Board may determine.

SA 2341. Mr. TALENT (for himself, and Mr. WYDEN) submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 1005, line 22, strike all through page 1020, line 9, and insert the following:

SEC. 4602. ESTABLISHMENT OF BUILD AMERICA CORPORATION.

There is established a nonprofit corporation, to be known as the ''Build America Corporation''. The Build America Corporation is not an agency or establishment of the United States Government. The purpose of the Corporation is to support qualified projects described in section 4603(c)(2) through the issuance of Build America bonds. The Corporation shall be subject, to the extent consistent with this section, to the laws of the State of Delaware applicable to corporations not for profit.

SEC. 4603. FEDERAL BONDS FOR TRANSPORTATION INFRASTRUCTURE.

(a) USE OF BOND PROCEEDS.—The proceeds from the sale of—

(1) any bonds authorized, issued, or guaranteed by the Federal Government that are available to fund passenger rail projects pursuant to any Federal law (enacted before, on, or after the date of the enactment of this Act), and

(2) any Build America bonds issued by the Build America Corporation as authorized by section 4602,

may be used to fund a qualified project if the Secretary of Transportation determines that the qualified project is a more cost-effective alternative for efficiently maximizing mobility of individuals and goods than a passenger rail project.

(b) COMPLIANCE OF BENEFICIARIES WITH CERTAIN STANDARDS.—A recipient of proceeds of a grant, loan, Federal tax-credit bonds, or any other form of financial assistance provided under this title shall comply with the standards described in section 24312 of title 49, United States Code, as in effect on June 25, 2003, with respect to any qualified project described in subsection (c)(1) in the same manner that the National Passenger Railroad Corporation is required to comply with such standards for construction work financed under an agreement entered into under section 24308(a) of such title.

(c) QUALIFIED PROJECT DEFINED.—In this section—

(1) IN GENERAL.—Except as provided in paragraph (2), the term ''qualified project'' means any transportation infrastructure project of any governmental unit or other person that is proposed by a State, including a highway project, a transit system project, a railroad project, an airport project, a port project, and an inland waterways project.

(2) BUILD AMERICA CORPORATION PROJECTS.—

(A) IN GENERAL.—With respect to any Build America bonds issued by the Build America Corporation as authorized by section 4602, the term ''qualified project'' means any—

(i) qualified highway project,

(ii) qualified public transportation project, and

(iii) congestion relief project,

proposed by 1 or more States and approved by the Build America Corporation, which meets the requirements under clauses (i), (ii), and (iii) of subparagraph (D).

(B) QUALIFIED HIGHWAY PROJECT.—The term ''qualified highway project'' means a project for highway facilities or other facilities which are eligible for assistance under title 23, United States Code.

(C) QUALIFIED PUBLIC TRANSPORTATION PROJECT.—The term ''qualified public transportation project'' means a project for public transportation facilities or other facilities which are eligible for assistance under chapter 53 of title 49, United States Code.

(D) CONGESTION RELIEF PROJECT.—The term ''congestion relief project'' means an intermodal freight transfer facility, freight rail facility, freight movement corridor, intercity passenger rail or facility, intercity bus vehicle or facility, border crossing facility, or other public or private facility approved as a congestion relief project by the Secretary of Transportation. In making such approvals, the Secretary of Transportation shall—

(i) consider the economic, environmental, mobility, and national security improvements to be realized through the project, and

(ii) give preference to projects with national or regional significance, including any projects sponsored by a coalition of States or a combination of States and private sector entities, in terms of generating economic benefits, supporting international commerce, or otherwise enhancing the national transportation system.

(D) ADDITIONAL REQUIREMENTS FOR QUALIFIED PROJECTS.—For purposes of subparagraph (A)—

(i) COSTS OF QUALIFIED PROJECTS.—The requirement of this clause is met if the costs of the qualified project funded by Build America bonds only relate to capital investments in depreciable assets and do not include any costs relating to operations, maintenance, or rolling stock.

(ii) APPLICABILITY OF FEDERAL LAW.—The requirement of this clause is met if the requirements of any Federal law, including titles 23, 40, and 49 of the United States Code, which would otherwise apply to projects to which the United States is a party or to funds made available under such law and projects assisted with those funds are applied to—

(I) funds made available under Build America bonds for similar qualified projects, and

(II) similar qualified projects assisted by the Build America Corporation through the use of such funds.

(iii) UTILIZATION OF UPDATED CONSTRUCTION TECHNOLOGY FOR QUALIFIED PROJECTS.—The requirement of this clause is met if the appropriate State agency relating to the qualified project has updated its accepted construction technologies to match a list prescribed by the Secretary of Transportation and in effect on the date of the approval of the project as a qualified project.

PART 2—RAILROAD TRACK MODERNIZATION

SEC. 4631. SHORT TITLE.

This part may be cited as the ''Railroad Track Modernization Act of 2004''.

SEC. 4632. CAPITAL GRANTS FOR RAILROAD TRACK.

(a) AUTHORITY.—Chapter 223 of title 49, United States Code, is amended to read as follows:

''CHAPTER 223—CAPITAL GRANTS FOR RAILROAD TRACK

''Sec.

''22301. Capital grants for railroad track.

''§ 22301. Capital grants for railroad track

''(a) ESTABLISHMENT OF PROGRAM.—

''(1) ESTABLISHMENT.—The Secretary of Transportation shall establish a program of capital grants for the rehabilitation, preservation, or improvement of railroad track (including roadbed, bridges, and related track structures) of class II and class III railroads. Such grants shall be for rehabilitating, preserving, or improving track used primarily for freight transportation to a standard ensuring that the track can be operated safely and efficiently, including grants for rehabilitating, preserving, or improving track to handle 286,000 pound rail cars. Grants may be provided under this chapter—

''(A) directly to the class II or class III railroad; or

''(B) with the concurrence of the class II or class III railroad, to a State or local government.

''(2) STATE COOPERATION.—Class II and class III railroad applicants for a grant under this chapter are encouraged to utilize the expertise and assistance of State transportation agencies in applying for and administering such grants. State transportation agencies are encouraged to provide such expertise and assistance to such railroads.

''(3) REGULATIONS.—

''(A) IN GENERAL.—The Secretary shall prescribe regulations to carry out the program under this section.

''(B) CRITERIA.—In developing the regulations, the Secretary shall establish criteria that—

''(i) condition the award of a grant to a railroad on reasonable assurances by the railroad that the facilities to be rehabilitated and improved will be economically and efficiently utilized;

''(ii) ensure that the award of a grant is justified by present and probable future demand for rail services by the railroad to which the grant is to be awarded;

''(iii) ensure that consideration is given to projects that are part of a State-sponsored rail plan; and

''(iv) ensure that all such grants are awarded on a competitive basis.

''(b) MAXIMUM FEDERAL SHARE.—The maximum Federal share for carrying out a project under this section shall be 80 percent of the project cost. The non-Federal share may be provided by any non-Federal source in cash, equipment, or supplies. Other in-kind contributions may be approved by the Secretary on a case by case basis consistent with this chapter.

''(c) PROJECT ELIGIBILITY.—For a project to be eligible for assistance under this section the track must have been operated or owned by a class II or class III railroad as of the date of the enactment of the Railroad Track Modernization Act of 2004.

''(d) USE OF FUNDS.—Grants provided under this section shall be used to implement track capital projects as soon as possible. In no event shall grant funds be contractually obligated for a project later than the end of the third Federal fiscal year following the year in which the grant was awarded. Any funds not so obligated by the end of such fiscal year shall be returned to the Secretary for reallocation.

''(e) ADDITIONAL PURPOSE.—In addition to making grants for projects as provided in subsection (a), the Secretary may also make grants to supplement direct loans or loan guarantees made under title V of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 822(d)), for projects described in the last sentence of section 502(d) of such title. Grants made under this subsection may be used, in whole or in part, for paying credit risk premiums, lowering rates of interest, or providing for a holiday on principal payments.

''(f) EMPLOYEE PROTECTION.—The Secretary shall require as a condition of any grant made under this section that the recipient railroad provide a fair arrangement at least as protective of the interests of employees who are affected by the project to be funded with the grant as the terms imposed under section 11326(a), as in effect on the date of the enactment of the Railroad Track Modernization Act of 2001.

''(g) LABOR STANDARDS.—

''(1) PREVAILING WAGES.—The Secretary shall ensure that laborers and mechanics employed by contractors and subcontractors in construction work financed by a grant made under this section will be paid wages not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor under the Act of March 3, 1931 (known as the Davis-Bacon Act; 40 U.S.C. 276a et seq.). The Secretary shall make a grant under this section only after being assured that required labor standards will be maintained on the construction work.

''(2) WAGE RATES.—Wage rates in a collective bargaining agreement negotiated under the Railway Labor Act (45 U.S.C. 151 et seq.) are deemed for purposes of this subsection to comply with the Act of March 3, 1931 (known as the Davis-Bacon Act; 40 U.S.C. 276a et seq.).''.

(b) CONFORMING AMENDMENT.—The item relating to chapter 223 in the table of chapters of subtitle V of title 49, United States Code, is amended to read as follows:

''223. CAPITAL GRANTS FOR RAILROAD TRACK ..... 22301''.

SEC. 4633. REGULATIONS.

(a) REGULATIONS.—The Secretary of Transporation shall prescribe under subsection (a)(3) of section 22301 of title 49, United States Code (as added by section 4601), interim and final regulations for the administration of the grant program under such section as follows:

(1) INTERIM REGULATIONS.—The Secretary shall prescribe the interim regulations to implement the program not later than December 31, 2003.

(2) FINAL REGULATIONS.—The Secretary shall prescribe the final regulations not later than October 1, 2004.

(b) INAPPLICABILITY OF RULEMAKING PROCEDURE TO INTERIM REGULATIONS.—Subchapter II of chapter 5 of title 5, United States Code, shall not apply to the issuance of an interim regulation or to any amendment of such an interim regulation.

(c) CRITERIA.—The requirement for the establishment of criteria under subparagraph (B) of section 22301(a)(3) of title 49, United States Code, applies to the interim regulations as well as to the final regulations.

SEC. 4634. STUDY OF GRANT-FUNDED PROJECTS.

(a) REQUIREMENT FOR STUDY.—The Secretary of Transportation shall conduct a study of the projects carried out with grant assistance under section 22301 of title 49, United States Code (as added by section 4601), to determine the public interest benefits associated with the light density railroad networks in the States and their contribution to a multimodal transportation system.

(b) REPORT.—Not later than March 31, 2004, the Secretary shall submit to Congress a report on the results of the study under subsection (a). The report shall include any recommendations that the Secretary considers appropriate regarding the eligibility of light density rail networks for Federal infrastructure financing.

SEC. 4635. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary of Transportation $350,000,000 for each of fiscal years 2004, 2005, and 2006 for carrying out section 22301 of title 49, United States Code (as added by section 4601).

PART 3—OTHER RAIL TRANSPORTATION-RELATED PROVISIONS

SEC. 4661. CAPITAL GRANTS FOR RAIL LINE RELOCATION PROJECTS.

(a) ESTABLISHMENT OF PROGRAM.—

(1) PROGRAM REQUIREMENTS.—Chapter 201 of title 49, United States Code, is amended by adding at the end of subchapter II the following:

"§ 20154. Capital grants for rail line relocation projects

''(a) ESTABLISHMENT OF PROGRAM.—The Secretary of Transportation shall carry out a grant program to provide financial assistance for local rail line relocation projects.

''(b) ELIGIBILITY.—A State is eligible for a grant under this section for any project for the improvement of the route or structure of a rail line passing through a municipality of the State that—

''(1) is carried out for the purpose of mitigating the adverse effects of rail traffic on safety, motor vehicle traffic flow, or economic development in the municipality;

''(2) involves a lateral or vertical relocation of any portion of the rail line within the municipality to avoid a closing of a grade crossing or the construction of a road underpass or overpass; and

''(3) meets the costs-benefits requirement set forth in subsection (c).

''(c) COSTS-BENEFITS REQUIREMENT.—A grant may be awarded under this section for a project for the relocation of a rail line only if the benefits of the project for the period equal to the estimated economic life of the relocated rail line exceed the costs of the project for that period, as determined by the Secretary considering the following factors:

''(1) The effects of the rail line and the rail traffic on motor vehicle and pedestrian traffic, safety, and area commerce if the rail line were not so relocated.

''(2) The effects of the rail line, relocated as proposed, on motor vehicle and pedestrian traffic, safety, and area commerce.

''(3) The effects of the rail line, relocated as proposed, on the freight and passenger rail operations on the rail line.

''(d) CONSIDERATIONS FOR APPROVAL OF GRANT APPLICATIONS.—In addition to considering the relationship of benefits to costs in determining whether to award a grant to an eligible State under this section, the Secretary shall consider the following factors:

''(1) The capability of the State to fund the rail line relocation project without Federal grant funding.

''(2) The requirement and limitation relating to allocation of grant funds provided in subsection (e).

''(3) Equitable treatment of the various regions of the United States.

''(e) ALLOCATION REQUIREMENTS.—

''(1) GRANTS NOT GREATER THAN $20,000,000.—At least 50 percent of all grant funds awarded under this section out of funds appropriated for a fiscal year shall be provided as grant awards of not more than $20,000,000 each.

''(2) LIMITATION PER PROJECT.—Not more than 25 percent of the total amount available for carrying out this section for a fiscal year may be provided for any 1 project in that fiscal year.

''(f) FEDERAL SHARE.—The total amount of a grant awarded under this section for a rail line relocation project shall be 90 percent of the shared costs of the project, as determined under subsection (g)(4).

''(g) STATE SHARE.—

''(1) PERCENTAGE.—A State shall pay 10 percent of the shared costs of a project that is funded in part by a grant awarded under this section.

''(2) FORMS OF CONTRIBUTIONS.—The share required by paragraph (1) may be paid in cash or in kind.

''(3) IN-KIND CONTRIBUTIONS.—The in-kind contributions that are permitted to be counted under paragraph (2) for a project for a State are as follows:

''(A) A contribution of real property or tangible personal property (whether provided by the State or a person for the State).

''(B) A contribution of the services of employees of the State, calculated on the basis of costs incurred by the State for the pay and benefits of the employees, but excluding overhead and general administrative costs.

''(C) A payment of any costs that were incurred for the project before the filing of an application for a grant for the project under this section, and any in-kind contributions that were made for the project before the filing of the application, if and to the extent that the costs were incurred or in-kind contributions were made, as the case may be, to comply with a provision of a statute required to be satisfied in order to carry out the project.

''(4) COSTS NOT SHARED.—

''(A) IN GENERAL.—For the purposes of subsection (f) and this subsection, the shared costs of a project in a municipality do not include any cost that is defrayed with any funds or in-kind contribution that a source other than the municipality makes available for the use of the municipality without imposing at least 1 of the following conditions:

''(i) The condition that the municipality use the funds or contribution only for the project.

''(ii) The condition that the availability of the funds or contribution to the municipality is contingent on the execution of the project.

''(B) DETERMINATIONS OF THE SECRETARY.—The Secretary shall determine the amount of the costs, if any, that are not shared costs under this paragraph and the total amount of the shared costs. A determination of the Secretary shall be final.

''(h) MULTISTATE AGREEMENTS TO COMBINE AMOUNTS.—Two or more States (not including political subdivisions of States) may, pursuant to an agreement entered into by the States, combine any part of the amounts provided through grants for a project under this section if—

''(1) the project will benefit each of the States entering into the agreement; and

''(2) the agreement is not a violation of a law of any such State.

''(i) REGULATIONS.—The Secretary shall prescribe regulations for carrying out this section.

''(j) STATE DEFINED.—In this section, the term 'State' includes, except as otherwise specifically provided, a political subdivision of a State.

''(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for use in carrying out this section $350,000,000 for each of the fiscal years 2004 through 2008.''.

(2) CLERICAL AMENDMENT.—The chapter analysis for such chapter is amended by adding at the end the following:

''20154. Capital grants for rail line relocation projects.''.

(b) REGULATIONS.—

(1) INTERIM REGULATIONS.—Not later than October 1, 2003, the Secretary of Transportation shall issue temporary regulations to implement the grant program under section 20154 of title 49, United States Code, as added by subsection (a). Subchapter II of chapter 5 of title 5, United States Code, shall not apply to the issuance of a temporary regulation under this subsection or of any amendment of such a temporary regulation.

(2) FINAL REGULATIONS.—Not later than April 1, 2004, the Secretary shall issue final regulations implementing the program.

SA 2342. Mr. TALENT (for himself, Mr. ALLEN, and Mr. BURNS) submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 908, after line 23, add the following:

SEC. 4304A. DEFINITION OF INDIVIDUAL SHIPPER.

Section 13102 is amended—

(1) by redesignating paragraphs (12) through (24) as paragraphs (13) through (25), respectively; and

(2) by inserting after paragraph (11) the following new paragraph (12):

''(12) INDIVIDUAL SHIPPER.—The term 'individual shipper' means any person who is the shipper consignor or consignee of a household goods shipment, that is identified as either the shipper, consignor, or consignee on the face of the bill of lading, who owns the goods being or to be transported, and who pays his or her own tariff transportation charges. The term applies only to Cash-On-Deliver shippers of household goods.''.

On page 910, strike lines 3 through 13 and insert the following:

''(C) ADDITIONAL TRANSPORTATION SERVICES.—

''(i) IN GENERAL.—Clauses (i) and (ii) of subparagraph (A) shall not apply to tariff transportation charges for transportation services made necessary by impracticable operations, as defined in the applicable carrier tariff, or for additional services requested by the shipper that are not included in the estimate.

''(ii) RESPONSIBILITY FOR PAYMENT.—A shipper shall be responsible to pay a carrier for charges described in clause (i), in full either by cash or certified funds, before the carrier shall be required to relinquish possession of the household goods shipment.

''(iii) PAYMENT BY CREDIT CARD.—Notwithstanding clause (ii) or any payment arrangement between a shipper and a carrier before the date of the delivery of a household goods shipment, a shipper shall, upon pre-approval from a recognized credit institution, be allowed to pay by credit card for tariff transportation charges described in clause (i).

''(D) FAILURE TO MAKE PAYMENT.—

''(i) IN GENERAL.—If a shipper is not able to pay tariff transportation charges described in subparagraph (C)(i) in full before the carrier shall be required to relinquish possession of the household goods shipment, the carrier may relinquish possession of the household goods shipment for payment of an amount equal to 100 percent of the binding estimated charges or 110 percent of the nonbinding estimated charges.

''(ii) CONTINUING REFUSAL.—If a shipper refuses to pay the balance of the tariff transportation charges described in subparagraph (C)(i), or the additional charges that exceed the estimated charges provided for under clauses (i) and (ii) of subparagraph (A), under this subparagraph within 30 days of the date of delivery of the household goods shipment, the carrier is required to institute litigation to collect such charges, and the carrier is successful in such litigation, the shipper shall be liable to the carrier for its reasonable attorney fees in such litigation. If the

carrier is not successful in such litigation, the carrier shall be responsible for the reasonable attorney fees of the shipper in such litigation.''.

On page 911, beginning on line 16, strike ''. Before the execution'' and all that follows through ''provide the shipper'' and insert ''and''.

On page 912, line 1, strike ''The written'' and insert ''Unless waived in writing by the shipper, the written''.

On page 912, beginning on line 4, strike ''of the location'' and all that follows through ''preparing the estimate.'' and insert '', or within a one-hour driving radius, whichever is less, of the location of the carrier's disclosed household goods agent preparing the estimate.''.

On page 912, line 11, strike ''(e)'' and insert ''(d)''.

On page 912, strike line 14 and all that follows through page 913, line 3.

On page 913, line 4, strike ''(d)'' and insert ''(c)''.

On page 915, strike lines 5 through 9 and insert the following:

(2) by striking ''shippers of household goods concerning damage or loss to the household goods transported.'' and inserting ''individual shippers of household goods concerning damage or loss to the household goods transported, concerning disputes over tariff transportation charges, or concerning the delay of delivery of the household goods transported.''; and

On page 915, strike line 21 and all that follows through page 916, line 21.

On page 916, line 22, strike ''(c)'' and insert ''(b)''.

On page 917, line 20, strike ''(d)'' and insert ''(c)''.

On page 920, strike line 3 and all that follows through page 923, in the matter following line 14, and insert the following:

''§ 14710. Enforcement of Federal regulations by State attorneys general

''(a) IN GENERAL.—A State, as parens patriae, may bring a civil action on behalf of its residents in an appropriate district court of the United States—

''(1) to enforce a regulation or order of the Secretary or Board protecting an individual shipper of household goods, but only if such regulation or order governs the delivery of such household goods; or

''(2) to impose civil penalties authorized by section 14915 of this title whenever the attorney general of the State has reason to believe that the interests of its residents have been or are being threatened or adversely affected by—

''(A) a carrier or broker providing transportation of household goods subject to jurisdiction under subchapter I or III of chapter 135 of this title by a pattern of violations of section 14915 of this title; or

''(B) a foreign motor carrier providing transportation registered under section 13902 of this title that is engaged in household goods transportation on behalf of individuals by a pattern of violations of section 14915 of this title.

''(b) EXCEPTION.—A State, as parens patriae, may not initiate a class civil action on behalf of its residents to enforce a regulation or order of the Secretary or the Board.

''(c) ENFORCEMENT OF STATE LAW.—Nothing in this section shall prohibit an authorized State official from proceeding in State court to enforce a criminal statute of such State.''.

(2) CONFORMING AMENDMENT.—The analysis for chapter 147 is amended by inserting after the item relating to section 14709 the following new item:

''14710. Enforcement of Federal regulations by State attorneys general.''.

On page 923, beginning on line 23, strike ''and Federal and local law enforcement officials'' and insert ''Federal and local law enforcement officials, and industries involved in the transportation of household goods''.

On page 924, strike lines 7 through 9 and insert ''the working group shall consult with the public and other interested parties.''.

On page 925, strike line 18 and all that follows through page 927, line 20, and insert the following:

''The Secretary shall—

''(1) establish a system to file and log complaints made by shippers that relate to motor carrier transportation of household goods;

''(2) establish a database of such complaints; and

''(3) develop procedures—

''(A) to forward such a complaint to the motor carrier named in such complaint;

''(B) to permit motor carriers to challenge information in the database; and

''(C) to provide, for each motor carrier named in complaints in the database, the percentage of such complaints disputed by such motor carrier.''.

On page 928, line 15, insert ''and'' after the semicolon.

On page 928, strike lines 19 through 21 and insert the following:

goods.

SA 2343. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 1310, after line 4, insert the following:

TITLE VII—BUY AMERICAN ACT IMPROVEMENTS

SEC. 7001. SHORT TITLE.

This title may be cited as the ''Buy American Improvement Act of 2003''.

SEC. 7002. REQUIREMENTS FOR WAIVERS.

(a) IN GENERAL.—Section 2 of the Buy American Act (41 U.S.C. 10a) is amended—

(1) by striking ''Notwithstanding'' and inserting the following:

''(a) IN GENERAL.—Notwithstanding''; and

(2) by adding at the end the following:

''(b) SPECIAL RULES.—The following rules shall apply in carrying out the provisions of subsection (a):

''(1) PUBLIC INTEREST WAIVER.—A determination that it is not in the public interest to enter into a contract in accordance with this Act may not be made after a notice of solicitation of offers for the contract is published in accordance with section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) and section 8(e) of the Small Business Act (15 U.S.C. 637(e)).

''(2) DOMESTIC BIDDER.—A Federal agency entering into a contract shall give preference to a company submitting an offer on the contract that manufactures in the United States the article, material, or supply for which the offer is solicited, if—

''(A) that company's offer is substantially the same as an offer made by a company that does not manufacture the article, material, or supply in the United States; or

''(B) that company is the only company that manufactures in the United States the article, material, or supply for which the offer is solicited.

''(3) USE OUTSIDE THE UNITED STATES.—

''(A) IN GENERAL.—Subsection (a) shall apply without regard to whether the articles, materials, or supplies to be acquired are for use outside the United States if the articles, materials, or supplies are not needed on an urgent basis or if they are acquired on a regular basis.

''(B) COST ANALYSIS.—In any case where the articles, materials, or supplies are to be acquired for use outside the United States and are not needed on an urgent basis, before entering into a contract an analysis shall be made of the difference in the cost for acquiring the articles, materials, or supplies from a company manufacturing the articles, materials, or supplies in the United States (including the cost of shipping) and the cost for acquiring the articles, materials, or supplies from a company manufacturing the articles, materials, or supplies outside the United States (including the cost of shipping).

''(4) DOMESTIC AVAILABILITY.—The head of a Federal agency may not make a determination under subsection (a) that an article, material, or supply is not mined, produced, or manufactured, as the case may be, in the United States in sufficient and reasonably available commercial quantities and of satisfactory quality, unless the head of the agency has conducted a study and, on the basis of such study, determined that—

''(A) domestic production cannot be initiated to meet the procurement needs; and

''(B) a comparable article, material, or supply is not available from a company in the United States.

''(c) REPORTS.—

''(1) IN GENERAL.—Not later than 60 days after the end of each fiscal year, the head of each Federal agency shall submit to Congress a report on the acquisitions that were made of articles, materials, or supplies by the agency in that fiscal year from entities that manufacture the articles, materials, or supplies outside the United States.

''(2) CONTENT OF REPORT.—The report for a fiscal year under paragraph (1) shall separately indicate the following information:

''(A) The dollar value of any articles, materials, or supplies that were manufactured outside the United States.

''(B) An itemized list of all waivers granted with respect to such articles, materials, or supplies under this Act.

''(C) A summary of—

''(i) the total procurement funds expended on articles, materials, and supplies manufactured inside the United States; and

''(ii) the total procurement funds expended on articles, materials, and supplies manufactured outside the United States.

''(3) PUBLIC AVAILABILITY.—The head of each Federal agency submitting a report under paragraph (1) shall make the report publicly available by posting on an Internet website.''.

(b) DEFINITIONS.—Section 1 of the Buy American Act (41 U.S.C. 10c) is amended by striking subsection (c) and inserting the following:

''(c) FEDERAL AGENCY.—The term 'Federal agency' means any executive agency (as defined in section 4(1) of the Federal Procurement Policy Act (41 U.S.C. 403(1))) or any establishment in the legislative or judicial branch of the Government.''.

(c) CONFORMING AMENDMENTS.—

(1) Section 2 of the Buy American Act (41 U.S.C. 10a) is amended by striking ''department or independent establishment'' and inserting ''Federal agency''.

(2) Section 3 of such Act (41 U.S.C. 10b) is amended—

(A) by striking ''department or independent establishment'' in subsection (a), and inserting ''Federal agency''; and

(B) by striking ''department, bureau, agency, or independent establishment'' in subsection (b) and inserting ''Federal agency''.

(3) Section 633 of the National Military Establishment Appropriations Act, 1950 (41

U.S.C. 10d) is amended by striking ''department or independent establishment'' and inserting ''Federal agency''.

SEC. 7003. GAO REPORT AND RECOMMENDATIONS.

(a) REQUIREMENT FOR REPORT.—

(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Comptroller General of the United States shall report to Congress recommendations for determining, for purposes of applying the waiver provision of section 2(a) of the Buy American Act—

(A) unreasonable cost; and

(B) inconsistent with the public interest.

(2) REPORT TO INCLUDE RECOMMENDED DEFINITIONS.—The report shall include recommendations for a statutory definition of unreasonable cost and standards for determining inconsistency with the public interest.

(b) WAIVER PROCEDURES.—The report described in subsection (a) shall also include recommendations for establishing procedures for applying the waiver provisions of the Buy American Act that can be consistently applied.

SEC. 7004. DUAL-USE TECHNOLOGIES.

The head of a Federal agency (as defined in section 1(c) of the Buy American Act (as amended by section 7002)) may not enter into a contract, nor permit a subcontract under a contract of the Federal agency, with a foreign entity that involves giving the foreign entity plans, manuals, or other information that would facilitate the manufacture of a dual-use item on the Commerce Control List unless approval for providing such plans, manuals, or information has been obtained in accordance with the provisions of the Export Administration Act of 1979 (50 U.S.C. App. 2401 et seq.) and the Export Administration Regulations (15 C.F.R. part 730 et seq.).

SA 2344. Mr. DAYTON submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. 1815. RURAL ROAD SAFETY PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1814(a)), is amended by adding at the end the following:

''§ 176. Rural road safety program

''(a) FINDINGS.—Congress finds that it is in the vital interest of the Nation that a rural road safety program be established to ensure that the safety of the traveling public is enhanced on rural two-lane highways.

''(b) ESTABLISHMENT.—The Secretary shall establish and implement a rural road safety program in accordance with this section.

''(c) APPORTIONMENTS.—

''(1) IN GENERAL.—On October 1 of each fiscal year, the Secretary shall apportion to each State to carry out this section an amount in the ratio of the percentage of the centerline mileage of two-lane roads in rural areas functionally classified as minor and major collectors and arterials in each State bears to the total centerline mileage of two-lane roads in rural areas functionally classified as minor and major collectors and arterials in all the States.

''(2) ALLOCATION OF APPORTIONED FUNDS.—Within each State, funds for the rural road safety program for each fiscal year shall be allocated among State, county, city, and other levels of government commensurate with each entity's ownership ratio of eligible two-lane road mileage of two-lane roads in rural areas functionally classified as minor and major collectors and arterials.

''(d) LOCATION OF PROJECTS.—Funds authorized to carry out this section shall be available for expenditure only for activities described in subsection (g).

''(e) OBLIGATION OF FUNDS.—Funds authorized to be appropriated to carry out this section shall be available for obligation in the same manner and the same extent as if such funds were apportioned under section 104(b) of title 23, United States Code, except that the Secretary is authorized to waive provisions that the Secretary considers inconsistent with the purposes of this section.

''(f) COST SHARING.—The Federal share of a project under this section shall be 80 percent of the total cost for such project.

''(g) TRANSFERABILITY.—Notwithstanding any other provision of law no portion of a State's apportionment allocated for the rural road safety program may be transferred to any other apportionment of the State for such fiscal year.

''(h) USE OF FUNDS.—A State that receives an apportionment under this section may use funds—

''(1) to improve horizontal and vertical alignment;

''(2) to eliminate wheel lane rutting, increase skid resistance, and smooth roadways;

''(3) to improve sight distances;

''(4) to widen lanes and shoulders;

''(5) to install dedicated turn lanes;

''(6) to install and upgrade guardrails, traffic barriers, crash cushions, protective devices, and rumblestrips;

''(7) to install traffic and safety lights, improve signage and pavement markings; and

''(8) to implement other safety activities designated by the Secretary.

''(i) PROGRAM.—Not later than 180 days after the date of enactment of this Act, each State that receives an apportionment under this section shall conduct and systematically maintain an engineering survey of all two-lane rural roads classified as minor and major collectors and minor arterials—

''(1) to identify dangerous locations, sections, and elements, including roadside obstacles and unmarked or poorly marked roads, which may constitute a danger to motorists, bicyclists, pedestrians, impaired, and ''older'' drivers;

''(2) to assign priorities for the correction of such locations, sections, and elements; and

''(3) establish and implement a schedule of projects for improvement of such roads.

''(j) EVALUATION.—

''(1) IN GENERAL.—Each State shall establish an evaluation process approved by the Secretary to analyze and assess results achieved by safety improvement projects carried out in accordance with the procedures and criteria established by this section.

''(2) PRIORITIES.—Such evaluation process shall develop cost-benefit data for various types of corrections and treatments, which shall be used in setting priorities for safety improvement projects.

''(k) REPORTING.—

''(1) IN GENERAL.—Each State shall report to the Secretary not later than December 30 of each year, regarding the progress of implementing safety improvement projects for danger elimination and the effectiveness of such improvements.

''(2) STATE ASSESSMENT.—Each State report shall contain an assessment of the cost of, and safety benefits derived from, the various means and methods used to mitigate or eliminate dangers and the previous and subsequent accident experience at dangerous locations.

''(3) SECRETARY'S REPORT.—The Secretary shall submit a report to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives not later than April 1 of each year regarding the progress of the States in implementing the rural road safety program. The report shall—

''(A) include the number of projects undertaken, their distribution by cost range, road system, means and methods used, the previous and subsequent accident experience at improved locations and a cost-benefit analysis; and

''(B) analyze and evaluate each State's program, identify any State found not to be in compliance with the schedule of improvements required by subsection (a), and include recommendations for future implementation of the rural road safety program.

''(l) DEFINITION OF RURAL ROAD.—In this section, the term ''rural road'' means all roads in rural areas.

''(m) AUTHORIZATION OF APPROPRIATIONS RURAL ROAD SAFETY PROGRAM.—To carry out the rural road safety program under this section there are authorized to be appropriated $1,000,000,000 for each of fiscal years 2004 through 2009.''.

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter I of title 23, United States Code (as amended by section 1814(c)), is amended by adding at the end the following:

''176. Rural road safety program.''.

SA 2345. Mr. DAYTON submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. 16___. FEDERAL AGENCY ETHANOL-BLENDED GASOLINE AND BIODIESEL PURCHASING REQUIREMENT.

Title III of the Energy Policy Act of 1992 is amended by striking section 306 (42 U.S.C. 13215) and inserting the following:

''SEC. 306. FEDERAL AGENCY ETHANOL-BLENDED GASOLINE AND BIODIESEL PURCHASING REQUIREMENT.

''(a) ETHANOL-BLENDED GASOLINE.—The head of each Federal agency shall ensure that, in areas in which ethanol-blended gasoline is readily available at a generally competitive price, the Federal agency purchases ethanol-blended gasoline containing at least 10 percent ethanol rather than nonethanol-blended gasoline, for use in vehicles used by the agency.

''(b) BIODIESEL.—

''(1) DEFINITION OF BIODIESEL.—In this subsection, the term 'biodiesel' has the meaning given the term in section 312(f).

''(2) REQUIREMENT.—The head of each Federal agency shall ensure that the Federal agency purchases, for use in fueling fleet vehicles that use diesel fuel used by the Federal agency at the location at which fleet vehicles of the Federal agency are centrally fueled, in areas in which the biodiesel-blended diesel fuel described in subparagraphs (A) and (B) is available at a generally competitive price—

''(A) as of the date that is 5 years after the date of enactment of this section, biodiesel-blended diesel fuel that contains at least 2 percent biodiesel, rather than nonbiodiesel-blended diesel fuel; and

''(B) as of the date that is 10 years after the date of enactment of this section, biodiesel-blended diesel fuel that contains at least 20 percent biodiesel, rather than nonbiodiesel-blended diesel fuel, for use in vehicles used by the agency.

''(3) REQUIREMENT OF FEDERAL LAW.—This subsection does not constitute a requirement of Federal law for the purposes of section 312.

''(c) EXEMPTION.—This section does not apply to fuel used in vehicles described in subparagraphs (A) through (H) of section 301(9).''.

SA 2346. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 1–7, between lines 17 and 18, insert the following:

(17) WEATHER-RELATED REPAIR PROGRAM.—For the weather-related repair program established under section 1204—

(A) $1,000,000,000 for each of fiscal years 2004 through 2005; and

(B) $1,500,000,000 for each of fiscal years 2006 through 2009.

On page 2–19, after the matter following line 13, insert the following:

SEC. 1204. WEATHER-RELATED REPAIR PROGRAM.

(a) DEFINITIONS.—In this section:

(1) COLD STATE.—The term ''cold State'' means any State in which the average temperature in the preceding year was below the average temperature for all States in the preceding year.

(2) WARM STATE.—The term ''warm State'' means any State in which the average temperature in the preceding year was above the average temperature for all States in the preceding year.

(b) ESTABLISHMENT.—The Secretary shall establish a weather-related repair program.

(c) ELIGIBLE PROJECTS.—A State may obligate funds apportioned to the State under subsection (d) only for repair projects for the National Highway System that will—

(1) repair damage to pavement, bridges, or drainage systems that would not have been damaged but for weather conditions; and

(2) construct replacement facilities—

(A) to replace facilities that would otherwise have been subject to continuous repair because of weather conditions; and

(B) that would be less costly to maintain than the facilities being replaced because of the protection from inclement weather provided by the replacement facilities.

(c) APPORTIONMENT.—Of the amounts made available to carry out this section—

(1) at least 0.5 percent shall be set aside for warm States; and

(2) with respect to cold States—

(A) 50 percent shall be allocated based on the ratio that—

(i) the vehicle miles traveled on National Highway System routes in the State; bears to

(ii) the vehicle miles traveled on National Highway System routes in all cold States;

(B) 25 percent shall be allocated based on the ratio that—

(i) the amount of precipitation in the cold State; bears to

(ii) the precipitation in all cold States; and

(C) 25 percent shall be allocated based on the ratio that—

(i) the difference between the average temperature in the cold State and the average temperature for all cold States; bears to

(ii) the average temperature for all cold States.

SA 2347. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 841, strike line 19 and all that follows through page 849, line 19, and insert the following:

(a) REPEAL.—Section 1216(b) of the Transportation Equity Act for the 21st Century (23 U.S.C. 129 note; 112 Stat. 212) is repealed.

(b) LIMITATIONS ON TOLLING.—

(1) IN GENERAL.—Chapter 3 of title 23 is amended by striking section 301 and inserting the following:

''§ 301. Limitations on tolling

''(a) IN GENERAL.—Except as provided in subsection (b), there shall be no limitations on the imposition and collection of tolls with respect to highways constructed under this title.

''(b) EXCEPTIONS.—Notwithstanding subsection (a)—

''(1) the Secretary—

''(A) shall approve or disapprove any proposal to toll National Highway System roads that are not currently subject to a toll; and

''(B) in deciding whether to approve such a proposal, shall consider whether—

''(i) the proposed toll could negatively impact interstate commerce; and

''(ii) the proposed toll is likely to reduce congestion;

''(2) any toll program must attempt to mitigate congestion; and

''(3) any revenues from tolling shall be used to improve, maintain, or construct surface transportation.''.

(2) CONFORMING AMENDMENT.—The analysis for chapter 3 of title 23, United States Code, is amended by striking the matter relating to section 301 and inserting the following:

''301. Limitations on tolling.''.

SA 2348. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table as follows:

On page 690, between lines 9 and 10, insert the following:

''(J) a vital part of determining the future of the surface transportation system in the United States is determining the future financing of the system.''

On page 694, on line 1, insert the following:

(L) the future of financing the surface transportation system in the United States and the Highway Trust Fund over at least the next 30 years, including assessment of—

(i) the advantages and disadvantages of alternative revenue sources to meet anticipated Federal surface transportation financial requirements;

(ii) practicable recommendations for the most promising revenues to support long-term Federal surface transportation financing;

(iii) the impact of other Federal policies on the funds available for surface transportation;

(iv) the barriers to transportation investment created by the modal structure of transportation financing existing as of the date of enactment of this Act; and

(v) coordination of the Federal transportation program with other Federal programs to maximize the use of all revenue sources.

SA 2349. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 693, between lines 16 and 17, insert the following:

(J) the impacts of transportation investments on low-income communities;

On page 693, line 17, strike ''(J)'' and insert ''(K)''.

On page 2–10, line 22, strike ''(K)'' and insert ''(L)''.

SA 2350. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 765, line 19, strike ''and'' at the end.

On page 765, strike line 22 and insert the following: ''means, such as the World Wide Web; and

''(iv) develop a publicly available plan for involving economically disadvantaged populations.''.

SA 2351. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 971, line 13, strike ''Code—'' and insert ''Code, and section 2105 of this Act—''.

On page 1061, after line 15, add the following:

SEC. 2104. TRANSPORTATION EQUITY COOPERATIVE RESEARCH PROGRAM.

(a) IN GENERAL.—The Secretary shall carry out a transportation equity cooperative research program.

(b) ELIGIBILITY.—To be eligible to receive a grant under the program, a person shall be engaged in collaborative research efforts with community-based organizations, which may be based anywhere in the United States.

(c) RESEARCH ACTIVITIES.—The program shall include research designed to—

(1) improve analysis of the distribution of transportation funding in the statewide and metropolitan transportation planning process and the impact of funding decisions on low-income communities (including tribal and Alaska Native communities), with a particular emphasis on health and economic impacts;

(2) improve the analysis of the distribution of transportation funding in the statewide and metropolitan transportation planning process and the impact of funding decisions on transit-dependent populations in urban, suburban, and rural communities;

(3) better understand effective mechanisms for public involvement, engagement, and control in the statewide, metropolitan, and local transportation planning and project delivery process;

(4) develop indicators of economic, social, and environmental performance of transportation systems, with an emphasis on the needs of low-income communities (including tribal and Alaska Native communities) and on the needs of transit-dependent populations in urban and rural areas, to facilitate the analysis of potential alternatives; and

(5) meet additional priorities as determined by the advisory board established under subsection (d).

(d) ADVISORY BOARD.—

(1) ESTABLISHMENT.—In consultation with the Secretary of Health and Human Services, the Administrator of the Environmental Protection Agency, and the heads of other appropriate Federal agencies, the Secretary shall establish an advisory board to—

(A) recommend research under this section relating to surface transportation and community impacts; and

(B) advise, monitor, and coordinate research efforts undertaken by recipients of grants under the program under subsection (a).

(2) MEMBERSHIP.—The advisory board shall include—

(A) representatives of environmental, justice, civil rights, and community-based organizations;

(B) researchers in the field of transportation equity and environmental justice; and

(C) representatives of State transportation agencies, metropolitan planning organizations, transit operating agencies, and local government.

(e) NUMBER AND AMOUNT OF GRANTS.—For each of fiscal years 2004, 2005, 2006, 2007, 2008 and 2009, the Secretary shall make grants under the program of not more than $750,000 to each of 4 research centers.

SA 2352. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 976, strike lines 7 through 12 and insert the following:

(6) COMMERCIAL VEHICLE INTELLIGENT TRANSPORTATION SYSTEM INFRASTRUCTURE PROGRAM.—Of the amounts made available under subsection (a)(4), not less than $40,000,000 for each of fiscal years 2004 and 2005, $45,000,000 for each of fiscal years 2006 and 2007, and $50,000,000 for each of fiscal years 2008 and 2009 shall be available to carry out section 527 of title 23, United States Code.

On page 1079, line 18, insert ''permits'' after ''information''.

On page 1079, lines 25 and 26, insert '', including the exchange among the States of data that are not protected by taxpayer policy and the interoperability of systems among the States'' after ''development''.

On page 1081, line 22, strike ''intrastate,''.

On page 1081, line 23, strike ''requirements'' and insert ''permits''.

On page 1081, line 24, insert '', including intrastate activities'' after ''materials''.

Beginning on page 1083, strike line 15 and all that follows through page 1086, line 13, and insert the following:

''(d) APPORTIONMENTS.—

''(1) IN GENERAL.—The Secretary shall make funds available to all States for development, deployment, and operations and maintenance of commercial vehicle information systems and networks.

''(2) ELIGIBILITY.—To be eligible to receive funds under this section, a State shall—

''(A) have a commercial vehicle information systems and networks program plan and a top-level system design approved by the Secretary;

''(B) certify to the Secretary that the commercial vehicle information systems and networks deployment activities of the State, including hardware procurement, software and system development, and infrastructure modifications—

''(i) are consistent with the national intelligent transportation systems architecture, commercial vehicle information systems and networks architectures, and available standards; and

''(ii) promote interoperability and efficiency to the extent practicable;

''(C) agree to execute interoperability tests developed by the Federal Motor Carrier Safety Administration to verify that the systems in the State conform with the national intelligent transportation systems architecture, protocols for commercial vehicle information systems and networks, and applicable standards; and

''(D) limit the use of funds provided under this section to core deployment until the date on which all elements of core deployment are completed.

''(3) AMOUNT OF GRANTS.—

''(A) IN GENERAL.—Subject to subparagraph (B), for each fiscal year, the Secretary shall distribute available funds equally among eligible States.

''(B) LIMIT.—For each fiscal year, no State shall receive an amount greater than $3,650,000.''.

SA 2353. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 931, line 9, strike ''**Multistate**'' and insert ''**High priority**''.

On page 931, between lines 11 and 12, insert the following:

''(1) plan, develop, and construct high priority corridors identified in section 1105 (c) of the Intermodal Surface Transportation Act of 1991 (105 Stat. 2032);''.

On page 931, line 12, strike ''(1)'' and insert ''(2)''.

On page 931, line 14, strike ''(2)'' and insert ''(3)''.

On page 931, strike lines 20 through 22 and insert the following:

''(c) ELIGIBLE ACTIVITIES.—The Secretary shall make allocations under this program for coordinated planning, design, and construction of—

''(1) high priority corridors identified in section 1105 (c) of the Intermodal Surface Transportation Act of 1991 (105 Stat. 2032); and

''(2) multistate corridors.''.

On page 932, line 4, insert ''for multistate corridors,'' after ''program''.

SA 2354. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 678, between lines 5 and 6, insert the following:

(16) CONGESTION REDUCTION REWARD FUND.—For the congestion reduction reward fund established under section 129 of title 23, United States Code, $1,000,000,000 for the period of fiscal years 2004 through 2009.

On page 6–39, line 5, strike the closing quotation marks and the following period.

On page 6–39, between lines 5 and 6, insert the following:

''(5) CONGESTION REDUCTION REWARD FUND.—

''(A) ESTABLISHMENT OF FUND.—There is established in the Treasury of the United States a congestion reduction reward fund (referred to in this paragraph as the 'Fund') to carry out subparagraph (B), consisting of such amounts as are appropriated to the Fund under section 1101(17) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003.

''(B) GRANTS.—

''(i) IN GENERAL.—The Secretary may use amounts in the Fund to make competitive grants to States that implement a variable pricing program under this subsection.

''(ii) APPLICATION.—States shall submit to the Secretary applications for grants under clause (i).

''(iii) SELECTION.—From among applications submitted under clause (ii), the Secretary shall provide grants to applicants based on—

''(I) the size of the measurable reduction in congestion as a result of the variable pricing program;

''(II) the percentage reduction in congestion as a result of the variable pricing program;

''(III) the innovativeness of the variable pricing program;

''(IV) whether the variable pricing program addressed concerns relating to the social equity of the program; and

''(V) any other criteria that demonstrably improve the surface transportation system.

''(iv) USE OF FUNDS.—Any amounts provided in the form of grants under this subparagraph may be used for any transportation projects that the grant recipients determine to be appropriate.

''(v) NUMBER OF GRANTS.—The number of grants the Secretary provides under this subparagraph shall be determined by the Secretary, but the Secretary shall distribute all amounts available for grants to applicants selected under clause (iii).

''(vi) REDISTRIBUTION.—If no State implements a variable pricing program, any amounts in the congestion reduction reward fund shall be distributed in accordance with section 133.''.

SA 2355. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 934, strike line 6 and all that follows through page 942, line 5, and insert the following:

SEC. 1812. COORDINATED BORDER INFRASTRUCTURE PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1811(a)), is amended by adding at the end the following:

''§ 172 Coordinated border infrastructure program

''(a) DEFINITIONS.—In this section:

''(1) BORDER REGION.—The term ''border region'' means the portion of a border State that is located within 100 kilometers of a land border crossing with Canada or Mexico.

''(2) BORDER STATE.—The term ''border State'' means any State that has a boundary in common with Canada or Mexico.

''(3) COMMERCIAL VEHICLE.—The term ''commercial vehicle'' means a vehicle that has the primary purpose of transporting cargo in international or interstate commercial trade.

''(4) PASSENGER VEHICLE.—The term ''passenger vehicle'' means a vehicle that has the primary purpose of transporting individuals.

''(b) PROGRAM.—The Secretary shall establish and implement a coordinated border infrastructure program under which the Secretary shall make allocations to border States for projects within a border region to improve the safe movement of people and

goods at or across the border between the United States and Canada and the border between the United States and Mexico.

''(c) ELIGIBLE USES.—A State may use an allocations under this section in a border region only for—

''(1) improvements to transportation and supporting infrastructure that facilitate cross-border vehicle and cargo movements;

''(2) construction of highways and related safety and safety enforcement facilities that facilitate vehicle and cargo movements relating to international trade;

''(3) operational improvements, including improvements relating to electronic data interchange and use of telecommunications, to expedite cross-border vehicle and cargo movement;

''(4) international coordination of planning, programming, and border operation with Canada and Mexico relating to expediting cross-border vehicle and cargo movements;

''(5) projects in Canada or Mexico proposed by 1 or more border States that directly and predominantly facilitate cross-border vehicle and commercial cargo movements at the international gateways or ports of entry into a border region; and

''(6) planning and environmental studies relating to projects eligible under this section.

''(d) MANDATORY AND DISCRETIONARY PROGRAMS.—

''(1) MANDATORY PROGRAM.—

''(A) IN GENERAL.—For each fiscal year, the Secretary shall allocate among border States, in accordance with the formula described in subparagraph (B), funds to be used in accordance with subsection (c).

''(B) FORMULA.—Subject to subparagraph (C), the Secretary shall allocate funds to a border State under this paragraph as follows:

''(i) 25 percent shall be allocated in the ratio, as determined by the Secretary using data collected by the Bureau of Transportation Statistics Transborder Surface Freight Dataset and based on an average of the 3 most recent years for which data are available, that—

''(I) the weight in short tons of all cargo entering the border State by commercial vehicle across the international border with Canada or Mexico; bears to

''(II) the weight in short tons of all cargo entering the all border States by commercial vehicle across the international borders with Canada and Mexico.

''(ii) 25 percent shall be allocated in the ratio, as determined by the Secretary using data collected by the Bureau of Transportation Statistics Transborder Surface Freight Dataset and based on an average of the 3 most recent years for which data are available, that—

''(I) the trade value of all cargo entering the border State by commercial vehicle and all cargo exiting the border State by commercial vehicle across the international border with Canada or Mexico; bears to

''(II) the trade value of all cargo entering all border States by commercial vehicle and all cargo exiting the border States by commercial vehicle across the international borders with Canada and Mexico.

''(iii) 25 percent shall be allocated in the ratio, as determined by the Secretary using data collected by the Bureau of Transportation Statistics Transborder Surface Freight Dataset and based on an average of the 3 most recent years for which data are available, that—

''(I) the number of commercial vehicles annually entering the border State across the international border with Canada or Mexico; bears to

''(II) the number of all commercial vehicles annually entering all border States across the international borders with Canada and Mexico.

''(iv) 25 percent shall be allocated in the ratio, as determined by the Secretary using data collected by the Bureau of Transportation Statistics Transborder Surface Freight Dataset and based on an average of the 3 most recent years for which data are available, that—

''(I) the number of passenger vehicles annually entering the border State across the international border with Canada or Mexico; bears to

''(II) the number of all passenger vehicles annually entering all border States across the international borders with Canada and Mexico.

''(C) MINIMUM ALLOCATION.—Notwithstanding subparagraph (B), for each fiscal year, each border State shall receive at least half of 1 percent of the funds made available for allocation under this paragraph for the fiscal year.

''(2) OTHER FACTORS.—

''(A) IN GENERAL.—In addition to funds allocated under paragraph (1), the Secretary shall make allocations to border States under this paragraph based on the factors described in subparagraph (B).

''(B) FACTORS.—The factors in subparagraph (A) are, with respect to a project carried out under this section in a border State—

''(i) any expected reduction in commercial and other motor vehicle travel time through an international border crossing as a result of the project;

''(ii) strategies to increase the use of underused border crossing facilities and approaches;

''(iii) leveraging of Federal funds provided under this section, including—

''(I) the use of innovative financing;

''(II) the combination of Federal funds provided under this section with funding provided for other provisions of this title; and

''(III) the combination of Federal funds provided under this section with funds from other Federal, State, local, or private sources;

''(iv)(I) the degree of multinational involvement in the project; and

''(II) demonstrated coordination with other Federal agencies responsible for the inspection of vehicles, cargo, and persons crossing international borders and counterpart agencies in Canada and Mexico;

''(v) the degree of demonstrated coordination with Federal inspection agencies;

''(vi) the extent to which the innovative and problem-solving techniques of the proposed project would be applicable to other border stations or ports of entry;

''(vii) demonstrated local commitment to implement and sustain continuing comprehensive border or affected port of entry planning processes and improvement programs; and

''(viii) such other factors as the Secretary determines to be appropriate to promote border transportation efficiency and safety.

''(3) EQUITY BONUS.—Each of the mandatory programs under paragraph (1) and the discretionary program under paragraph (2) shall be included in the calculation of the minimum guarantee and equity bonus under section 105.

''(e) COST SHARING.—The Federal share of the cost of a project carried out using funds allocated under this section shall not exceed 80 percent.''.

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1811(b)), is amended by adding at the end the following:

''172. Coordinated border infrastructure program.''.

SEC. 1813. PUERTO RICO HIGHWAY PROGRAM.

SA 2356. Mr. CORNYN (for himself and Mrs. HUTCHISON) submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 82, between lines 21 and 22, insert the following:

SEC. 12___. MULTIMODAL TRANSPORTATION PROJECT DEMONSTRATION PROGRAM.

(a) DEFINITION OF MULTIMODAL TRANSPORTATION PROJECT.—In this section, the term ''multimodal transportation project'' means a project under chapter 1 of title 23, United States Code, that—

(1) is located in the State of Texas;

(2) is within a network of interconnected corridors;

(3) is privately financed, in whole or in part; and

(4) contains multiple surface transportation modes, including highway and rail and utility corridors.

(b) ESTABLISHMENT OF PROGRAM.—

(1) IN GENERAL.—The Secretary shall establish and implement in the State of Texas a demonstration program under which the Secretary, notwithstanding any other provision of law, may permit the State transportation department or a local transportation agency in the State of Texas to authorize a consultant under a contract for a multimodal transportation project to prepare an environmental impact assessment or analysis (including an environmental impact statement) relating to a segment of the project of less than independent utility and without logical termini.

(2) CONTRACT TERMS.—A contract for a multimodal transportation project under this subsection may provide for the simultaneous—

(A) design and construction of a segment of the project for which the environmental assessment or analysis has been completed; and

(B) environmental assessment or analysis of an adjoining segment of the project.

(c) LIMITATION ON WORK TO BE PERFORMED BY CONSULTANT.—

(1) IN GENERAL.—The work of the consultant under subsection (b) shall be performed under the direction of, and subject to oversight by, the State transportation department or local transportation agency.

(2) REVIEW.—The State transportation department or local transportation agency shall conduct a review that assesses the objectivity of the environmental assessment, environmental analysis, or environmental impact statement prepared under subsection (b) before its submission to the Secretary.

(d) FUNDING.—Notwithstanding any other provision of law—

(1) funds made available to the State of Texas under title 23, United States Code, to carry out the demonstration program authorized under this section may be used by the State of Texas to pay the costs of an eligible project under this section, without requirement for non-Federal funds; and

(2) an eligible project under this section shall be eligible for other forms of financial assistance available under that title, including loans, loan guarantees, and lines of credit.

(e) REGULATIONS.—The Secretary shall promulgate regulations that—

(1) provide guidelines regarding procedures to be followed by the State transportation

department or a coal transportation agency in the State of Texas in their direction of and oversight over any environmental impact assessments or analyses for a multimodal transportation project which are to be prepared by the contractor or its affiliates; and

(2) establish criteria for approving deviations from procedures established in regulations issued by the Secretary of Transportation implementing the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(f) IMPLEMENTATION BY OTHER FEDERAL AGENCIES.—Each Federal agency that—

(1) has jurisdiction by law over environment-related issues that may be affected by a project described in this section and the analysis of which would be part of any environmental document required by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); or

(2) may be required by Federal law to independently—

(A) conduct an environment-related review or analysis for a project described in this section;

(B) determine whether to issue a permit, license, or approval for the project; or

(C) render an opinion or recommendation on the environmental impact of the project; shall promulgate regulations providing for the expedited processing of, and approval of deviations from, the project by the agency.

(g) REPORTS AND SECRETARIAL REVIEW.—

(1) STATE OF TEXAS REPORT.—

(A) IN GENERAL.—Not later than 3 years after the date of enactment of this section, the State of Texas shall submit to the Secretary a report summarizing the use of the procedures authorized under this section.

(B) CONTENTS.—The report shall—

(i) describe the time and cost savings resulting from the use of those procedures as compared to the construction of surface transportation projects using the existing procedures authorized under the Federal-aid highway program and Federal law; and

(ii) recommend revisions necessary to further streamline and accelerate the construction of surface transportation projects.

(2) REPORT TO CONGRESS.—Not later than 180 days after the date of receipt of the report under paragraph (1), the Secretary shall submit to Congress a report that—

(A) evaluates the demonstration program conducted under this section and the ability of the program to streamline and accelerate the construction of surface transportation projects; and

(B) contains recommendations of the Secretary concerning whether the program should be expanded or made a part of the Federal-aid highway program.

SA 2357. Mr. CORNYN (for himself and Mrs. HUTCHISON) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 389, between lines 15 and 16, insert the following:

SEC. 18___. INNOVATIVE FINANCE DEMONSTRATION PROGRAM.

(a) IN GENERAL.—The Secretary shall establish and implement in the State of Texas an innovative finance demonstration program under which the Secretary, notwithstanding any provision of title 23, United States Code, may permit entities in the State of Texas to obtain credit assistance under the Transportation Infrastructure Finance and Innovation Act of 1998 (23 U.S.C. 181 et seq.), and permit the State of Texas to administer the State infrastructure bank established by the State of Texas, under the conditions and using the procedures authorized under this section.

(b) APPLICABILITY OF FEDERAL REQUIREMENTS.—

(1) ELIGIBLE PROJECT COSTS.—Compliance with Federal-aid procurement requirements shall not be a condition to eligibility of project costs and eligibility to receive financial assistance under subchapter II of chapter 1 of title 23, United States Code (23 U.S.C. 181 et seq.), provided that if a procurement does not involve adequate price competition, as determined by the Secretary, eligibility of costs under the contract resulting from such procurement shall be determined based on a price reasonableness analysis or cost analysis, as appropriate.

(2) APPLICABILITY OF FEDERAL LAW TO REPAYMENTS.—The requirements of titles 23 and 49, United States Code, shall not apply to repayments from non-Federal sources to the State infrastructure bank established by the State of Texas from projects assisted by the infrastructure bank. Such a repayment shall not be considered to be Federal funds.

(c) INVESTMENT-GRADE RATING REQUIREMENT.—The requirement that a project's senior obligations receive an investment-grade rating in order to receive financial assistance under sections 183 and 184 of title 23, United States Code, shall not apply to obligations issued to a project contractor as payment for its work.

(d) NONSUBORDINATION OF LOANS.—The prohibition against subordinating loans made under sections 183 and 184 of title 23, United States Code, to the claims of any holder of project obligations shall only apply in the event of bankruptcy, insolvency, or liquidation of the obligor that results in the abandonment, liquidation, or dissolution of the project.

(e) REGULATIONS.—The regulations issued by the Secretary under section 187 of title 23, United States Code shall—

(1) prescribe criteria for determining if the procurement relating to a project receiving financial assistance under subchapter II of chapter 1 of title 23, United States Code (23 U.S.C. 181 et seq.), involves adequate price competition; and

(2) provide guidelines regarding procedures to be followed in performing a price reasonableness analysis or cost analysis of proposals submitted under such a procurement.

(f) REPORTS.—

(1) REPORT TO SECRETARY.—

(A) IN GENERAL.—Not later than 3 years after the date of enactment of this section, the Governor of the State of Texas shall submit to the Secretary a report summarizing the use of the innovative finance procedures authorized under this section.

(B) REQUIREMENTS.—The report submitted under subparagraph (A) shall describe the time and cost savings resulting from the use of those procedures as compared to the construction of surface transportation projects using the existing procedures authorized under the Federal-aid highway program, and shall recommend revisions necessary to further streamline and accelerate the construction of surface transportation projects.

(2) REPORT TO CONGRESS.—Not later than 6 months after receipt of the report submitted under paragraph (1), the Secretary shall submit to Congress a report—

(A) evaluating the demonstration program conducted under this section and the ability of such program to streamline and accelerate the construction of surface transportation projects; and

(B) containing recommendations of the Secretary as to whether the program should be expanded or made a part of the Federal-aid highway program.

SA 2358. Mr. CORNYN (for himself and Mrs. HUTCHISON) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 389, between line 15 and line 16, insert the following:

SEC. 18___. INNOVATIVE CONTRACTING PRACTICES DEMONSTRATION PROGRAM.

(a) ESTABLISHMENT AND IMPLEMENTATION.—The Secretary shall establish and implement in the State of Texas an innovative contracting practices demonstration program under which the Secretary, notwithstanding any provision of title 23, United States Code, may permit the State transportation department or a local transportation agency in the State of Texas to use a design-build contract for the development of projects under chapter 1 of title 23, United States Code, that is awarded using any procurement process permitted by applicable State and local law.

(b) LIMITATION ON WORK TO BE PERFORMED UNDER DESIGN-BUILD CONTRACTS.—Construction of permanent improvements shall not commence under a design-build contract described in subsection (a) before compliance with section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332). The scope of the contractor's work may include assistance in the environmental review process for the project, including preparation of environmental impact assessments and analyses, provided that such work is performed under the direction of, and subject to oversight by, the State transportation department or local transportation agency, and the State transportation department or local transportation agency conducts a review that assesses the objectivity of the environmental assessment, environmental analysis, or environmental impact statement prior to its submission to the Secretary of Transportation.

(c) PROJECT APPROVAL.—If a design-build contract is to be awarded prior to compliance with section 102 of the National Environmental Policy Act of 1969, upon request by the State transportation department or local transportation agency, the Secretary shall concur in issuance of the procurement documents and any amendments thereto and in award of the contract and any amendments thereto. Such concurrence shall be considered a preliminary action that does not affect the environment. Project approval shall be provided only after compliance with section 102 of the National Environmental Policy Act of 1969.

(d) DESIGN-BUILD CONTRACT DEFINED.—In this section, the term ''design-build contract'' means an agreement that provides for design and construction of a project by a contractor, regardless of whether the agreement is in the form of a design-build contract, a franchise agreement, or any other form of contract approved by the Secretary.

(e) FUNDING.—

(1) USE.—Notwithstanding any other provision of law, funds made available to the State of Texas under title 23, United States Code, to carry out the demonstration program authorized under this section may be used by the State of Texas to pay the costs of an eligible project under this section, without requirement for non-Federal funds.

(2) AVAILABILITY OF OTHER FUNDING.—Notwithstanding any other provision of law, an

eligible project under this section shall be eligible for other forms of financial assistance available under title 23, United States Code, including loans, loan guarantees, and lines of credit.

(f) REGULATIONS.—The regulations authorized by section 1307(c) of Transportation Equity Act for the 21st Century (23 U.S.C. 112 note) shall apply in the following manner:

(1) Such regulations shall allow the State transportation department or a local transportation agency in the State of Texas to use any procurement process permitted by applicable State and local law in awarding design-build contracts, including allowing unsolicited proposals, negotiated procurements and multiple requests for final proposals. The Secretary may require reasonable justification to be provided for any sole source procurement. The preceding sentences shall not preclude the Secretary from providing ''best practices'' guidelines in the regulations.

(2) Such regulations shall not preclude the State transportation department and local transportation agencies in the State of Texas from allowing proposers to include alternative technical concepts in their ''base'' proposals.

(3) Such regulations shall not preclude the State transportation department and local transportation agencies in the State of Texas from issuing a Request for Proposals document, proceeding with award of a design-build contract, or issuing a notice to proceed with preliminary design work under such a contract, prior to compliance with section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332), provided that the design-build contractor may not proceed with construction of permanent improvements prior to such compliance.

(4) Such regulations shall provide guidelines regarding procedures to be followed by the State transportation department or a local transportation agency in the State of Texas in their direction of and oversight over any environmental impact assessments or analyses for the project which are to be prepared by the contractor or its affiliates.

(g) REPORTS.—

(1) STATE OF TEXAS REPORT.—Not later than 3 years after the date of enactment of this section, the State of Texas shall submit to the Secretary a report summarizing the use of the innovative contracting procedures authorized under this section. The report shall describe the time and cost savings resulting from the use of those procedures as compared to the construction of surface transportation projects using the existing procedures authorized under the Federal-aid highway program, and shall recommend revisions necessary to further streamline and accelerate the construction of surface transportation projects.

(2) REPORT BY SECRETARY.—Not later than 6 months after receipt of the report submitted under paragraph (1), the Secretary shall submit to Congress a report—

(A) evaluating the demonstration program conducted under this section and the ability of such program to streamline and accelerate the construction of surface transportation projects; and

(B) containing recommendations of the Secretary as to whether the program should be expanded or made a part of the Federal-aid highway program.

SA 2359. Mr. CORNYN (for himself and Mrs. HUTCHISON) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 389, between lines 15 and 16, insert the following:

SEC. 18___. LA ENTRADA AL PACIFICO CORRIDOR.

Section 1105(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102-240; 105 Stat 2032) is amended by adding at the end the following:

''(45) In the State of Texas, the La Entrada al Pacifico Corridor consisting of any portion of a highway in a corridor on 2 miles of either side of the center line of the highway and—

''(A) State Route 349 from Lamesa to the point on that highway that is closest to 32 degrees, 7 minutes, north latitude, by 102 degrees, 6 minutes, west longitude;

''(B) the segment or any roadway extending from the point described in subparagraph (A) to the point on Farm-to-Market Road 1788 closest to 32 degrees, 0 minutes, north latitude, by 102 degrees, 16 minutes, west longitude;

''(C) Farm-to-Market Road 1788 from the point described by subparagraph (B) to its intersection with Interstate Route 20;

''(D) Interstate Route 20 from its intersection with Farm-to-Market Road 1788 to its intersection with United States Route 385;

''(E) United States Route 385 from Odessa to Fort Stockton, including those portions that parallel United States Route 67 and Interstate Route 10; and

''(F) United States Route 67 from Fort Stockton to Presidio, including the portions that parallel Interstate Route 10 and United States Route 90.''.

SA 2360. Mr. CORNYN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 255, between lines 17 and 18, insert the following:

(c) TOLL CREDIT FOR NON-FEDERAL SHARE.—

(1) ELIGIBILITY.—Section 120(j)(1) of title 23, United States Code, is amended by striking the last sentence and inserting the following: ''The amount of the credit that is attributable to expenditures by such public, quasi-public, or private agencies to build, improve, or maintain facilities in which a portion of the costs are paid for with Federal funds shall be limited to the amount of non-Federal funds that are used to pay the costs of such facilities, except that such amount of the credit shall be increased to include the amount of Federal loans or other financial assistance that will be repaid by such public, quasi-public, or private agencies.''.

(2) MAINTENANCE OF EFFORT CALCULATION.—Section 120(j) of title 23, United States Code, is amended—

(A) by striking paragraph (2); and

(C) by redesignating paragraph (3) as paragraph (2).

SA 2361. Mr. CORNYN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 389, between line 15 and line 16, insert the following:

SEC. 18___. TOLLING PILOT PROGRAM.

(a) ESTABLISHMENT AND IMPLEMENTATION.—The Secretary shall establish and implement in the State of Texas a tolling pilot program under which the Secretary, notwithstanding any provision of title 23, United States Code, may permit—

(1) the State of Texas to collect tolls on a highway, bridge, or tunnel on the Interstate system; and

(2) the State transportation department or a local transportation agency in the State of Texas to use toll revenues received from the operation of a toll facility authorized under this section or under section 129 of title 23, United States Code, for any transportation related purpose permitted by applicable State and local law.

(b) REPAYMENT OF FEDERAL SHARE.—

(1) IN GENERAL.—Notwithstanding any provision of title 23, United States Code, the total amount of funds paid from the Highway Account of the Highway Trust Fund to the State of Texas for construction of a highway, bridge, or tunnel within the boundaries of the State of Texas may be repaid to the Secretary.

(2) DEPOSIT OF CREDIT.—The Secretary of Transportation shall deposit amounts repaid by the State of Texas pursuant to paragraph (1) into the Highway Account and credit such amount to the unobligated balance of Federal-aid highway funds available to the State of Texas for the same class of funds last apportioned or allocated to the State of Texas for construction of the highway, bridge, or tunnel. The amount so credited shall be in addition to all other funds then apportioned or allocated to the State of Texas during the fiscal year for which the credit is received and shall be available for expenditure by the State of Texas in accordance with the provisions of title 23, United States Code.

(3) DEREGULATION.—Upon the repayment under this subsection of all Federal-aid highway funds received by the State of Texas for construction of a highway, bridge, or tunnel, the highway, bridge, or tunnel—

(A) shall be removed by the Secretary from all Federal-aid highway programs;

(B) shall not be subject to any other provision of title 23, United States Code, including any regulation issued to carry out that title; and

(C) may be operated and maintained by a public authority having jurisdiction over the highway, bridge, or tunnel under applicable State or local law.

(c) FUNDING.—

(1) USE.—Notwithstanding any other provision of law, funds made available to the State of Texas under title 23, United States Code to carry out the pilot program authorized under this section may be used by the State of Texas to pay the costs of an eligible project under this section, the same class of funds last apportioned or allocated to the State of Texas without requirement for non-Federal funds.

(2) AVAILABILITY OF OTHER FUNDING.—Notwithstanding any other provision of law, an eligible project under this section shall be eligible for other forms of financial assistance available under title 23, United States Code, including loans, loan guarantees, and lines of credit.

(d) REPORTS.—

(1) STATE OF TEXAS REPORT.—Not later than 3 years after the date of enactment of this section, the State of Texas shall submit to the Secretary a report summarizing the construction, maintenance, and operation of projects and the use of toll revenue under this section. The report shall describe the time and cost savings resulting from the use of procedures authorized in this section as compared to the construction of surface transportation projects using the existing

procedures authorized under the Federal-aid highway program, and shall recommend revisions necessary to further streamline and accelerate the construction of surface transportation projects.

(2) REPORT BY SECRETARY.—Not later than 6 months after receipt of the report submitted under paragraph (1), the Secretary of Transportation shall submit to Congress a report—

(A) evaluating the demonstration program conducted under this section and the ability of such program to streamline and accelerate the construction of surface transportation projects; and

(B) containing recommendations of the Secretary of Transportation as to whether the program should be expanded or made a part of the Federal-aid highway program.

SA 2362. Mr. CORNYN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 461, line 13, strike the period and insert the following: ''of which the current Southwest Regional Transportation Center (Texas A&M, the University of Texas at Austin, and Texas Southern University) shall be one.''

SA 2363. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 39, between lines 22 and 23, insert the following:

(17) FINISH PROGRAM.—For the FINISH program under section 178 of that title, for each of fiscal years 2004 through 2009, an amount equal to 6.4 percent of the amounts received in the Highway Trust Fund (other than the Mass Transit Account) for the fiscal year under section 9503(b) of the Internal Revenue Code of 1986.

On page 389, between lines 15 and 16, insert the following:

SEC. 18___. FINISH PROGRAM.

(a) IN GENERAL.—Subtitle I of chapter 1 of title 23, United States Code (as amended by section 1815(a)), is amended by adding at the end the following:

''§ 178. FINISH program

''(a) IN GENERAL.—The Secretary shall establish and carry out a program, to be known as the 'FINISH program', under which the Secretary shall apportion funds to States for use in the acceleration and completion of coordinated planning, design, and construction of internationally significant highway projects, as determined by the Secretary.

''(b) ELIGIBLE PROJECTS.—The Secretary shall apportion funds under this section for highway projects described in subsection (a) that are located on any of the high priority corridors described in paragraphs (1) and (37), (18) and (20), (23), (26), (38), or (44) of section 1105(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2032), as determined by the applicable State and approved by the Secretary.

''(c) APPORTIONMENT.—For each of fiscal years 2004 through 2009, the Secretary shall apportion funds made available under this section for the fiscal year to each State in the proportion that, as determined by the applicable State and approved by the Secretary—

''(1) the estimated amount that may be obligated in the fiscal year for the completion of the eligible projects described in subsection (b) in the State; bears to

''(2) the total estimated amount that may be obligated in the fiscal year for the completion of eligible projects described in subsection (b) in all States.

''(d) AUTHORIZATION OF APPROPRIATIONS.—For each of fiscal years 2004 through 2009, there is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section an amount equal to 6.4 percent of the amounts received in the Highway Trust Fund (other than the Mass Transit Account) for the fiscal year under section 9503(b) of the Internal Revenue Code of 1986.''.

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(b)), is amended by adding at the end the following:

''178. FINISH program.''.

SA 2364. Mr. SCHUMER submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 5507 and insert the following:

SEC. 5507. UNIFORM DOLLAR LIMITATION FOR ALL TYPES OF TRANSPORTATION FRINGE BENEFITS; CLARIFICATION OF FEDERAL EMPLOYEE BENEFITS.

(a) UNIFORM DOLLAR LIMITATION FOR ALL TYPES OF TRANSPORTATION FRINGE BENEFITS.—

(1) IN GENERAL.—Section 132(f)(2) of the Internal Revenue Code of 1986 (relating to limitation on exclusion) is amended—

(A) by striking ''$100'' in subparagraph (A) and inserting ''$190'', and

(B) by striking ''$175'' in subparagraph (B) and inserting ''$190''.

(2) INFLATION ADJUSTMENT CONFORMING AMENDMENTS.—Subparagraph (A) of section 132(f)(6) of the Internal Revenue Code of 1986 (relating to inflation adjustment) is amended—

(A) by striking the last sentence,

(B) by striking ''1999'' and inserting ''2003'', and

(C) by striking ''1998'' and inserting ''2002''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 2003.

(b) CLARIFICATION OF FEDERAL EMPLOYEE BENEFITS.—Section 7905 of title 5, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (2)(C) by inserting ''and'' after the semicolon;

(B) in paragraph (3) by striking ''; and'' and inserting a period; and

(C) by striking paragraph (4); and

(2) in subsection (b)(2)(A) by amending subparagraph (A) to read as follows:

''(A) a qualified transportation fringe as defined in section 132(f)(1) of the Internal Revenue Code of 1986;''.

SA 2365. Mr. DORGAN submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert:

SEC. ___. TAX TREATMENT OF CONTROLLED FOREIGN CORPORATIONS ESTABLISHED IN TAX HAVENS.

(a) IN GENERAL.—Subchapter C of chapter 80 (relating to provisions affecting more than one subtitle), as amended by this Act, is amended by adding at the end the following new section:

''SEC. ___. 7875. CONTROLLED FOREIGN CORPORATIONS IN TAX HAVENS TREATED AS DOMESTIC CORPORATIONS.

''(a) GENERAL RULE.—If a controlled foreign corporation is a tax-haven CFC, then, notwithstanding section 7701(a)(4), such corporation shall be treated for purposes of this title as a domestic corporation.

''(b) TAX-HAVEN CFC.—For purposes of this section—

''(1) IN GENERAL.—The term 'tax-haven CFC' means, with respect to any taxable year, a foreign corporation which—

''(A) was created or organized under the laws of a tax-haven country, and

''(B) is a controlled foreign corporation (determined without regard to this section) for an uninterrupted period of 30 days or more during the taxable year.

''(2) EXCEPTION.—The term 'tax-haven CFC' does not include a foreign corporation for any taxable year if substantially all of its income for the taxable year is derived from the active conduct of trades or businesses within the country under the laws of which the corporation was created or organized.

''(c) TAX-HAVEN COUNTRY.—For purposes of this section—

''(1) IN GENERAL.—The term 'tax-haven country' means any of the following:

Andorra	Gibraltar	Netherlands Antilles
Anguilla	Grenada	Niue
Antigua and Barbuda	Guernsey	Panama
Aruba	Isle of Man	Samoa
Commonwealth of the Bahamas	Jersey	San Marino
Bahrain	Liberia	Federation of Saint Christopher and Nevis
Barbados	Principality of Liechtenstein	Saint Lucia
Belize	Republic of the Maldives	Saint Vincent and the Grenadines
Bermuda	Malta	Republic of the Seychelles
British Virgin Islands	Republic of the Marshall Islands	Tonga
Cayman Islands	Mauritius	Turks and Cãicos
Cook Islands	Principality of Monaco	Republic of Vanuatu
Cyprus	Montserrat	
Commonwealth of the Dominica	Republic of Nauru	

''(2) SECRETARIAL AUTHORITY.—The Secretary may remove or add a foreign jurisdiction from the list of tax-haven countries under paragraph (1) if the Secretary determines such removal or addition is consistent with the purposes of this section.''

(b) CONFORMING AMENDMENT.—The table of sections for subchapter C of chapter 80 is amended by adding at the end the following new item:

''Sec 7875. Controlled foreign corporations in tax havens treated as domestic corporations.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

SA 2366. Mr. DORGAN submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which

was ordered to lie on the table; as follows:

At the appropriate place insert the following:

SEC. ___. EXTENSION AND EXPANSION OF CREDIT FOR ELECTRICITY PRODUCED FROM CERTAIN RENEWABLE RESOURCES.

(a) EXPANSION OF QUALIFIED ENERGY RESOURCES.—Subsection (c) of section 45 of the Internal Revenue Code of 1986 (relating to electricity produced from certain renewable resources) is amended to read as follows:

''(c) QUALIFIED ENERGY RESOURCES.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified energy resources' means—

''(A) wind,

''(B) closed-loop biomass,

''(C) open-loop biomass,

''(D) geothermal energy,

''(E) solar energy,

''(F) small irrigation power, and

''(G) municipal solid waste.

''(2) CLOSED-LOOP BIOMASS.—The term 'closed-loop biomass' means any organic material from a plant which is planted exclusively for purposes of being used at a qualified facility to produce electricity.

''(3) OPEN-LOOP BIOMASS.—

''(A) IN GENERAL.—The term 'open-loop biomass' means—

''(i) any agricultural livestock waste nutrients, or

''(ii) any solid, nonhazardous, cellulosic waste material which is segregated from other waste materials and which is derived from—

''(I) any of the following forest-related resources: mill and harvesting residues, precommercial thinnings, slash, and brush,

''(II) solid wood waste materials, including waste pallets, crates, dunnage, manufacturing and construction wood wastes (other than pressure-treated, chemically-treated, or painted wood wastes), and landscape or right-of-way tree trimmings, but not including municipal solid waste, gas derived from the biodegradation of solid waste, or paper which is commonly recycled, or

''(III) agriculture sources, including orchard tree crops, vineyard, grain, legumes, sugar, and other crop by-products or residues.

Such term shall not include closed-loop biomass.

''(B) AGRICULTURAL LIVESTOCK WASTE NUTRIENTS.—

''(i) IN GENERAL.—The term 'agricultural livestock waste nutrients' means agricultural livestock manure and litter, including wood shavings, straw, rice hulls, and other bedding material for the disposition of manure.

''(ii) AGRICULTURAL LIVESTOCK.—The term 'agricultural livestock' includes bovine, swine, poultry, and sheep.

''(4) GEOTHERMAL ENERGY.—The term 'geothermal energy' means energy derived from a geothermal deposit (within the meaning of section 613(e)(2)).

''(5) SMALL IRRIGATION POWER.—The term 'small irrigation power' means power—

''(A) generated without any dam or impoundment of water through an irrigation system canal or ditch, and

''(B) the nameplate capacity rating of which is not less than 150 kilowatts but is less than 5 megawatts.

''(6) MUNICIPAL SOLID WASTE.—The term 'municipal solid waste' has the meaning given the term 'solid waste' under section 2(27) of the Solid Waste Disposal Act (42 U.S.C. 6903).''.

(b) EXTENSION AND EXPANSION OF QUALIFIED FACILITIES.—

(1) IN GENERAL.—Section 45 of the Internal Revenue Code of 1986 is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

''(d) QUALIFIED FACILITIES.—For purposes of this section—

''(1) WIND FACILITY.—In the case of a facility using wind to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service after December 31, 1993, and before January 1, 2007.

''(2) CLOSED-LOOP BIOMASS FACILITY.—

''(A) IN GENERAL.—In the case of a facility using closed-loop biomass to produce electricity, the term 'qualified facility' means any facility—

''(i) owned by the taxpayer which is originally placed in service after December 31, 1992, and before January 1, 2007, or

''(ii) owned by the taxpayer which before January 1, 2007, is originally placed in service and modified to use closed-loop biomass to co-fire with coal, with other biomass, or with both, but only if the modification is approved under the Biomass Power for Rural Development Programs or is part of a pilot project of the Commodity Credit Corporation as described in 65 Fed. Reg. 63052.

''(B) SPECIAL RULES.—In the case of a qualified facility described in subparagraph (A)(ii)—

''(i) the 10-year period referred to in subsection (a) shall be treated as beginning no earlier than January 1, 2004,

''(ii) the amount of the credit determined under subsection (a) with respect to the facility shall be an amount equal to the amount determined without regard to this clause multiplied by the ratio of the thermal content of the closed-loop biomass used in such facility to the thermal content of all fuels used in such facility, and

''(iii) if the owner of such facility is not the producer of the electricity, the person eligible for the credit allowable under subsection (a) shall be the lessee or the operator of such facility.

''(3) OPEN-LOOP BIOMASS FACILITIES.—

''(A) IN GENERAL.—In the case of a facility using open-loop biomass to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which—

''(i) in the case of a facility using agricultural livestock waste nutrients—

''(I) is originally placed in service after December 31, 2003, and before January 1, 2007, and

''(II) the nameplate capacity rating of which is not less than 150 kilowatts, and

''(ii) in the case of any other facility, is originally placed in service before January 1, 2007.

''(B) CREDIT ELIGIBILITY.—In the case of any facility described in subparagraph (A), if the owner of such facility is not the producer of the electricity, the person eligible for the credit allowable under subsection (a) shall be the lessee or the operator of such facility.

''(4) GEOTHERMAL OR SOLAR ENERGY FACILITY.—In the case of a facility using geothermal or solar energy to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service after December 31, 2003, and before January 1, 2007. Such term shall not include any property described in section 48(a)(3) the basis of which is taken into account by the taxpayer for purposes of determining the energy credit under section 48.

''(5) SMALL IRRIGATION POWER FACILITY.—In the case of a facility using small irrigation power to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service after December 31, 2003, and before January 1, 2007.

''(6) LANDFILL GAS FACILITIES.—In the case of a facility producing electricity from gas derived from the biodegradation of municipal solid waste, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service after December 31, 2003, and before January 1, 2007.

''(7) TRASH COMBUSTION FACILITIES.—In the case of a facility which burns municipal solid waste to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service after December 31, 2003, and before January 1, 2007.''.

(2) CONFORMING AMENDMENT.—Section 45(e) of such Code, as so redesignated, is amended by striking ''subsection (c)(3)(A)'' in paragraph (7)(A)(i) and inserting ''subsection (d)(1)''.

(c) SPECIAL CREDIT RATE AND PERIOD FOR ELECTRICITY PRODUCED AND SOLD AFTER ENACTMENT DATE.—Section 45(b) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

''(4) CREDIT RATE AND PERIOD FOR ELECTRICITY PRODUCED AND SOLD FROM CERTAIN FACILITIES.—

''(A) CREDIT RATE.—In the case of electricity produced and sold after the date of the enactment of this paragraph at any qualified facility described in paragraph (3), (5), (6), or (7) of subsection (d), the amount in effect under subsection (a)(1) for any calendar year beginning with the calendar year in which such date occurs (determined before the application of the last sentence of paragraph (2) of this subsection) shall be reduced by one-third.

''(B) CREDIT PERIOD.—

''(i) IN GENERAL.—Except as provided in clause (ii), in the case of any facility described in paragraph (3), (4), (5), (6), or (7) of subsection (d), the 5-year period beginning on the date the facility was originally placed in service shall be substituted for the 10-year period in subsection (a)(2)(A)(ii).

''(ii) CERTAIN OPEN-LOOP BIOMASS FACILITIES.—In the case of any facility described in subsection (d)(3)(A)(ii) placed in service before January 1, 2004, the 5-year period beginning on January 1, 2004, shall be substituted for the 10-year period in subsection (a)(2)(A)(ii).''.

(d) COORDINATION WITH SECTION 48.—Section 48(a)(3) of the Internal Revenue Code of 1986 (defining energy property) is amended by adding at the end the following new sentence: ''Such term shall not include any property which is part of a facility the production from which is allowed as a credit under section 45 for the taxable year or any prior taxable year.''.

(e) ELIMINATION OF CERTAIN CREDIT REDUCTIONS.—Section 45(b)(3) of the Internal Revenue Code of 1986 (relating to credit reduced for grants, tax-exempt bonds, subsidized energy financing, and other credits) is amended—

(1) by inserting ''the lesser of ½ or'' before ''a fraction'' in the matter preceding subparagraph (A), and

(2) by adding at the end the following new sentence: ''This paragraph shall not apply with respect to any facility described in subsection (d)(2)(A)(ii).''.

(f) CREDIT ALLOWED AGAINST REGULAR AND MINIMUM TAX.—

(1) IN GENERAL.—Subsection (c) of section 38 of the Internal Revenue Code of 1986 (relating to limitation based on amount of tax) is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

''(4) SPECIAL RULES FOR WIND ENERGY CREDIT.—

''(A) IN GENERAL.—In the case of any wind energy credit—

''(i) this section and section 39 shall be applied separately with respect to such credit, and

''(ii) in applying paragraph (1) to such credit—

''(I) the tentative minimum tax shall be treated as being zero, and

''(II) the limitation under paragraph (1) (as modified by subclause (I)) shall be reduced by the credit allowed under subsection (a) for the taxable year (other than the wind energy credit).

''(B) WIND ENERGY CREDIT.—For purposes of this subsection, the term 'wind energy credit' means the credit determined under section 45 to the extent that such credit is attributable to electricity produced—

''(i) at a facility which is originally placed in service after the date of the enactment of this paragraph, and

''(ii) during the 4-year period beginning on the date that such facility was originally placed in service.''.

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (2)(A)(ii)(II) of section 38(c) of such Code is amended by striking ''or'' and inserting a comma and by inserting '', and the wind energy credit'' after ''employee credit''.

(B) Paragraph (3)(A)(ii)(II) of section 38(c) of such Code is amended by inserting ''and the wind energy credit'' after ''employee credit''.

(g) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to electricity produced and sold after December 31, 2003, in taxable years ending after such date.

(2) CERTAIN BIOMASS FACILITIES.—With respect to any facility described in section 45(d)(3)(A)(ii) of the Internal Revenue Code of 1986, as added by subsection (b)(1), which is placed in service before January 1, 2004, the amendments made by this section shall apply to electricity produced and sold after December 31, 2003, in taxable years ending after such date.

(3) CREDIT RATE AND PERIOD FOR NEW FACILITIES.—The amendments made by subsection (c) shall apply to electricity produced and sold after the date of the enactment of this Act, in taxable years ending after such date.

(4) NONAPPLICATION OF AMENDMENTS TO PREEFFECTIVE DATE POULTRY WASTE FACILITIES.—The amendments made by this section shall not apply with respect to any poultry waste facility (within the meaning of section 45(c)(3)(C), as in effect on the day before the date of the enactment of this Act) placed in service before January 1, 2004.

(5) WIND CREDIT ALLOWED AGAINST REGULAR AND MINIMUM TAX.—The amendments made by subsection (f) shall apply to taxable years ending after the date of the enactment of this Act.

(h) GAO STUDY.—The Comptroller General of the United States shall conduct a study on the market viability of producing electricity from resources with respect to which credit is allowed under section 45 of the Internal Revenue Code of 1986 but without such credit. In the case of open-loop biomass and municipal solid waste resources, the study should take into account savings associated with not having to dispose of such resources. In conducting such study, the Comptroller shall estimate the dollar value of the environmental impact of producing electricity from such resources relative to producing electricity from fossil fuels using the latest generation of technology. Not later than June 30, 2006, the Comptroller shall report on such study to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

(i) EXTENSION OF CUSTOMS USER FEES.—Section 13031(j)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)) is amended by striking ''March 31, 2004'' and inserting ''December 31, 2013''.

SA 2367. Mr. AKAKA submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 715, strike line 1 and insert the following:

SEC. 3044. MEDICAL TRANSPORTATION DEMONSTRATION GRANTS.

(a) IN GENERAL.—Chapter 53 is amended by adding at the end the following:

''§ 5341. Medical transportation demonstration grants

''(a) GRANTS AUTHORIZED.—

''(1) IN GENERAL.—The Secretary may award demonstration grants to eligible entities to provide transportation services to individuals to access dialysis treatments and other medical treatments for diabetes or renal disease.

''(2) ELIGIBLE ENTITIES.—An entity shall be eligible to receive a grant under this section if the entity—

''(A) meets the conditions described in section 501(c)(3) of the Internal Revenue Code of 1986; or

''(B) is an agency of a State or unit of local government.

''(b) USE OF FUNDS.—Grant funds received under this section may be used to provide transportation services to individuals to access dialysis treatments and other medical treatments for diabetes or renal disease.

''(c) APPLICATION.—

''(1) IN GENERAL.—Each eligible entity desiring a grant under this section shall submit an application to the Secretary at such time, at such place, and containing such information as the Secretary may reasonably require.

''(2) SELECTION OF GRANTEES.—In awarding grants under this section, the Secretary shall give preference to eligible entities from communities with—

''(A) high incidence of diabetes;

''(B) high incidence of renal disease; and

''(C) limited access to dialysis facilities.

''(d) RULEMAKING.—The Secretary shall issue regulations to implement and administer the grant program established under this section.

''(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for each of fiscal year 2005 through 2009 to carry out this section, which shall remain available until expended.''.

(b) CONFORMING AMENDMENT.—The table of sections for chapter 53 is amended by adding at the end the following:

''5341. Medical transportation demonstration grants.''.

''SEC. 3045. INTERMODAL PASSENGER FACILITIES.

SA 2368. Mr. GRASSLEY (for himself and Mr. BAUCUS) submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 110, line 15, strike all through page 115, line 9.

SA 2369. Mr. GRASSLEY (for himself and Mr. BAUCUS) submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 110, line 15, strike all through page 115, line 9.

SA 2370. Ms. SNOWE (for herself and Ms. COLLINS) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of part 2 of subtitle A of title IV, add the following:

SEC. 4163. COMMERCIAL TRUCK HIGHWAY SAFETY DEMONSTRATION PROGRAM.

(a) SHORT TITLE.—This section may be cited as the ''Commercial Truck Highway Safety Demonstration Program Act of 2004''.

(b) FINDINGS.—Congress makes the following findings:

(1) Public safety on the highways of the United States is a paramount concern of all who use the highways and all who prescribe public policy for the use of those highways, including public policy on the operation of heavy commercial trucks on highways.

(2) Federal highway funding law effectively imposes a limit of 80,000 pounds on the weight of vehicles permitted to use Interstate System highways.

(3) The administration of this law in Maine has forced heavy tractor-trailer and tractor-semitrailer combination vehicles traveling into Maine from neighboring States and Canada to divert onto small State and local roads where higher vehicle weight limits apply under Maine law.

(4) The diversion of those vehicles onto such roads causes significant economic hardships and safety challenges for small communities located along those roads.

(5) Permitting heavy commercial vehicles, including tanker trucks carrying hazardous material and fuel oil, to travel on Interstate System highways in Maine—

(A) would enhance public safety by reducing—

(i) the number of heavy vehicles that use town and city streets in Maine; and

(ii) as a result, the number of dangerous interactions between those heavy vehicles and such other vehicles as school buses and private vehicles; and

(B) would reduce the net highway maintenance costs in Maine because the Interstate System highways, unlike the secondary roads of Maine, are built to accommodate heavy vehicles and are, therefore, more durable.

(c) DEFINITIONS.—In this section:

(1) COVERED INTERSTATE SYSTEM HIGHWAY.—

(A) IN GENERAL.—The term ''covered Interstate System highway'' means a highway within the State of Maine that is designated as a route on the Interstate System, except as provided in subparagraph (B).

(B) EXCEPTION.—The term does not include any portion of highway that, as of the date of the enactment of this section, is exempted from the requirements of subsection (a) of section 127 of title 23, United States Code, by the last sentence of such subsection.

(2) INTERSTATE SYSTEM.—The term ''Interstate System'' has the meaning given that term in section 101(a) of title 23, United States Code.

(d) MAINE TRUCK SAFETY DEMONSTRATION PROGRAM.—The Secretary of Transportation shall carry out a program, in the administration of this section, to demonstrate the effects on the safety of the overall highway network in the State of Maine that would result from permitting vehicles described in subsection (e)(2) to be operated on the Interstate System highways within the State.

(e) WAIVER OF HIGHWAY FUNDING REDUCTION RELATING TO WEIGHT OF VEHICLES USING INTERSTATE SYSTEM HIGHWAYS.—

(1) PROHIBITION RELATING TO CERTAIN VEHICLES.—Notwithstanding section 127(a) of title 23, United States Code, the total amount of funds apportioned to the State of Maine under section 104(b)(1) of such title for any period may not be reduced under such section 127(a) on the basis that the State of Maine permits a vehicle described in paragraph (2) to use a covered Interstate System highway.

(2) COMBINATION VEHICLES IN EXCESS OF 80,000 POUNDS.—A vehicle referred to in paragraph (1) is a vehicle having a weight in excess of 80,000 pounds that—

(A) consists of a 3-axle tractor unit hauling a single trailer or semitrailer; and

(B) does not exceed any vehicle weight limitation that is applicable under the laws of the State of Maine to the operation of such vehicle on highways in Maine not in the Interstate System, as such laws are in effect on the date of the enactment of this section.

(3) EFFECTIVE DATE AND TERMINATION.—

(A) EFFECTIVE DATE.—

(i) DATE OF SATISFACTION OF ADMINISTRATIVE CONDITIONS BY MAINE.—The prohibition in paragraph (1) shall take effect on the date on which the Secretary of Transportation notifies the Commissioner of Transportation of the State of Maine in writing that—

(I) the Secretary has received the plan described in subsection (f)(1); and

(II) the Commissioner has established a highway safety committee as described in subsection (f)(2) and has promulgated rules and procedures for the collection of highway safety data as described in subsection (f)(3).

(ii) PERMANENT EFFECT.—After taking effect, the prohibition in paragraph (1) shall remain in effect unless terminated under subparagraph (B).

(B) CONTINGENT TERMINATION.—The prohibition in paragraph (1) shall terminate 3 years after the effective date applicable under subparagraph (A) if, before the end of such 3-year period, the Secretary of Transportation—

(i) determines that—

(I) operation of vehicles described in paragraph (2) on covered Interstate System highways in Maine has adversely affected safety on the overall highway network in Maine; or

(II) the Commissioner of Transportation of the State of Maine has failed faithfully to use the highway safety committee as described in subsection (f)(2)(A) or to collect data as described in subsection (f)(3); and

(ii) publishes the determination, together with the date of the termination of the prohibition, in the Federal Register.

(4) CONSULTATION REGARDING TERMINATION FOR SAFETY.—In making a determination under paragraph (3)(B)(i)(I), the Secretary of Transportation shall consult with the highway safety committee established by the Commissioner in accordance with subsection (f).

(f) RESPONSIBILITIES OF THE STATE OF MAINE.—For the purposes of subsection (e), the State of Maine satisfies the conditions of this subsection if the Commissioner of Transportation of the State of Maine—

(1) submits to the Secretary of Transportation a plan for satisfying the conditions set forth in paragraphs (2) and (3);

(2) establishes and chairs a highway safety committee that—

(A) the Commissioner uses to review the data collected pursuant to paragraph (3); and

(B) consists of representatives of—

(i) agencies of the State of Maine that have responsibilities related to highway safety;

(ii) municipalities of the State of Maine;

(iii) organizations that have evaluation or promotion of highway safety among their principal purposes; and

(iv) the commercial trucking industry; and

(3) collects data on the net effects that the operation of vehicles described in subsection (e)(2) on covered Interstate System highways have on the safety of the overall highway network in Maine, including the net effects on single-vehicle and multiple-vehicle collision rates for such vehicles.

SA 2371. Ms. SNOWE (for herself and Ms. COLLINS) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 1020, between lines 9 and 10, insert the following:

SEC. 4663. USE OF CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT FUNDS FOR BOSTON TO PORTLAND PASSENGER RAIL SERVICE.

Notwithstanding any other provision of law, funds authorized to be appropriated under section 1101(5) that are made available to the State of Maine may be used to support, through September 30, 2009, the operation of passenger rail service between Boston, Massachusetts, and Portland, Maine, including any extension of such service.

SA 2372. Ms. SNOWE submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle A of title IV, add the following:

PART 3—MISCELLANEOUS SAFETY PROVISIONS

SEC. 4171. PROHIBITION ON PURCHASE, RENTAL, LEASE, OR USE OF NONCOMPLYING 15-PASSENGER VANS FOR USE AS SCHOOL BUSES.

(a) PROHIBITION.—Section 30112(a) of title 49, United States Code, is amended—

(1) by inserting ''(1)'' before ''Except as provided in this section''; and

(2) by adding at the end the following:

''(2) Except as provided in this section, sections 30113 and 30114 of this title, and subchapter III of this chapter, a person may not, after September 30, 2008, purchase, rent, lease, or use any motor vehicle designed or used to transport 9 to 15 passengers that the person knows or reasonably should know will be used to a significant extent to transport preschool, primary, and secondary school students to or from school or an event related to school, unless the motor vehicle complies with the motor vehicle standards prescribed for school buses under section 30125 of this title.''.

(b) ENFORCEMENT.—Section 113(f) of title 49, United States Code, is amended—

(1) in paragraph (1), by striking ''and'' at the end;

(2) by redesignating paragraph (2) as paragraph (3); and

(3) by inserting after paragraph (1) the following new paragraph (2):

''(2) the enforcement of the prohibition under section 30112(a)(2) of this title; and''.

(c) LIMITATION ON APPLICATION.—The prohibition under section 30112(a)(2) of title 49, United States Code, as added by subsection (a), shall not apply to any purchase, rental, lease, or use of a motor vehicle required under a contract that was entered into before the date of enactment of this Act.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the prohibition under section 30112(a)(2) of title 49, United States Code, as added by subsection (a).

SEC. 4172. FEDERAL OUTREACH EFFORTS.

Between the date of enactment of this Act and October 1, 2008, the Secretary of Transportation, in consultation with the Administrator of the National Highway Traffic Safety Administration and the Administrator of the Federal Motor Carrier Safety Administration, shall conduct an aggressive outreach campaign regarding the use of motor vehicles designed or used to transport 9 to 15 passengers as school buses. The outreach campaign shall be designed to ensure the broadest practicable dissemination of outreach campaign information to—

(1) State departments of transportation;

(2) State departments of education;

(3) local school districts;

(4) public and private school principals and administrators; and

(5) public and private child care providers.

SEC. 4173. PENALTY.

Section 30165(a)(1) of title 49, United States Code, is amended—

(1) by striking ''A'' before ''person'' and inserting ''(A) Except as provided in subparagraph (B) of this paragraph, a''; and

(2) by adding at the end the following:

''(B) The maximum amount of a civil penalty under this paragraph shall be $25,000, in the case of—

''(i) the manufacture, sale, offer for sale, introduction or delivery for introduction into interstate commerce, or importation of a schoolbus or schoolbus equipment (as those terms are defined in section 30125(a) of this title) in violation of section 30112(a)(1) of this title; or

''(ii) a violation of section 30112(a)(2) of this title.

''(C) Subparagraph (B) shall not affect the maximum penalty that may be imposed under subparagraph (A) for a related series of violations.

''(D) Notwithstanding section 3302(b) of title 31, penalties collected under subparagraph (B)—

''(i) shall be credited as offsetting collections to the account that funds the enforcement of subparagraph (B);

''(ii) shall be available for expenditure only to pay the costs of such enforcement; and

''(iii) shall remain available until expended.''.

SA 2373. Ms. SNOWE submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title III add the following new section:

SEC. 3045. FUNDS FOR CAPITAL INVESTMENT FOR PUBLIC TRANSPORTATION.

(a) REPEAL OF AUTHORITY TO MAKE LOANS.—Section 5309(a) is amended—

(1) in paragraph (1), by striking ''and loans''; and

(2) in paragraph (2), by striking ''and loans''.

(b) GRANTS FOR FERRYBOAT PROJECTS.—Paragraph (1)(F) of such section is amended to read as follows:

''(F) capital projects to replace, rehabilitate, and purchase buses, ferryboats, and related equipment and to construct bus-related and ferryboat-related facilities;''.

(c) REPEAL OF AUTHORITY TO MAKE LOANS FOR REAL PROPERTY INTERESTS.—Section 5309(b) is repealed.

SA 2374. Ms. SNOWE (for herself, Mr. NELSON of Florida, Ms. COLLINS, Mr. GRAHAM of Florida, and Mr. JOHNSON) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of part 1 of subtitle B of title IV, add the following:

SEC. 4251. INCREASED MCSAP PARTICIPATION IMPACT STUDY.

(a) IN GENERAL.—If a State that did not receive its full allocation of funding under the Motor Carrier Safety Assistance Program during fiscal year 2003 agrees to enter into a cooperative agreement with the Secretary of Transportation to evaluate the safety impact, costs, and benefits of allowing such State to continue to participate fully in the Motor Carrier Safety Assistance Program, then the Secretary of Transportation shall allocate to that State the full amount of funds to which it would otherwise be entitled for fiscal years 2004, 2005, 2006, 2007, 2008, and 2009. The Secretary of Transportation may not add conditions to the cooperative agreement other than those directly relating to the accurate and timely collection of inspection and crash data sufficient to ascertain the safety and effectiveness of such State's program.

(b) REQUIREMENTS.—

(1) REPORT.—The State shall annually submit to the Secretary of Transportation, the results of the safety evaluations described in subsection (a).

(2) TERMINATION BY SECRETARY.—If the Secretary of Transportation finds that a cooperative agreement entered into under this section is not in the public interest based on the results of the annual evaluations after 2 years of full participation by the State, the Secretary of Transportation may terminate the cooperative agreement.

(c) PROHIBITION OF ADOPTION OF LESSER STANDARDS.—No State may enact or implement motor carrier safety regulations that are determined by the Secretary of Transportation to be less strict than those in effect as of September 30, 2003.

SA 2375. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 1062, beginning with line 11, strike through line 2 on page 1064.

SA 2376. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 115, between lines 9 and 10, insert the following:

SEC. 1309. USE OF PROCEEDS FROM CERTAIN REAL PROPERTY SALES.

Subsection (c) of section 156 of title 23, United States, is amended to read as follows:

''(c) USE OF FEDERAL SHARE OF INCOME.—The Federal share of net proceeds obtained by a State under subsection (a) shall be treated as Federal funds and applied by the State to meet the Federal share for projects eligible to receive funding under this title.''.

SA 2377. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

In section 139 of title 23, United States Code, as added by section 1201 of the amendment—

(1) strike ''SET-ASIDE.—'' in subsection (b)(2) and insert ''FUNDING.—'';

(2) strike ''of the amounts made available'' in subsection (b)(2) and insert ''the amounts made available'';

(3) strike ''$439,000,000'' in subsection (b)(2);

(4) strike ''allocated'' in subsection (c)(1)(A) and insert ''apportioned'';

(5) strike ''subsection (d).'' in subsection (c)(1)(B) and insert ''subsection (e).'';

(6) redesignate subsections (d) and (e) as subsections (e) and (f), respectively, and insert the following after subsection (c):

''(d) DISTRIBUTION OF FUNDS.—On October 1 of each fiscal year, the Secretary shall apportion the funds available for allocation under this section among the several States according to the ratio that—

''(1) the total funds apportioned to each State under the Federal-aid Highway Program, bears to

''(2) the total funds apportioned to all States under the Federal-aid Highway Program.''; and

(7) strike subsection (e), as redesignated, and insert the following:

''(e) REDISTRIBUTION OF ALLOCATED FUNDS AND OBLIGATION AUTHORITY.—On the date that is 180 days after the date of apportionment, or as soon thereafter as practicable, for each fiscal year, the Secretary shall—

''(1) withdraw—

''(A) any funds allocated to a State under this section that remain unobligated; and

''(B) an equal amount of obligation authority provided for the use of the funds in accordance with section 1101(a)(14) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003; and

''(2) reallocate the funds and redistribute the obligation authority to those States that—

''(A) have fully obligated all amounts allocated under this section for the fiscal year; and

''(B) demonstrate that the State is able to obligate additional amounts for projects eligible under this section before the end of the fiscal year.''.

''(f) DISTRIBUTION OF FUNDS.—

''(1) INFRASTRUCTURE PERFORMANCE AND MAINTENANCE PROGRAM DISTRIBUTION.—Notwithstanding section 1101(13) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004, and in lieu of the amounts authorized by that section, there are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for carrying out the infrastructure performance and maintenance program under this section—

''(A) $2,000,000,000 for each of fiscal years 2004 and 2005; and

''(B) $1,750,000,000 for each of fiscal years 2006, 2007, and 2008.

SA 2378. Mr. McCAIN submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

In section 139 of title 23, United States Code, as added by section 1201 of the amendment—

(1) strike ''SET-ASIDE.—'' in subsection (b)(2) and insert ''FUNDING.—'';

(2) strike ''of the amounts made available'' in subsection (b)(2) and insert ''the amounts made available'';

(3) strike ''$439,000,000'' in subsection (b)(2);

(4) strike ''allocated'' in subsection (c)(1)(A) and insert ''apportioned'';

(5) strike ''subsection (d).'' in subsection (c)(1)(B) and insert ''subsection (e).'';

(6) redesignate subsections (d) and (e) as subsections (e) and (f), respectively, and insert the following after subsection (c):

(d) DISTRIBUTION OF FUNDS.—On October 1 of each fiscal year, the Secretary shall apportion the funds available for allocation under this section among the several States according to the ratio that—

''(1) the percentage of tax payments attributable to highway users in each State paid into the Highway Trust Fund (other than the Mass Transit Account), bears to

''(2) the 100 percent of tax payments attributable to highway users in all States paid into the Highway Trust Fund (other than the Mass Transit Account).''; and

(7) strike subsection (e), as redesignated, and insert the following:

''(e) REDISTRIBUTION OF ALLOCATED FUNDS AND OBLIGATION AUTHORITY.—On the date that is 180 days after the date of apportionment, or as soon thereafter as practicable, for each fiscal year, the Secretary shall—

''(1) withdraw—

''(A) any funds allocated to a State under this section that remain unobligated; and

''(B) an equal amount of obligation authority provided for the use of the funds in accordance with section 1101(a)(14) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003; and

''(2) reallocate the funds and redistribute the obligation authority to those States that—

''(A) have fully obligated all amounts, allocated under this section for the fiscal year; and

''(B) demonstrate that the State is able to obligate additional amounts for projects eligible under this section before the end of the fiscal year.

''(f) APPLICATION WITH SECTION 105.—Notwithstanding section 105(a)(2)(H) of this title, section 105(a) shall not apply to funds apportioned under this section.''.

''(g) DISTRIBUTION OF FUNDS.—

''(1) INFRASTRUCTURE PERFORMANCE AND MAINTENANCE PROGRAM DISTRIBUTION.—Notwithstanding section 1101(13) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004, and in lieu of the amounts authorized by that section, there are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for carrying out the infrastructure performance and maintenance program under this section—

''(A) $2,000,000,000 for each of fiscal years 2004 and 2005; and

''(B) $1,750,000,000 for each of fiscal years 2006, 2007, and 2008.

SA 2379. Mr. MCCAIN (for himself and Mr. HOLLINGS) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 299, strike lines 2 through 8.

SA 2380. Mr. MCCAIN (for himself and Mr. HOLLINGS) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 508, beginning with line 1, strike through line 25 on page 515.

SA 2381. Mr. MCCAIN (for himself and Mr. HOLLINGS) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highways safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 287, beginning with line 12, strike through line 2 on page 288.

SA 2382. Mr. MCCAIN (for himself and Mr. HOLLINGS) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highways safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 79, beginning with line 11, strike through line 3 on page 80.

SA 2383. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highways safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 4601.

SA 2384. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highways safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 1005, beginning with line 13, strike through line 9 on page 1020 and insert the following:

SUBTITLE F—AMTRAK REAUTHORIZATION

SEC. 4601. AUTHORIZATION OF APPROPRIATIONS.

The text of section 24104 of title 49, United States Code, is amended to read as follows:

''There are authorized to be appropriated to the Secretary of Transportation $2,000,000,000 for each of fiscal years 2004, 2005, 2006, 2007, 2008, and 2009 for the benefit of intercity rail passenger service for operating and capital expenses.''.

SA 2385. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

In section 139 of title 23, United States Code, as added by section 1201 of the amendment—

(1) strike ''SET-ASIDE.—'' in subsection (b)(2) and insert ''Funding.—'';

(2) strike ''of the amounts made available'' in subsection (b)(2) and insert ''the amounts made available'';

(3) strike ''$439,000,000'' in subsection (b)(2);

(4) strike ''allocated'' in subsection (c)(1)(A) and insert ''apportioned'';

(5) strike ''subsection (d).'' in subsection (c)(1)(B) and insert ''subsection (e).'';

(6) redesignate subsections (d) and (e) as subsections (e) and (f), respectively, and insert the following after subsection (c):

''(d) DISTRIBUTION OF FUNDS.—On October 1 of each fiscal year, the Secretary shall apportion the funds available for allocation under this section among the several States according to the ratio that—

''(1) the total funds apportioned to each State under the Federal-aid Highway Program, bears to

''(2) the total funds apportioned to all States under the Federal-aid Highway Program.''; and

(7) strike subsection (e), as redesignated, and insert the following:

''(e) REDISTRIBUTION OF ALLOCATED FUNDS AND OBLIGATION AUTHORITY.—On the date that is 180 days after the date of apportionment, or as soon thereafter as practicable, for each fiscal year, the Secretary shall—

''(1) withdraw—

''(A) any funds allocated to a State under this section that remain unobligated; and

''(B) an equal amount of obligation authority provided for the use of the funds in accordance with section 1101(a)(14) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003; and

''(2) reallocate the funds and redistribute the obligation authority to those States that—

''(A) have fully obligated all amounts allocated under this section for the fiscal year; and

''(B) demonstrate that the State is able to obligate additional amounts for projects eligible under this section before the end of the fiscal year.''.

SA 2386. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

In section 139 of title 23, United States Code, as added by section 1201 of the amendment—

(1) strike ''SET-ASIDE.—'' in subsection (b)(2) and insert ''FUNDING.—'';

(2) strike ''of the amounts made available'' in subsection (b)(2) and insert ''the amounts made available'';

(3) strike ''$439,000,000'' in subsection (b)(2);

(4) strike ''allocated'' in subsection (c)(1)(A) and insert ''apportioned'';

(5) strike ''subsection (d).'' in subsection (c)(1)(B) and insert ''subsection (e).'';

(6) redesignate subsections (d) and (e) as subsections (e) and (f), respectively, and insert the following after subsection (c):

''(d) DISTRIBUTION OF FUNDS.—On October 1 of each fiscal year, the Secretary shall apportion the funds available for allocation under this section among the several States according to the ratio that—

''(1) the percentage of tax payments attributable to highway users in each State paid into the Highway Trust Fund (other than the Mass Transit Account), bears to

''(2) the 100 percent of tax payments attributable to highway users in all States paid into the Highway Trust Fund (other than the Mass Transit Account).''; and

(7) strike subsection (e), as redesignated, and insert the following:

''(e) REDISTRIBUTION OF ALLOCATED FUNDS AND OBLIGATION AUTHORITY.—On the date that is 180 days after the date of apportionment, or as soon thereafter as practicable, for each fiscal year, the Secretary shall—

''(1) withdraw—

''(A) any funds allocated to a State under this section that remain unobligated; and

''(B) an equal amount of obligation authority provided for the use of the funds in accordance with section 1101(a)(14) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003; and

''(2) reallocate the funds and redistribute the obligation authority to those States that—

''(A) have fully obligated all amounts allocated under this section for the fiscal year; and

''(B) demonstrate that the State is able to obligate additional amounts for projects eligible under this section before the end of the fiscal year.

''(f) APPLICATION WITH SECTION 105.—Notwithstanding section 105(a)(2)(H) of this title, section 105(a) shall not apply to funds apportioned under this section.''.

SA 2387. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highways safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

SEC. 1104. EQUITY PROVISION.

(a) IN GENERAL.—Section 105 of title 23, United States Code, is amended to read as follows:

''§ 105. Equity provision

''(a) GENERAL RULE.—For each of fiscal years 2004 through 2009, the Secretary shall ensure that the percentage of apportionments of each State is sufficient to ensure that, based on the percentage of tax payments attributable to highway users in each State paid into the Highway Trust Fund (other than the Mass Transit Account) in the latest fiscal year for which data are available, no State's percentage return from the Highway Trust Fund is less than 100 percent.

''(b) APPORTIONMENTS.—In making an apportionment described in subsection (a) for a fiscal year, the Secretary shall ensure that the rate of return of each State from the Highway Trust Fund includes the total apportionments made for the fiscal year for—

''(1) the Interstate maintenance program under section 119;

''(2) the National Highway System under section 103;

''(3) the bridge program under section 144;

''(4) the surface transportation program under section 133;

''(5) the congestion mitigation and air quality improvement program under section 149;

''(6) the highway safety improvement program under section 148;

''(7) the Appalachian development highway system program under section 170;

''(8) the recreational trails program under section 206;

''(9) the metropolitan planning program under section 104(f);

''(10) the safe routes to school program under section 150; and

''(11) the railway-highway crossings under section 130.

''(c) ADJUSTMENTS.—

''(1) IN GENERAL.—If in any of fiscal years 2004 through 2009, the total of the amounts authorized under (a) and (b) is more than the amounts listed in paragraph (2), then the Secretary shall proportionally reduce the amounts apportioned under paragraphs (1) through (6) so that the total equals the amount listed under paragraph (2). In making such reductions, the Secretary shall ensure that no State's percentage return from the Highway Trust Fund (other than the Mass Transit Account) is less than 100 percent.

''(2) AMOUNTS.—The amount listed in this paragraph is as follows:

''(A) the amount for 2004 is $35,419,162,743.

''(B) the amount for 2005 is $38,142,851,998.

''(C) the amount for 2006 is $39,323,247,546.

''(D) the amount for 2007 is $39,084,010,054.

''(E) the amount for 2008 is $39,386,404,896.

''(F) the amount for 2009 is $44,789,782,206.

''(3) NEGATIVE AMOUNTS.—If the reduction required by paragraph (1) for any fiscal year would result in zero or a negative number, then the Secretary shall apportion the amount for that fiscal year set forth in paragraph (2) among the several States using the formula in subsection (a).

''(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) such sums as may be necessary to carry out this section for each of fiscal years 2004 through 2009.

''(e) PROGRAMMATIC DISTRIBUTION OF FUNDS.—

''(1) INITIAL DISTRIBUTION.—The Secretary shall apportion $2,500,000,000 of the amounts made available under this section to each State in accordance with section 119.

''(2) REMAINDER DISTRIBUTION.—The Secretary shall apportion the remainder of the amounts made available under this section so that the amount apportioned to each State for each program referred to in paragraphs (1) through (6) of subsection (b) is equal to the amount determined by multiplying the amount to be apportioned under this paragraph by the ratio that—

(A) the amount of funds apportioned to each State for each program referred to in those paragraphs for a fiscal year, bears to

(B) the total amount of funds apportioned to each State for such program for that fiscal year.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 104(b) of title 23, United States Code, is amended—

(A) by inserting ''50 percent of'' after ''Highway, and'' in paragraph (1)(A);

(B) by redesignating subparagraph (B) of paragraph (1) as subparagraph (C) and inserting the following after subparagraph (A):

''(B) The remaining 50 percent of the funds apportioned under subparagraph (A) shall be apportioned in the ratio described in paragraph (3)(A).'';

(C) by striking paragraph (3)(A) and inserting the following:

''(A) IN GENERAL.—For the surface transportation program, in the ratio that—

''(i) the estimated tax payments attributable to highway users in each State paid into the Highway Trust fund (other than the Mass Transit Account) in the latest fiscal year for which data are available, bears to

''(ii) the estimated tax payments attributable to highway users in all States paid into the Highway Trust fund (other than the Mass Transit Account) in the latest fiscal year for which data are available.'';

(D) by striking ''For'' in paragraph (4) and inserting ''Fifty percent of the funds for''; and

(E) by adding at the end of paragraph (4) the following:

''(The remaining 50 percent of such funds shall be apportioned in the ratio described in paragraph (3)(A).''.

(2) The chapter analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 105 and inserting the following:

''105. Equity provision''.

Strike paragraph (13) of section 1101 of the amendment and redesignate paragraphs (14) and (15) as paragraphs (13) and (14), respectively.

SA 2388. Mrs. HUTCHISON (for herself, Mr. KYL, Mr. LEVIN, Mr. GRAHAM of Florida, Mr. MCCAIN, Ms. STABENOW, and Mrs. FEINSTEIN) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

In section 139 of title 23, United States Code, as added by section 1201 of the amendment—

(1) strike ''SET-ASIDE.—'' in subsection (b)(2) and insert ''FUNDING.—''

(2) strike ''of the amounts made available'' in subsection (b)(2) and insert ''the amounts made available'';

(3) strike ''$439,000,000'' in subsection (b)(2);

(4) strike ''allocated'' in subsection (c)(1)(A) and insert ''apportioned'';

(5) strike ''subsection (d).'' in subsection (c)(1)(B) and insert ''subsection (e).'';

(6) redesignate subsections (d) and (e) as subsections (e) and (f), respectively, and insert the following after subsection (c):

''(d) DISTRIBUTION OF FUNDS.—

''(1) INFRASTRUCTURE PERFORMANCE AND MAINTENANCE PROGRAM DISTRIBUTION.—Nothwithstanding subsection 1101(13) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004, and in lieu of the amounts authorized by that section, there are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for carrying out the infrastructure performance and maintenance program under this section—

''(A) $2,000,000,000 for each of fiscal years 2004 and 2005; and

''(B) $1,750,000,000 for each of fiscal years 2006, 2007, and 2008.

''(2) EQUITY DISTRIBUTION.—On October 1 of each fiscal year, the Secretary shall reserve a sufficient amount of the funding available to carry out this section to provide a final equity adjustment, after making the apportionment under section 105 of this title, for each State to increase the percentage return of all highway apportionments, as compared to the tax payments attributable to the States paid into the Highway Trust Fund (other than the Mass Transit Account), to—

''(A) for fiscal year 2005, 91 percent;

''(B) for fiscal year 2006, 92 percent;

''(C) for fiscal year 2007, 93 percent;

''(D) for fiscal year 2008, 94 percent;

''(E) for fiscal year 2009, 95 percent.

''(3) REMAINDER DISTRIBUTION.—On October 1 of each fiscal year, the Secretary shall apportion the funds available for allocation under this section among the several States, after the application of paragraph (1), according to the ratio that—

''(1) the percentage of tax payments attributable to highway users in each State paid into the Highway Trust Fund (other than the Mass Transit Account), bears to

''(2) 100 percent of tax payments attributable to highway users in all States paid into the Highway Trust Fund (other than the Mass Transit Account).''; and

(7) strike subsection (e), as redesignated, and insert the following:

''(e) REDISTRIBUTION OF ALLOCATED FUNDS AND OBLIGATION AUTHORITY.—On the date that is 180 days after the date of apportionment, or as soon thereafter as practicable, for each fiscal year, the Secretary shall—

''(1) withdraw—

''(A) any funds allocated to a State under this section that remain unobligated; and

''(B) an equal amount of obligation authority provided for the use of the funds in accordance with section 1101(a)(13) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003; and

''(2) reallocate the funds and redistribute the obligation authority to those States that—

''(A) have fully obligated all amounts allocated under this section for the fiscal year; and

''(B) demonstrate that the State is able to obligate additional amounts for projects eligible under this section before the end of the fiscal year.

''(f) APPLICATION WITH SECTION 105.—Notwithstanding section 105(a)(2)(H) of this title, section 105(a) shall not apply to funds apportioned under this section.''.

SA 2389. Mrs. HUTCHISON submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title IV, add the following:

SEC. 4663. AMTRAK CAPITAL EXPENDITURES NORTHEAST CORRIDOR LIMIT.

Notwithstanding any other provision of law, Amtrak may not expend more than 50 percent of its total expenditures for capital projects in any fiscal year for such projects on any one Corridor.

SA 2390. Mrs. HUTCHISON submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ———. SECTION 49(f) POLICY ON LANDS, WILDLIFE AND WATERFOWL REFUGES, AND HISTORIC SITES.

(a) IN GENERAL.—Section 138 of title 23, United States Code, and section 303 of title

49, United States Code, are each amended by adding at the end the following matter with appropriate subsection designation:

''( ) TREATMENT OF HISTORIC SITES.—The requirements of this section are deemed to be satisfied where the treatment of an historic site (other than a National Historic Landmark) has been agreed upon in accordance with section 106 of the National Historic Preservation Act (16 U.S.C. 470f). The Secretary, in consultation with the Advisory Council on Historic Preservation, shall develop administrative procedures to review the implementation of this subsection to ensure that the objectives of the National Historic Preservation Act are being met.''.

(b) ADMINISTRATION.—

(1) APPROVAL OF STATE REQUESTS FOR FUNDS.—The Secretary of Transportation may approve a request by a State to provide funds made available under chapter 1 of title 23, United States Code, to a State historic preservation office, Tribal historic preservation office, or to the Advisory Council on Historic Preservation to provide the resources necessary to expedite the historic preservation review and consultation process under section 138 of title 23, section 303 of title 49, and under section 470f of title 16, United States Code.

(2) STATE FUNDING.—The Secretary shall encourage States to provide such funding to State historic preservation officers, Tribal historic preservation officers or the Advisory Council on Historic Preservation where the investment of such funds will accelerate completion of a project or classes of projects or programs by reducing delays in historic preservation review and consultation.

(3) ADDITIONAL AMOUNTS.—The Secretary may approve requests under paragraph (1) only—

(A) for the additional amounts that the Secretary determines are necessary for a State historic preservation office, Tribal historic preservation office, or the Advisory Council on Historic Preservation to expedite the review and consultation process; and

(B) only where the Secretary determines that such additional amounts will permit completion of the historic preservation process in less than the time customarily required for such process.

SA 2391. Mrs. HUTCHISON submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title IV, add the following:

SEC. 4663. AMTRAK EXPENDITURES NORTHEAST CORRIDOR LIMIT.

Notwithstanding any other provision of law, Amtrak may not expend more than 50 percent of its total expenditures for capital projects and operations in any fiscal year for such projects and operations on any one Corridor.

SA 2392. Mr. BURNS submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 487, after line 23, insert the following:

SEC. 2105. WIDEBAND MULTI-BAND MOBILE PILOT PROJECTS.

(a) IN GENERAL.—The Secretary shall make grants for wideband multi-media mobile pilot projects to demonstrate emergency communications systems that provide wideband, two-way information transfer capabilities utilizing the public safety spectrum made available by the Federal Communications Commission in the 700 MHz radio frequency band and that are compliant with the public safety wideband data standard TIA–902 as recommended as the wideband data interoperability standard by the Public Safety National Coordinating Committee to the Federal Communications Commission.

(b) LOCATIONS.—Not later than 90 days after the date of enactment of this Act, the Secretary shall establish locations for pilot projects under this section. In determining pilot project locations, the Secretary shall certify that pilot project locations awarded grants have spectrum available for public safety purposes and are in the 700 MHz band pursuant to the Federal Communications Commission's rules.

(c) LIMIT ON TIME.—Grants under this section shall be awarded not later than 12 months after the date of enactment of this Act.

(d) FUNDING.—Of amounts made available under section 2001(a)(4), $40,000,000 shall be available to carry out this section.

SA 2393. Mr. BURNS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 764, between lines 4 and 5, insert the following new subsection:

''(i) MINIMUM APPORTIONMENT AND CRITERIA.—

''(1) MINIMUM APPORTIONMENT.—Notwithstanding any other provision of this section, the Secretary shall grant to any State that qualifies under paragraph (2) and has not received, as a result of other provisions of this section, at least ½ of 1 percent of the total funds authorized for a fiscal year for grants under this section, such additional funds as are necessary to result in such State receiving ½ of 1 percent of the total funds authorized for grants under this section for that fiscal year. Funds for grants under this subsection shall be derived from pro-rata reduction of grant amounts that otherwise would be awarded pursuant to other subsections of this section.

''(2) CRITERIA.—To qualify for a grant under this subsection, a State—

''(A) shall meet the requirements of subsection (a)(2) of this section; and

''(B) shall—

''(i) meet 4 of the 7 criteria for qualifying for grants under subsection (b)(1) of this section (as that subsection was as in effect for fiscal year 2003 funding);

''(ii) for the most recent year for which data is available, have an alcohol-related fatality rate per 100 million vehicle miles traveled that is either lower than the national average for that year or lower than the rate in that State in the second most recent year for which data is available; or

''(iii) for the most recent 3 years for which data is available, have an average alcohol-related fatality rate per 100 million vehicle miles traveled that is either lower than the average of the national rate for those 3 years or lower than the average of such rate in that State for the fourth, fifth, and sixth most recent years for which data is available.

''(3) USES OF FUNDS.—Grants under this subsection may be used for—

''(A) any activity that was an eligible use of grants under this section for fiscal year 2003;

''(B) any activity otherwise eligible under this section; and

''(C) any other activity undertaken by the State for the purpose of reducing impaired driving unless disapproved by the Secretary on the basis that it bears no relation to that objective.''

SA 2394. Mr. DAYTON submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, add the following:

SEC. 1106. ADDITIONAL FUNDING.

(a) IN GENERAL.—In addition to the funds made available for each surface transportation program by this Act and amendments made by this Act, there shall be available for each such program for the period beginning on the date of enactment of this Act and ending September 30, 2009, from the general fund of the Treasury, an amount equal to the difference between—

(1) the amount of funds made available for the program under this Act (other than this section) and amendments made by this Act; and

(2) the amount of funds made available for the program under the Transportation Equity Act for the 21st Century (Public Law 105–178) and amendments made by that Act.

(b) ADMINISTRATIVE ACTION.—

(1) IN GENERAL.—Not later than 2 business days after the date of enactment of this Act, the Secretary of the Treasury shall transfer to the Secretary the total amount made available for Federal-aid highway programs by subsection (a).

(2) RECEIPT, ACCEPTANCE, AND TREATMENT OF FUNDS.—The Secretary shall—

(A) be entitled to receive, and shall accept, the funds transferred under paragraph (1), without further appropriation; and

(B) apportion, allocate, deduct, or set aside, as the case may be, in accordance with title 23, United States Code (as in effect on the day before the date of enactment of this Act), the funds transferred under paragraph (1).

(c) OBLIGATION AUTHORITY.—Funds made available by this section shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code.

SA 2395. Mr. MCCAIN (for himself and Mr. HOLLINGS) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 1020, between lines 9 and 10, insert the following:

SUBTITLE C—INTERMODAL EQUIPMENT SAFETY

SEC. 181. FINDINGS.

The Congress finds the following:

(1) Promoting the safety of our Nation's highways is a national priority. The Department of Transportation has promulgated the Federal Motor Carrier Safety Regulations to further this purpose. The systematic maintenance, repair, and inspection of equipment

traveling in interstate and foreign commerce are an integral part of the safety regime.

(2) Motor carriers and their drivers that receive intermodal chassis and trailers from others, generally do not have an opportunity to perform the systematic maintenance of such equipment.

(3) Available evidence indicates that intermodal chassis and trailers operated on the highways in interstate and foreign commerce are sometimes out of compliance with the Federal Motor Carrier Safety Regulations, but no party is clearly held responsible for the systematic maintenance of the intermodal chassis and trailers prior to operation on the highways.

(4) Responsibility for compliance with the Federal Motor Carrier Safety Regulations must be shared between the owners or others that make intermodal chassis and trailers available for transport and the motor carriers that transport such equipment.

SEC. 182. DEFINITIONS.

Section 31132 of title 49, United States Code, is amended by adding at the end the following:

''(11) 'Intermodal equipment' means equipment that is commonly used in the intermodal transportation of freight over public highways as an instrumentality of interstate or foreign commerce, including trailers, chassis, and any similar devices.

''(12) 'Intermodal equipment interchange agreement' means a written document executed by an intermodal equipment provider or its agent and a motor carrier or its agent, whose primary purpose it is to which establish the responsibilities and liabilities of both parties with respect to the interchange of the intermodal equipment.

''(13) 'Intermodal equipment provider' means any party with any legal right, title, interest, or contractual obligation in intermodal equipment that interchanges such equipment to a motor carrier and registers such equipment with the United States Department of Transportation pursuant to this subtitle.

''(14) 'Interchange' means the act of providing intermodal equipment to a motor carrier for the purpose of transporting the equipment for loading or unloading by any party or repositioning the equipment for the benefit of the equipment provider. Such term does not mean the leasing of equipment to a motor carrier for use in the motor carrier's over-the-road freight hauling operations.''.

SEC. 183. JURISDICTION OVER EQUIPMENT PROVIDERS; PROHIBITION ON RETALIATION.

Section 31136 of title 49, United States Code, is amended by adding at the end the following:

''(g) INSPECTION, REPAIR, AND MAINTENANCE OF INTERMODAL EQUIPMENT.—

''(1) AUTHORITY TO REGULATE.—The term 'commercial motor vehicle' as defined in section 31132(1) of this title includes intermodal equipment commonly used in the road transportation of intermodal freight, including trailers, chassis and associated devices. The Secretary, or an employee designated by the Secretary, may on demand and display of proper credentials to inspect intermodal equipment and inspect and copy related maintenance and repair records.

''(2) RESPONSIBILITY FOR MAINTENANCE, REPAIR, AND INSPECTION.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), notwithstanding any provision in an intermodal equipment interchange agreement to the contrary, an intermodal equipment provider shall be responsible for the systematic inspection, maintenance, and repair of intermodal equipment interchanged, or intended for interchange, to ensure that such equipment complies with all applicable Federal Motor Carrier Safety Regulations.

''(B) MOTOR CARRIER LEASES.—Notwithstanding subparagraph (A), a motor carrier that leases intermodal equipment from an intermodal equipment provider shall be responsible for the systematic maintenance, repair, and inspection of such equipment for the duration of the lease.

''(3) NEGLIGENCE; WILLFUL MISCONDUCT.—Notwithstanding paragraph (2), an intermodal equipment provider shall not be responsible for noncompliance with the Federal Motor Carrier Safety Regulations caused by the negligence or willful misconduct of a motor carrier or its agent to which intermodal equipment has been interchanged.

''(h) PROHIBITION ON RETALIATION.—An intermodal equipment provider may not take any action to threaten, coerce, discipline, discriminate, or otherwise retaliate against a driver or motor carrier in response to a report or complaint made by a driver or motor carrier that the maintenance or repair of intermodal equipment intended for interchange, or actually interchanged, failed to comply with the applicable Federal Motor Carrier Safety Regulations. It shall not be a violation of this subsection for an intermodal equipment provider to refuse to interchange intermodal equipment to a driver or motor carrier for legitimate business reasons, as determine by the Secretary, including a driver's or motor carrier's failure to pay debts owed to an intermodal equipment provider.''.

SEC. 184. PREEMPTION OF STATE LAWS.

(a) COMPATIBILITY.—

(1) The first sentence of section 31141(c)(1) of title 49, United States Code, is amended to read as follows: ''Except as provided by subsection (h) of this section, the Secretary shall review State laws and regulations on commercial motor vehicle safety.''.

(2) Section 31141 of title 49, United States Code, is amended by adding at the end the following:

''(h) PREEMPTION GENERALLY.—Except as otherwise authorized by Federal law, a law, regulation, order or other requirement of a State, a political subdivision of a State, or a tribal organization, is preempted if compliance with such law, regulation, order, or other requirement would exceed or otherwise be inconsistent with a requirement imposed under or pursuant to this chapter.''.

SEC. 185. IMPLEMENTING REGULATIONS.

(a) REGULATIONS.—the Secretary of Transportation, after notice and opportunity for comment, shall issue regulations implementing the provisions of section 31136(g) of title 49, United States Code. The regulations shall be issued as part of the Federal Motor Carrier Safety Regulations of the Department of Transportation and shall include—

(1) a requirement to identify providers of intermodal equipment that is interchanged or intended for interchange to motor carriers in intermodal transportation;

(2) a requirement to match such intermodal equipment readily to the intermodal equipment provider through a unique identifying number;

(3) a requirement to ensure that each intermodal equipment provider maintains a system of maintenance and repair records for such equipment;

(4) a requirement to evaluate the compliance of intermodal equipment providers with the applicable Federal Motor Carrier Safety Regulations;

(5) a provision that—

(A) establishes a civil penalty structure consistent with section 521(b) of title 49, United States Code, for intermodal equipment providers that fail to attain satisfactory compliance with applicable Federal Motor Carrier Safety Regulations; and

(B) prohibits intermodal equipment providers from placing intermodal equipment on the public highways if such providers are found to be unfit under section 31144 of this title;

(6) a process by which motor carriers and agents of motor carriers may confidentially petition the Federal Motor Carrier Safety Administration to undertake an investigation of noncompliant intermodal equipment provider;

(7) a process by which an equipment provider or its agent may confidentially petition the Federal Motor Carrier Safety Administration to undertake an investigation of noncompliant motor carriers;

(8) a process by which drivers or motor carriers would be required to report any damage or defect in intermodal equipment at the time the equipment is returned to the equipment provider; and

(9) an inspection and audit program of intermodal equipment providers.

(b) TIME FOR ISSUING REGULATIONS.—The regulations required under subsection (a) shall be developed pursuant to a rulemaking proceeding initiated not later than 120 days after the date of enactment of this Act and shall be issued not later than 1 year after such date of enactment.

SEC. 186. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Federal Motor Carrier Safety Administration $1,500,000 for the establishment and implementation of the inspection program described in section 185(a)(7) of this subtitle.

SA 2396. Mr. DEWINE submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 792, between lines 15 and 16, insert the following:

PART 3—MISCELLANEOUS PROVISIONS

SEC. 4171. DRIVER LICENSING AND EDUCATION.

(a) NATIONAL OFFICE OF DRIVER LICENSING AND EDUCATION.—Section 105 of title 49, United States Code, is amended by adding at the end the following new subsection:

''(f)(1) There is a National Office of Driver Licensing and Education in the National Highway Traffic Safety Administration.

''(2) The head of the National Office of Driver Licensing and Education is the Director.

''(3) The functions of the National Office of Driver Licensing and Education are as follows:

''(A) To provide States with services for coordinating the motor vehicle driver training and licensing programs of the States.

''(B) To develop and make available to the States a recommended comprehensive model for motor vehicle driver education and graduated licensing that incorporates the best practices in driver education and graduated licensing, including best practices with respect to—

''(i) vehicle handling and crash avoidance;

''(ii) driver behavior and risk reduction;

''(iii) roadway features and associated safety implications;

''(iv) roadway interactions involving all types of vehicles and road users, such as car-truck and pedestrian-car interactions;

''(v) parent education; and

''(vi) other issues identified by the Director.

''(C) To carry out such research (pursuant to cooperative agreements or otherwise) and undertake such other activities as the Director determines appropriate to develop and, on an ongoing basis, improve the recommended comprehensive model.

''(D) To provide States with technical assistance for the implementation and deployment of the motor vehicle driver education and licensing comprehensive model recommended under subparagraph (B).

''(E) To develop and recommend to the States methods for harmonizing the presentation of motor vehicle driver education and licensing with the requirements of multistage graduated licensing systems, including systems described in section 410(c)(4) of title 23, and to demonstrate and evaluate the effectiveness of those methods in selected States.

''(F) To assist States with the development and implementation of programs to certify driver education instructors, including the development and implementation of proposed uniform certification standards.

''(G) To provide States with financial assistance under section 412 of title 23 for—

''(i) the implementation of the motor vehicle driver education and licensing comprehensive model recommended under subparagraph (B);

''(ii) the establishment or improved administration of multistage graduated licensing systems; and

''(iii) the support of other improvements in motor vehicle driver education and licensing programs.

''(H) To evaluate the effectiveness of the comprehensive model recommended under subparagraph (B).

''(I) To examine different options for delivering driver education in the States.

''(J) To perform such other functions relating to motor vehicle driver education or licensing as the Secretary may require.

''(4) Not later than 42 months after the date of the enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004, the Director shall submit to Congress a report on the progress made by the National Office of Driver Licensing and Education with respect to the functions under paragraph (3).''.

(b) GRANT PROGRAM FOR IMPROVEMENT OF DRIVER EDUCATION AND LICENSING.—

(1) AUTHORITY.—

(A) IN GENERAL.—Chapter 4 of title 23, United States Code, is amended by adding at the end the following new section:

''SEC. 412. DRIVER EDUCATION AND LICENSING.

''(a) AUTHORITY.—

''(1) IN GENERAL.—The Secretary shall carry out a program to provide States, by grant, with financial assistance to support the improvement of motor vehicle driver education programs and the establishment and improved administration of graduated licensing systems, including systems described in section 410(c)(4) of this title.

''(2) ADMINISTRATIVE OFFICE.—The Secretary shall administer the program under this section through the Director of the National Office of Driver Licensing and Education.

''(b) ELIGIBILITY REQUIREMENTS.—

''(1) REGULATIONS.—The Secretary shall prescribe in regulations the eligibility requirements, application and approval procedures and standards, and authorized uses of grant proceeds for the grant program under this section. The regulations shall, at a minimum, authorize use of grant proceeds for the following activities:

''(A) Quality assurance testing, including follow-up testing to monitor the effectiveness of—

''(i) driver licensing and education programs;

''(ii) instructor certification testing; and

''(iii) other statistical research designed to evaluate the performance of driver education and licensing programs.

''(B) Improvement of motor vehicle driver education curricula.

''(C) Training of instructors for motor vehicle driver education programs.

''(D) Testing and evaluation of motor vehicle driver performance.

''(E) Public education and outreach regarding motor vehicle driver education and licensing.

''(F) Improvements with respect to State graduated licensing programs, as well as related enforcement activities.

''(2) CONSULTATION REQUIREMENT.—In prescribing the regulations, the Secretary shall consult with the following:

''(A) The Administrator of the National Highway Traffic Safety Administration.

''(B) The heads of such other departments and agencies of the United States as the Secretary considers appropriate on the basis of relevant interests or expertise.

''(C) Appropriate officials of the governments of States and political subdivisions of States.

''(D) Other relevant experts.

''(c) MAXIMUM AMOUNT OF GRANT.—The maximum amount of a grant of financial assistance for a program, project, or activity under this section may not exceed 75 percent of the total cost of such program, project, or activity.''.

(B) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

''412. Driver education and licensing.''.

(2) TIME FOR PROMULGATION OF REGULATIONS.—The Secretary of Transportation shall promulgate the regulations under section 412(b) of title 23, United States Code (as added by paragraph (1)), not later than October 1, 2005.

(c) GRANT PROGRAM FOR PUBLIC AWARENESS OF ORGAN DONATION THROUGH DRIVER LICENSING PROGRAMS.—

(1) AUTHORITY.—

(A) IN GENERAL.—Chapter 4 of title 23, United States Code (as amended by subsection (b)), is further amended by adding at the end the following new section:

''SEC. 413. ORGAN DONATION THROUGH DRIVER LICENSING.

''(a) AUTHORITY.—

''(1) IN GENERAL.—The Secretary shall carry out a program to provide eligible recipients, by grant, with financial assistance to carry out campaigns to increase public awareness of, and training on, authority and procedures under State law to provide for the donation of organs through a declaration recorded on a motor vehicle driver license.

''(2) ADMINISTRATIVE OFFICE.—The Secretary shall administer the program under this section through the Director of the National Office of Driver Licensing and Education.

''(b) ELIGIBILITY REQUIREMENTS.—

''(1) REGULATIONS.—The Secretary shall prescribe in regulations the eligibility requirements, application and approval procedures and standards, and authorized uses of grant proceeds for the grant program under this section.

''(2) CONSULTATION REQUIREMENT.—In prescribing the regulations, the Secretary shall consult with the following:

''(A) The Administrator of the National Highway Traffic Safety Administration.

''(B) The heads of such other departments and agencies of the United States as the Secretary considers appropriate on the basis of relevant interests or expertise.

''(C) Appropriate officials of the governments of States and political subdivisions of States.

''(D) Representatives of private sector organizations recognized for relevant expertise.''.

(B) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

''413. Organ donation through driver licensing.''.

(2) TIME FOR PROMULGATION OF REGULATIONS.—The Secretary of Transportation shall promulgate the regulations under section 413(b) of title 23, United States Code (as added by paragraph (1)), not later than October 1, 2005.

(d) STUDY OF NATIONAL DRIVER EDUCATION STANDARDS.—

(1) REQUIREMENT FOR STUDY.—The Secretary of Transportation shall carry out a study to determine whether the establishment and imposition of nationwide minimum standards of motor vehicle driver education would improve national highway traffic safety or the performance and legal compliance of novice drivers.

(2) TIME FOR COMPLETION OF STUDY.—The Secretary shall complete the study not later than 2 years after the date of the enactment of this Act.

(3) REPORT.—The Secretary shall publish a report on the results of the study under this section not later than 2 years after the study is completed.

(e) AUTHORIZATION OF APPROPRIATIONS.—Of the amounts available to carry out section 403 of title 23, United States Code, for each of the fiscal years 2005 through 2010, $5,000,000 may be made available for each such fiscal year to carry out sections 412 and 413 of title 23, United States Code (as added by subsections (b) and (c), respectively).

SEC. 4172. AMENDMENT OF AUTOMOBILE INFORMATION DISCLOSURE ACT.

(a) SAFETY LABELING REQUIREMENT.—Section 3 of the Automobile Information Disclosure Act (15 U.S.C. 1232) is amended by adding at the end the following:

''(g) if one or more safety ratings for such automobile have been assigned and formally published or released by the National Highway Traffic Safety Administration under the New Car Assessment Program, information about safety ratings that—

''(1) includes a graphic depiction of the number of stars that corresponds to each such assigned safety rating displayed in a clearly differentiated fashion from stars indicating the unattained safety rating;

''(2) refers to frontal impact crash tests, side impact crash tests, and rollover resistance tests (whether or not such automobile has been assigned a safety rating for such tests), including statements that—

''(A) frontal impact crash test ratings are based on risk of head and chest injury;

''(B) side impact crash test ratings are based on risk of chest injury; and

''(C) rollover resistance ratings are based on risk of rollover in the event of a single automobile crash;

''(3) is presented in a legible, visible, and prominent fashion and covers at least—

''(A) 8 percent of the total area of the label; or

''(B) an area with a minimum length of 4 ½ inches and a minimum height of 3 ½ inches; and

''(4) contains a heading titled 'Government Safety Information' and a disclaimer including the following text: 'Star ratings for frontal impact crash tests can only be compared to other vehicles in the same weight class and those plus or minus 250 pounds. Side impact and rollover ratings can be compared across all vehicle weights and classes. For more information on safety and testing, please visit http://www.nhtsa.dot.gov'; and

''(h) if an automobile has not been tested by the National Highway Traffic Safety Administration under the New Car Assessment Program, or safety ratings for such automobile have not been assigned in one or more rating categories, a statement to that effect.''.

(b) REGULATIONS.—Not later than January 1, 2005, the Secretary of Transportation shall prescribe regulations to implement the labeling requirements under subsections (g)

and (h) of section 3 of such Act (as added by subsection (a)).

(c) CONFORMING AND TECHNICAL AMENDMENTS.—Section 3 of such Act is further amended—

(1) in subsection (e), by striking ''and'' after the semicolon; and

(2) in subsection (f)—

(A) by adding ''and'' at the end of paragraph (3); and

(B) by striking the period at the end and inserting a semicolon.

(d) APPLICABILITY.—The labeling requirements under subsections (g) and (h) of section 3 of such Act (as added by subsection (a)), and the regulations prescribed under subsection (b), shall apply to new automobiles delivered on or after—

(1) September 1, 2005, if the regulations under subsection (b) are prescribed not later than August 31, 2004; or

(2) September 1, 2006, if the regulations under subsection (b) are prescribed after August 31, 2004.

SEC. 4173. CHILD SAFETY.

(a) INCORPORATION OF CHILD DUMMIES IN SAFETY TESTS.—

(1) RULEMAKING REQUIRED.—Not later than 2 years after the date of the enactment of this Act, the Administrator of the National Highway Traffic Safety Administration shall conduct a rulemaking to increase utilization of child dummies, including Hybrid-III child dummies, in motor vehicle safety tests, including crash tests, conducted by the Administration.

(2) CRITERIA.—In conducting the rulemaking under subsection (a), the Administrator shall select motor vehicle safety tests in which the inclusion of child dummies will lead to—

(A) increased understanding of crash dynamics with respect to children; and

(B) measurably improved child safety.

(3) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary of Transportation shall publish a report regarding the implementation of this section.

(b) CHILD SAFETY IN ROLLOVER CRASHES.—

(1) CONSUMER INFORMATION PROGRAM.—Not later than 2 years after the date of the enactment of this Act, the Secretary of Transportation shall implement a consumer information program relating to child safety in rollover crashes. The Secretary shall make information related to the program available to the public following completion of the program.

(2) CHILD DUMMY DEVELOPMENT.—

(A) IN GENERAL.—The Administrator of the National Highway Traffic Safety Administration shall initiate the development of a biofidelic child crash test dummy capable of measuring injury forces in a simulated rollover crash.

(B) REPORTS.—The Secretary shall submit to Congress a report on progress related to such development—

(i) not later than 1 year after the date of the enactment of this Act; and

(ii) not later than 3 years after the date of the enactment of this Act.

(c) REPORT ON ENHANCED VEHICLE SAFETY TECHNOLOGIES.—Not later than 2 years after the date of the enactment of this Act, the Secretary of Transportation shall submit to Congress a report that describes, evaluates, and determines the relative effectiveness of—

(1) currently available and emerging technologies, including auto-reverse functions and child-safe window switches, that are designed to prevent and reduce the number of injuries and deaths to children left unattended inside parked motor vehicles, including injuries and deaths that result from hyperthermia or are related to power windows or power sunroofs; and

(2) currently available and emerging technologies that are designed to improve the performance of safety belts with respect to the safety of occupants aged between 4 and 8 years old.

(d) COMPLETION OF RULEMAKING REGARDING POWER WINDOWS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Transportation shall—

(1) complete the rulemaking initiated by the National Highway Traffic Safety Administration that is ongoing on the date of the enactment of this Act and relates to a requirement that window switches be designed to reduce the accidental closing by children of power windows; and

(2) issue performance-based regulations to take effect not later than September 1, 2006, requiring that window switches or related technologies be designed to prevent the accidental closing by children of power windows.

(e) DATABASE ON INJURIES AND DEATHS IN NONTRAFFIC, NONCRASH EVENTS.—

(1) IN GENERAL.—The Secretary of Transportation shall establish a new database of, and collect data regarding, injuries and deaths in nontraffic, noncrash events involving motor vehicles. The database shall include information regarding—

(A) the number, types, and proximate causes of injuries and deaths resulting from such events;

(B) the characteristics of motor vehicles involved in such events;

(C) the characteristics of the motor vehicle operators and victims involved in such events; and

(D) the presence or absence in motor vehicles involved in such events of advanced technologies designed to prevent such injuries and deaths.

(2) RULEMAKING.—The Secretary shall conduct a rulemaking regarding how to structure and compile the database.

(3) AVAILABILITY.—The Secretary shall make the database available to the public.

SEC. 4174. SAFE INTERSECTIONS.

(a) IN GENERAL.—Chapter 2 of title 18, United States Code, is amended by adding at the end the following:

''§ 39. Traffic signal preemption transmitters

''(a) OFFENSES.—

''(1) SALE.—A person who provides for sale to unauthorized users a traffic signal preemption transmitter in or affecting interstate or foreign commerce shall be fined not more than $10,000, imprisoned not more than 1 year, or both.

''(2) POSSESSION.—A person who is an unauthorized user in possession of a traffic signal preemption transmitter in or affecting interstate or foreign commerce shall be fined not more than $10,000, imprisoned not more than 6 months, or both.

''(b) DEFINITIONS.—In this section, the following definitions apply:

''(1) TRAFFIC SIGNAL PREEMPTION TRANSMITTER.—The term 'traffic signal preemption transmitter' means any device or mechanism that can change a traffic signal's phase.

''(2) UNAUTHORIZED USER.—The term 'unauthorized user' means a user of a traffic signal preemption transmitter who is not a government approved user.''.

(b) CHAPTER ANALYSIS.—The chapter analysis for chapter 2 of title 18, United States Code, is amended by adding at the end the following:

''39. Traffic signal preemption transmitters.''.

SEC. 4175. STUDY ON INCREASED SPEED LIMITS.

(a) STUDY.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary shall conduct a study to examine the effects of increased speed limits enacted by States after 1995.

(2) REQUIREMENTS.—The study shall collect empirical data regarding—

(A) increases or decreases in driving speeds on Interstate highways since 1995;

(B) correlations between changes in driving speeds and accident, injury, and fatality rates;

(C) correlations between posted speed limits and observed driving speeds;

(D) the overall impact on motor vehicle safety resulting from the repeal of the national maximum speed limit in 1995; and

(E) such other matters as the Secretary determines to be appropriate.

(b) REPORT.—Not later than 1 year after the date of completion of the study under subsection (a), the Secretary shall submit to Congress a report that describes the results of the study.

SA 2397. Mr. CAMPBELL (for himself and Mr. INOUYE) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 20, strike line 7 and all that follows through page 31, line 15, and insert the following:

''(13) INDIAN LAND.—The term 'Indian land' means—

''(A) any land located within the boundaries of an Indian reservation, pueblo, or rancheria;

''(B) any land not located within the boundaries of an Indian reservation, pueblo, or rancheria, the title to which is held—

''(i) in trust by the United States for the benefit of an Indian tribe;

''(ii) by an Indian tribe, subject to restriction by the United States against alienation; or

''(iii) by a dependent Indian community; and

''(C) land conveyed as part of an original conveyance to a Native Corporation in accordance with the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).

''(14) INDIAN RESERVATION.—The term 'Indian reservation' includes—

''(A) an Indian reservation in existence as of the date of enactment of the Indian Tribal Surface Transportation Improvement Act of 2003;

''(B) a public domain Indian allotment;

''(C) a former reservation in the State of Oklahoma;

''(D) a parcel of land conveyed as part of an original conveyance to a Native Corporation in accordance with the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.); and

''(E) a dependent Indian community located within the borders of the United States, regardless of whether the community is located—

''(i) on original or acquired territory of the community; or

''(ii) within or outside the boundaries of any particular State.

''(15) INDIAN RESERVATION ROAD.—

''(A) IN GENERAL.—The term 'Indian reservation road' means a public road that is located within or provides access to an area described in subparagraph (B) on which or in which reside Indians or Alaskan Natives that, as determined by the Secretary of the Interior, are eligible for services generally available to Indians under Federal laws specifically applicable to Indians.

''(B) AREAS.—The areas referred to in subparagraph (A) are—

''(i) an Indian reservation;

''(ii) Indian trust land or restricted Indian land that is not subject to fee title alienation without the approval of the Federal Government; and

''(16) INDIAN TRIBE.—The term 'Indian tribe' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

''(17) INTERSTATE SYSTEM.—The term 'Interstate System' means the Dwight D. Eisenhower National System of Interstate and Defense Highways described in section 103(c).

''(18) MAINTENANCE.—

''(A) IN GENERAL.—The term 'maintenance' means the preservation of a highway.

''(B) INCLUSIONS.—The term 'maintenance' includes the preservation of—

''(i) the surface, shoulders, roadsides, and structures of a highway; and

''(ii) such traffic-control devices as are necessary for safe, secure, and efficient use of a highway.

''(19) MAINTENANCE AREA.—The term 'maintenance area' means an area that was designated as a nonattainment area, but was later redesignated by the Administrator of the Environmental Protection Agency as an attainment area, under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)).

''(20) NATIONAL FOREST SYSTEM ROAD OR TRAIL.—The term 'National Forest System road or trail' means a forest road or trail that is under the jurisdiction of the Forest Service.

''(21) NATIONAL HIGHWAY SYSTEM.—The term 'National Highway System' means the Federal-aid highway system described in section 103(b).

''(22) OPERATING COSTS FOR TRAFFIC MONITORING, MANAGEMENT, AND CONTROL.—The term 'operating costs for traffic monitoring, management, and control' includes—

''(A) labor costs;

''(B) administrative costs;

''(C) costs of utilities and rent;

''(D) costs incurred by transportation agencies for technology to monitor critical transportation infrastructure for security purposes; and

''(E) other costs associated with transportation systems management and operations and the continuous operation of traffic control, such as—

''(i) an integrated traffic control system;

''(ii) an incident management program; and

''(iii) a traffic control center.

''(23) OPERATIONAL IMPROVEMENT.—

''(A) IN GENERAL.—The term 'operational improvement' means—

''(i) a capital improvement for installation or implementation of—

''(I) a transportation system management and operations program;

''(II) traffic and transportation security surveillance and control equipment;

''(III) a computerized signal system;

''(IV) a motorist information system;

''(V) an integrated traffic control system;

''(VI) an incident management program;

''(VII) equipment and programs for transportation response to manmade and natural disasters; or

''(VIII) a transportation demand management facility, strategy, or program; and

''(ii) such other capital improvements to a public road as the Secretary may designate by regulation.

''(B) EXCLUSIONS.—The term 'operational improvement' does not include—

''(i) a resurfacing, restorative, or rehabilitative improvement;

''(ii) construction of an additional lane, interchange, or grade separation; or

''(iii) construction of a new facility on a new location.

''(24) PARK ROAD.—The term 'park road' means a public road (including a bridge built primarily for pedestrian use, but with capacity for use by emergency vehicles) that is located within, or provides access to, an area in the National Park System with title and maintenance responsibilities vested in the United States.

''(25) PARKWAY.—The term 'parkway' means a parkway authorized by an Act of Congress on land to which title is vested in the United States.

''(26) PROJECT.—The term 'project' means—

''(A)(i) an undertaking to construct a particular portion of a highway; or

''(ii) if the context so implies, a particular portion of a highway so constructed; and

''(B) any other undertaking eligible for assistance under this title.

''(27) PROJECT AGREEMENT.—The term 'project agreement' means the formal instrument to be executed by the Secretary and recipient of funds under this title.

''(28) PUBLIC AUTHORITY.—The term 'public authority' means a Federal, State, county, town, or township, Indian tribe, municipal or other local government or instrumentality with authority to finance, build, operate, or maintain toll or toll-free facilities.

''(29) PUBLIC FOREST SERVICE ROAD.—The term 'public Forest Service road' means a classified forest road—

''(A) that is open to public travel;

''(B) for which title and maintenance responsibility is vested in the Federal Government; and

''(C) that has been designated a public road by the Forest Service.

''(30) PUBLIC LANDS DEVELOPMENT ROADS AND TRAILS.—The term 'public lands development roads and trails' means roads and trails that the Secretary of the Interior determines are of primary importance for the development, protection, administration, and use of public lands and resources under the control of the Secretary of the Interior.

''(31) PUBLIC LANDS HIGHWAY.—The term 'public lands highway' means—

''(A) a forest road that is—

''(i) under the jurisdiction of, and maintained by, a public authority; and

''(ii) open to public travel; and

''(B) any highway through unappropriated or unreserved public land, nontaxable Indian land, or any other Federal reservation (including a main highway through such land or reservation that is on the Federal-aid system) that is—

''(i) under the jurisdiction of, and maintained by, a public authority; and

''(ii) open to public travel.

''(32) PUBLIC ROAD.—The term 'public road' means any road or street that is—

''(A) under the jurisdiction of, and maintained by, a public authority; and

''(B) open to public travel.

''(33) RECREATIONAL ROAD.—The term 'recreational road' means a public road—

''(A) that provides access to a museum, lake, reservoir, visitors center, gateway to a major wilderness area, public use area, or recreational or historic site; and

''(B) for which title is vested in the Federal Government.

''(34) REFUGE ROAD.—The term 'refuge road' means a public road—

''(A) that provides access to or within a unit of the National Wildlife Refuge System or a national fish hatchery; and

''(B) for which title and maintenance responsibility is vested in the United States Government.

''(35) RURAL AREA.—The term 'rural area' means an area of a State that is not included in an urban area.

''(36) SECRETARY.—The term 'Secretary' means the Secretary of Transportation.

''(37) STATE.—The term 'State' means—

''(A) a State;

''(B) the District of Columbia; and

''(C) the Commonwealth of Puerto Rico.

''(38) STATE FUNDS.—The term 'State funds' includes funds that are—

''(A) raised under the authority of the State (or any political or other subdivision of a State); and

''(B) made available for expenditure under the direct control of the State transportation department.

''(39) STATE TRANSPORTATION DEPARTMENT.—The term 'State transportation department' means the department, agency, commission, board, or official of any State charged by the laws of the State with the responsibility for highway construction.

''(40) TERRITORIAL HIGHWAY SYSTEM.—The term 'territorial highway system' means the system of arterial highways, collector roads, and necessary interisland connectors in American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, and the United States Virgin Islands that have been designated by the appropriate Governor or chief executive officer of a territory, and approved by the Secretary, in accordance with section 215.

''(41) TRANSPORTATION ENHANCEMENT ACTIVITY.—The term 'transportation enhancement activity' means, with respect to any project or the area to be served by the project, any of the following activities as the activities relate to surface transportation:

''(A) Provision of facilities for pedestrians and bicycles.

''(B) Provision of safety and educational activities for pedestrians and bicyclists.

''(C) Acquisition of scenic easements and scenic or historic sites (including historic battlefields).

''(D) Scenic or historic highway programs (including the provision of tourist and welcome center facilities).

''(E) Landscaping and other scenic beautification.

''(F) Historic preservation.

''(G) Rehabilitation and operation of historic transportation buildings, structures, or facilities (including historic railroad facilities and canals).

''(H) Preservation of abandoned railway corridors (including the conversion and use of the corridors for pedestrian or bicycle trails).

''(I) Control and removal of outdoor advertising.

''(J) Archaeological planning and research.

''(K) Environmental mitigation—

''(i) to address water pollution due to highway runoff; or

''(ii) reduce vehicle-caused wildlife mortality while maintaining habitat connectivity.

''(L) Establishment of transportation museums.

''(42) TRANSPORTATION SYSTEMS MANAGEMENT AND OPERATIONS.—

''(A) IN GENERAL.—The term 'transportation systems management and operations' means an integrated program to optimize the performance of existing infrastructure through the implementation of multimodal and intermodal, cross-jurisdictional systems, services, and projects designed to preserve capacity and improve security, safety, and reliability of the transportation system.

''(B) INCLUSIONS.—The term 'transportation systems management and operations' includes—

''(i) regional operations collaboration and coordination activities between transportation and public safety agencies; and

''(ii) improvements to the transportation system such as traffic detection and surveillance, arterial management, freeway management, demand management, work zone management, emergency management, electronic toll collection, automated enforcement, traffic incident management, roadway weather management, traveler information services, commercial vehicle operations, traffic control, freight management, and coordination of highway, rail, transit, bicycle, and pedestrian operations.

''(43) TRIBAL TRANSPORTATION FACILITY.—The term 'tribal transportation facility' means any transportation-related project, facility, or physical infrastructure for an Indian tribe that is funded under this title.

SA 2398. Mr. CAMPBELL (for himself and Mr. INOUYE) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 321, strike line 14 and all that follows through page 334, line 14, and insert the following:

''(B) FUNDING.—

''(i) RESERVATION OF FUNDS.—Notwithstanding any other provision of law, there is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) $15,000,000 for each of fiscal years 2004 through 2009 to carry out planning, design, engineering, preconstruction, construction, and inspection of projects to replace,''; and

(B) by adding at the end the following:

''(ii) AVAILABILITY.—Funds made available to carry out this subparagraph—

''(I) shall be available for obligation in the same manner as if the funds were apportioned under chapter 1; and

''(II) shall not be available to the Bureau of Indian Affairs to pay administrative costs.''; and

(5) by adding at the end the following:

''(f) ADMINISTRATION OF INDIAN RESERVATION ROADS.—

''(1) CONTRACT AUTHORITY.—

''(A) IN GENERAL.—Notwithstanding any other provision of law, for any fiscal year, not more than 6 percent of the contract authority amounts made available from the Highway Trust Fund to the Bureau of Indian Affairs under this title shall be used to pay the administrative expenses of the Bureau for the Indian reservation roads program (including the administrative expenses relating to individual projects that are associated with the program).

''(B) AVAILABILITY.—Amounts made available to pay administrative expenses under subparagraph (A) shall be made available to an Indian tribal government, on the request of the government, to be used for the associated administrative functions assumed by the Indian tribe under contracts and agreements entered into under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b et seq.).

''(2) HEALTH AND SAFETY ASSURANCES.—Notwithstanding any other provision of law, an Indian tribe or tribal organization may commence road and bridge construction under the Transportation Equity Act for the 21st Century (Public Law 105–178) or its successor Act of Congress that is funded through a contract or agreement under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b et seq.) if the Indian tribe or tribal organization—

''(A) provides assurances in the contract or agreement that the construction will meet or exceed applicable health and safety standards;

''(B) obtains the advance review of the plans and specifications from a licensed professional that has certified that the plans and specifications meet or exceed the applicable health and safety standards; and

''(C) provides a copy of the certification under subparagraph (B) to the Assistant Secretary for Indian Affairs.''.

(d) PLANNING AND AGENCY COORDINATION.—Section 204 of title 23, United States Code, is amended—

(1) in subsection (a)(1), by inserting ''refuge roads, recreation roads,'' after ''parkways,'';

(2) by striking subsection (b) and inserting the following:

''(b) USE OF FUNDS.—

''(1) IN GENERAL.—Funds available for public lands highways, recreation roads, park roads and parkways, forest highways, and Indian reservation roads shall be used by the Secretary and the Secretary of the appropriate Federal land management agency to pay the cost of transportation planning, research, engineering, operation and maintenance of transit facilities, and construction of the highways, roads, parkways, forest highways, and transit facilities located on public land, national parks, and Indian reservations.

''(2) CONTRACT.—In connection with an activity described in paragraph (1), the Secretary and the Secretary of the appropriate Federal land management agency may enter into a construction contract or other appropriate agreement with—

''(A) a State (including a political subdivision of a State); or

''(B) an Indian tribe.

''(3) INDIAN RESERVATION ROADS.—In the case of an Indian reservation road—

''(A) Indian labor may be used, in accordance with such rules and regulations as may be promulgated by the Secretary of the Interior, to carry out any construction or other activity described in paragraph (1); and

''(B) funds made available to carry out this section may be used to pay bridge preconstruction costs (including planning, design, and engineering).

''(4) FEDERAL EMPLOYMENT.—No maximum on Federal employment shall be applicable to construction or improvement of Indian reservation roads.

''(5) AVAILABILITY OF FUNDS.—Funds available under this section for each class of Federal lands highway shall be available for any kind of transportation project eligible for assistance under this title that is within or adjacent to, or that provides access to, the areas served by the particular class of Federal lands highway.

''(6) RESERVATION OF FUNDS.—The Secretary of the Interior may reserve funds from administrative funds of the Bureau of Indian Affairs that are associated with the Indian reservation road program to finance the Indian technical centers authorized under section 504(b).''; and

(3) in subsection (k)(1)—

(A) in subparagraph (B)—

(i) by striking ''(2), (5),'' and inserting ''(2), (3), (5),''; and

(ii) by striking ''and'' after the semicolon;

(B) in subparagraph (C), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

''(D) maintenance of public roads in national fish hatcheries under the jurisdiction of the United States Fish and Wildlife Service;

''(E) the non-Federal share of the cost of any project funded under this title or chapter 53 of title 49 that provides access to or within a wildlife refuge; and

''(F) maintenance and improvement of recreational trails (except that expenditures on trails under this subparagraph shall not exceed 5 percent of available funds for each fiscal year).''.

(e) SAFETY.—

(1) ALLOCATIONS.—Section 202 of title 23, United States Code (as amended by subsection (c)(5)), is amended by adding at the end the following:

''(g) SAFETY.—Subject to paragraph (2), on October 1 of each fiscal year, the Secretary shall allocate the sums authorized to be appropriated for the fiscal year for safety as follows:

''(1) 12 percent to the Bureau of Reclamation.

''(2) 18 percent to the Bureau of Indian Affairs.

''(3) 17 percent to the Bureau of Land Management.

''(4) 17 percent to the Forest Service.

''(5) 7 percent to the United States Fish and Wildlife Service.

''(6) 17 percent to the National Park Service.

''(7) 12 percent to the Corps of Engineers.''.

(2) AVAILABILITY OF FUNDS.—Section 203 of title 23, United States Code, is amended by inserting ''safety projects or activities,'' after ''refuge roads,'' each place it appears.

(3) USE OF FUNDING.—Section 204 of title 23, United States Code, is amended by adding at the end the following:

''(l) SAFETY ACTIVITIES.—

''(1) IN GENERAL.—Notwithstanding any other provision of this title, funds made available for safety under this title shall be used by the Secretary and the head of the appropriate Federal land management agency only to pay the costs of carrying out—

''(A) transportation safety improvement activities;

''(B) activities to eliminate high-accident locations;

''(C) projects to implement protective measures at, or eliminate, at-grade railway-highway crossings;

''(D) collection of safety information;

''(E) transportation planning projects or activities;

''(F) bridge inspection;

''(G) development and operation of safety management systems;

''(H) highway safety education programs; and

''(I) other eligible safety projects and activities authorized under chapter 4.

''(2) CONTRACTS.—In carrying out paragraph (1), the Secretary and the Secretary of the appropriate Federal land management agency may enter into contracts or agreements with—

''(A) a State;

''(B) a political subdivision of a State; or

''(C) an Indian tribe.

''(3) EXCEPTION.—The cost sharing requirements under the Federal Water Project Recreation Act (16 U.S.C. 460*l*–12 et seq.) shall not apply to funds made available to the Bureau of Reclamation under this subsection.''.

(f) RECREATION ROADS.—

(1) AUTHORIZATIONS.—Section 201 of title 23, United States Code, is amended in the first sentence by inserting ''recreation roads,'' after ''public lands highways,''.

(2) ALLOCATIONS.—Section 202 of title 23, United States Code (as amended by subsection (e)(1)), is amended by adding at the end the following:

''(h) RECREATION ROADS.—

''(1) IN GENERAL.—Subject to paragraphs (2) and (3), on October 1 of each fiscal year, the Secretary, after completing the transfer under subsection 204(i), shall allocate the

sums authorized to be appropriated for the fiscal year for recreation roads as follows:

''(A) 8 percent to the Bureau of Reclamation.

''(B) 9 percent to the Corps of Engineers.

''(C) 13 percent to the Bureau of Land Management.

''(D) 70 percent to the Forest Service.

''(2) ALLOCATION WITHIN AGENCIES.—Recreation road funds allocated to a Federal agency under paragraph (1) shall be allocated for projects and activities of the Federal agency according to the relative needs of each area served by recreation roads under the jurisdiction of the Federal agency, as indicated in the approved transportation improvement program for each Federal agency.''.

(3) AVAILABILITY OF FUNDS.—Section 203 of title 23, United States Code, is amended—

(A) in the first sentence, by inserting ''recreation roads,'' after ''Indian reservation roads,''; and

(B) in the fourth sentence, by inserting '', recreation roads,'' after ''Indian roads''.

(4) USE OF FUNDING.—Section 204 of title 23, United States Code (as amended by subsection (e)(3)), is amended by adding at the end the following:

''(m) RECREATION ROADS.—

''(1) IN GENERAL.—Notwithstanding any other provision of this title, funds made available for recreation roads under this title shall be used by the Secretary and the Secretary of the appropriate Federal land management agency only to pay the cost of—

''(A) maintenance or improvements of existing recreation roads;

''(B) maintenance and improvements of eligible projects described in paragraph (1), (2), (3), (5), or (6) of subsection (h) that are located in or adjacent to Federal land under the jurisdiction of—

''(i) the Department of Agriculture; or

''(ii) the Department of the Interior;

''(C) transportation planning and administrative activities associated with those maintenance and improvements; and

''(D) the non-Federal share of the cost of any project funded under this title or chapter 53 of title 49 that provides access to or within Federal land described in subparagraph (B).

''(2) CONTRACTS.—In carrying out paragraph (1), the Secretary and the Secretary of the appropriate Federal land management agency may enter into contracts or agreements with—

''(A) a State;

''(B) a political subdivision of a State; or

''(C) an Indian tribe.

''(3) NEW ROADS.—No funds made available under this section shall be used to pay the cost of the design or construction of new recreation roads.

''(4) COMPLIANCE WITH OTHER ENVIRONMENTAL LAWS.—A maintenance or improvement project that is funded under this subsection, and that is consistent with or has been identified in a land use plan for an area under the jurisdiction of a Federal agency, shall not require any additional environmental reviews or assessments under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) if—

''(A) the Federal agency that promulgated the land use plan analyzed the specific proposal for the maintenance or improvement project under that Act; and

''(B) as of the date on which the funds are to be expended, there are—

''(i) no significant changes to the proposal bearing on environmental concerns; and

''(ii) no significant new information.

''(5) EXCEPTION.—The cost sharing requirements under the Federal Water Project Recreation Act (16 U.S.C. 460*l*–12 et seq.) shall not apply to funds made available to the Bureau of Reclamation under this subsection.''.

(g) CONFORMING AMENDMENTS.—

(1) Sections 120(e) and 125(e) of title 23, United States Code, are amended by striking ''public lands highways,'' each place it appears and inserting ''public lands highways, recreation roads,''.

(2) Sections 120(e), 125(e), 201, 202(a), and 203 of title 23, United States Code, are amended by striking ''forest development roads'' each place it appears and inserting ''National Forest System roads''.

(3) Section 202(e) of title 23, United States Code, is amended by striking ''Refuge System,'' and inserting ''Refuge System and the various national fish hatcheries,''.

(4) Section 204 of title 23, United States Code, is amended—

(A) in subsection (a)(1), by striking ''public lands highways,'' and inserting ''public lands highways, recreation roads, forest highways,''; and

(B) in subsection (i), by striking ''public lands highways'' each place it appears and inserting ''public lands highways, recreation roads, and forest highways''.

(5) Section 205 of title 23, United States Code, is amended—

(A) by striking the section heading and inserting the following:

''§ 205. National Forest System roads and trails'';

and

(B) in subsections (a) and (d), by striking ''forest development roads'' each place it appears and inserting ''National Forest System roads''.

(6) The analysis for chapter 2 of title 23, United States Code, is amended by striking the item relating to section 205 and inserting the following:

''205. National Forest System roads and trails.''.

(7) Section 217(c) of title 23, United States Code, is amended by inserting ''refuge roads,'' after ''Indian reservation roads,''.

SEC. 18___. INDIAN TRIBAL SURFACE TRANSPORTATION.

(a) FUNDING FOR INDIAN RESERVATION ROADS PROGRAM.—Section 1101(a)(8) of the Transportation Equity Act for the 21st Century (112 Stat. 112) is amended by striking subparagraph (A) and inserting the following:

''(A) INDIAN RESERVATION ROADS.—

''(i) IN GENERAL.—Subject to clause (ii), for Indian reservation roads under section 204 of that title—

''(I) $330,000,000 for each of fiscal years 2004 through 2005;

''(II) $425,000,000 for each of fiscal years 2006 through 2007; and

''(III) $550,000,000 for each of fiscal years 2008 through 2009.

''(ii) MAINTENANCE.—Of the amounts made available for each fiscal year under clause (i), not less than $50,000,000 shall be used—

''(I) to maintain roads on Indian land; and

''(II) to maintain tribal transportation facilities serving Indian communities.''.

(b) OBLIGATION CEILING.—Section 1102(c)(1) of the Transportation Equity Act for the 21st Century (23 U.S.C. 104 note; 112 Stat. 116) is amended—

(1) by striking ''distribute obligation'' and inserting the following: ''distribute—

''(A) obligation'';

(2) by inserting ''and'' after the semicolon at the end; and

(3) by adding at the end of the following:

''(B) for each of fiscal years 2004 through 2009, any amount of obligation authority made available for Indian reservation road bridges under section 202(d)(4), and for Indian reservation roads under section 204, of title 23, United States Code.''.

(c) TRIBAL CONTRACTING DEMONSTRATION PROJECT.—

(1) IN GENERAL.—Section 202(d)(3) of title 23, United States Code, is amended by adding at the end the following:

''(C) FEDERAL LANDS HIGHWAY PROGRAM DEMONSTRATION PROJECT.—

''(i) IN GENERAL.—The Secretary shall establish a demonstration project under which all funds made available under this chapter for Indian reservation roads and for highway bridges located on Indian reservation roads as provided for in subparagraph (A) shall be made available, on the request of an affected Indian tribal government, to the Indian tribal government for use in carrying out, in accordance with the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b et seq.), contracts and agreements for the planning, research, engineering, and construction described in that subparagraph.

''(ii) EXCLUSION OF AGENCY PARTICIPATION.—In accordance with subparagraph (B), all funds for Indian reservation roads and for highway bridges located on Indian reservation roads to which clause (i) applies shall be paid without regard to the organizational level at which the Federal lands highway program has previously carried out the programs, functions, services, or activities involved.

''(iii) SELECTION OF PARTICIPATING TRIBES.—

''(I) PARTICIPANTS.—

''(aa) IN GENERAL.—In addition to those Indian tribes or tribal organizations already contracting or compacting for any Indian reservation road function or program, for each fiscal year, the Secretary may select up to 15 Indian tribes from the applicant pool described in subclause (II) to participate in the demonstration project carried out under clause (i).

''(bb) CONSORTIA.—Two or more Indian tribes that are otherwise eligible to participate in a program or activity to which this title applies may form a consortium to be considered as a single Indian tribe for the purpose of becoming part of the applicant pool under subclause (II).

''(cc) FUNDING.—An Indian tribe participating in the pilot program under this subparagraph shall receive funding in an amount equal to the sum of the funding that the Indian tribe would otherwise receive in accordance with the funding formula established under the other provisions of this subsection, and an additional percentage of that amount equal to the percentage of funds withheld during the applicable fiscal year for the road program management costs of the Bureau of Indian Affairs under subsection (f)(1).

''(II) APPLICANT POOL.—The applicant pool described in this subclause shall consist of each Indian tribe (or consortium) that—

''(aa) has successfully completed the planning phase described in subclause (IV);

''(bb) has requested participation in the demonstration project under this subparagraph through the adoption of a resolution or other official action by the tribal governing body; and

''(cc) has demonstrated financial stability and financial management capability in accordance with subclause (III) during the 3-fiscal-year period immediately preceding the fiscal year for which participation under this subparagraph is being requested.

''(III) CRITERIA FOR DETERMINING FINANCIAL STABILITY AND FINANCIAL MANAGEMENT CAPACITY.—For the purpose of subclause (II), evidence that, during the 3-year period referred to in subclause (II)(cc), an Indian tribe had no uncorrected significant and material audit exceptions in the required annual audit of the Indian tribe's self-determination contracts or self-governance funding agreements with any Federal agency shall be conclusive

evidence of the required stability and capability.

''(IV) PLANNING PHASE.—

''(aa) IN GENERAL.—An Indian tribe (or consortium) requesting participation in the demonstration project under this subparagraph shall complete a planning phase that shall include legal and budgetary research and internal tribal government and organization preparation.

''(bb) ELIGIBILITY.—A tribe (or consortium) described in item (aa) shall be eligible to receive a grant under this subclause to plan and negotiate participation in a project described in that item.

''(V) REPORT TO CONGRESS.—Not later than September 30, 2006, the Secretary shall prepare and submit to Congress a report describing the implementation of the demonstration project and any recommendations for improving the project.''.

(2) CONFORMING AMENDMENTS.—

(A) Section 4 of the Indian Self-Determination andEducation Assistance Act (25 U.S.C. 450b(i)) is amended by striking subsection (i) and inserting the following:

''(i) SECRETARY.—Except as otherwise provided, the term 'Secretary' means any 1 or more of the following, as appropriate:

''(1) The Secretary of Health and Human Services.

''(2) The Secretary of the Interior.

''(3) The Secretary of Transportation.''

(B) Section 401 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 458aa) is amended—

(i) by striking ''The Secretary'' and inserting ''(a) IN GENERAL.—The Secretary''; and

(ii) by adding at the end the following:

''(b) SECRETARY OF TRANSPORTATION.—Notwithstanding any other provision of law, the Secretary of Transportation may enter into self-governance compacts and annual funding agreements with Indian tribes and tribal organizations to carry out tribal transportation programs (including transit programs) authorized under title 23 or 49, United States Code, in accordance with the terms, conditions, and procedures of this Act (including regulations promulgated under this Act (part 1000 of title 25 Code of Federal Regulations)).''.

(d) INDIAN RESERVATION ROAD PLANNING.—Section 204(j) of title 23, United States Code, is amended in the first sentence by striking ''2 percent'' and inserting ''5 percent''.

(e) ALASKA NATIVE VILLAGE TRANSPORTATION PROGRAM.—Section 204 of title 23, United States Code (as amended by section 1816), is amended by adding at the end the following:

''(p) ALASKA NATIVE VILLAGE TRANSPORTATION PROGRAM.—

''(1) DEFINITIONS.—In this subsection:

''(A) COMMISSION.—The term 'Commission' means the Alaska Native Transportation Commission established under paragraph (4)(A).

''(B) NATIVE.—The term 'Native' has the meaning given the term in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602).

''(C) NATIVE AUTHORITY.—The term 'Native authority' means a governing board of a Regional Corporation, a regional Native nonprofit entity, a tribal government, or an alternative regional entity that is designated by the Secretary as a Native regional transportation authority under paragraph (3)(A).

''(D) NATIVE VILLAGE.—The term 'Native village' has the meaning given the term in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602).

''(E) PROGRAM.—The term 'program' means the Alaska Native village transportation program established under paragraph (2).

''(F) REGION.—The term 'region' means a region in the State specified in section 11(b)(1) of the Alaska Native Claims Settlement Act (43 U.S.C 1610(b)(1)).

''(G) REGIONAL CORPORATION.—The term 'Regional Corporation' has the meaning given the term in section 2 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602).

''(H) STATE.—The term 'State' means the State of Alaska.

''(2) ESTABLISHMENT.—The Secretary shall establish an Alaska Native village transportation program to pay the costs of planning, design, construction, and maintenance of road and other surface transportation facilities identified in accordance with this section.

''(3) ALASKA NATIVE REGIONAL TRANSPORTATION AUTHORITIES.—

''(A) DESIGNATION.—The Secretary shall designate a Native authority for each region.

''(B) RESPONSIBILITIES.—A Native authority shall, with respect to each Native village or region, as appropriate, covered by the Native authority—

''(i) prepare—

''(I) a regional transportation plan for the Native village; and

''(II) a comprehensive transportation plan for the region;

''(ii) prioritize and select projects to be funded with amounts made available under this section for the region;

''(iii) coordinate transportation planning with other regions, the State, and other governmental entities; and

''(iv) ensure that transportation projects under this section are constructed and implemented.

''(4) ALASKA NATIVE TRANSPORTATION COMMISSION.—

''(A) ESTABLISHMENT.—As soon as practicable after the date of enactment of this subsection, the Secretary shall establish a commission, to be known as the 'Statewide Alaska Native Transportation Commission', consisting of 1 representative selected from each Native authority designated by the Secretary under paragraph (3)(A).

''(B) DUTIES.—The Commission shall—

''(i) allocate funds made available under this section among regions in accordance with paragraph (5);

''(ii) coordinate transportation planning among the regions, the State, and other governmental entities; and

''(iii) facilitate transportation projects involving 2 or more regions.

''(5) ALLOCATION OF FUNDING.—

''(A) FISCAL YEAR 2004.—Funds made available for the program for fiscal year 2004 shall be allocated to each region by the Secretary as follows:

''(i) 50 percent of the funds shall be allocated based on the proportion that—

''(I) the Native population of Native villages in the region; bears to

''(II) the Native population of all Native villages in the State.

''(ii) 50 percent of the funds shall be allocated as equally as practicable among all Native villages in the region.

''(B) FISCAL YEAR 2005 AND SUBSEQUENT FISCAL YEARS.—Funds made available for the program for fiscal year 2005 and each fiscal year thereafter shall be allocated among regions by the Commission, in accordance with a formula to be developed by the Commission after taking into consideration—

''(i) the health, safety, and economic needs of each region for transportation infrastructure, as identified through the regional planning process;

''(ii) the relative costs of construction in each region; and

''(iii) the extent to which transportation projects for each region are ready to proceed to design and construction.

''(6) TRIBAL CONTRACTING.—Funds allocated among regions under this subsection may be contracted or compacted in accordance with the Indian Self Determination and Education Assistance Act (25 U.S.C. 450b et seq.).

''(7) MATCHING FUNDS.—Notwithstanding any other provision of law, funds made available under this subsection may be used to pay a matching share required for receipt of any other Federal funds that would further a purpose for which allocations under this section are made.

''(8) MAINTENANCE.—

''(A) IN GENERAL.—At the request of a Native authority or Native village, the Secretary may increase an amount of funds provided under this subsection for a construction project by an additional amount equal to 100 percent of the total cost of construction of the project, as determined by the Secretary.

''(B) USE OF RETAINED FUNDS.—An increase in funds provided under subparagraph (A) for a construction project shall be retained, and used only, for future maintenance of the construction project.''.

(f) INDIAN RESERVATION ROAD SAFETY PROGRAM.—

(1) IN GENERAL.—Chapter 4 of title 23, United States Code, is amended by adding at the end the following:

''SEC. 412. INDIAN RESERVATION ROAD SAFETY PROGRAM.

''(a) PROGRAM.—

''(1) IN GENERAL.—The Secretary shall carry out a program to provide to eligible Indian tribes (as determined by the Secretary) competitive grants for use in establishing tribal transportation safety programs on—

''(A) Indian reservations; and

''(B) other land under the jurisdiction of an Indian tribe.

''(2) USE OF FUNDS.—Funds from a grant provided under paragraph (1) may be used to carry out a project or activity—

''(A) to prevent the operation of motor vehicles by intoxicated individuals;

''(B) to promote increased seat belt use rates;

''(C) to eliminate hazardous locations and conditions on, or hazardous sections or elements of—

''(i) a public road;

''(ii) a public surface transportation facility;

''(iii) a publicly-owned bicycle or pedestrian pathway or trail; or

''(iv) a traffic calming measure;

''(D) to eliminate hazards relating to railway-highway crossings; or

''(E) to increase transportation safety by any other means, as determined by the Secretary.

''(b) FEDERAL SHARE.—The Federal share of the cost of carrying out the program under this section shall be 100 percent.

''(c) FUNDING.—Notwithstanding any other provision of law, there are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section—

''(1) $6,000,000 for each of fiscal years 2004 and 2005; and

''(2) $9,000,000 for each of fiscal years 2006 through 2009.''.

(2) CONFORMING AMENDMENT.—The analysis for chapter 4 of title 23, United States Code, is amended by inserting after the item relating to section 411 the following:

''412. Indian reservation road safety program.''.

(g) INDIAN RESERVATION RURAL TRANSIT PROGRAM.—Section 5311 of title 49, United States Code, is amended by adding at the end the following:

''(k) INDIAN RESERVATION RURAL TRANSIT PROGRAM.—

''(1) IN GENERAL.—The Secretary shall establish and carry out a program to provide

competitive grants to Indian tribes to establish rural transit programs on reservations or other land under the jurisdiction of the Indian tribes.

''(2) AMOUNT OF GRANTS.—The amount of a grant provided to an Indian tribe under subparagraph (A) shall be based on the need of the Indian tribe, as determined by the Secretary of Transportation.

''(3) AUTHORIZATION OF FUNDING.—For each of fiscal years 2004 through 2009, of the amount made available under section 5338, $15,000,000 shall be made available to carry out this subsection.''.

(h) COMMERCIAL VEHICLE DRIVING TRAINING PROGRAM.—

(1) DEFINITIONS.—In this section:

(A) COMMERCIAL VEHICLE DRIVING.—The term ''commercial vehicle driving'' means the driving of—

(i) a vehicle that is a tractor-trailer truck; or

(ii) any other vehicle (such as a bus or a vehicle used for the purpose of construction) the driving of which requires a commercial license.

(B) SECRETARY.—The term ''Secretary'' means the Secretary of Labor.

(2) GRANTS.—The Secretary shall provide grants, on a competitive basis, to entities described in paragraph (3)(A) to support programs providing training and certificates leading to the licensing of Native Americans with respect to commercial vehicle driving.

(3) ELIGIBILITY.—To be eligible to receive a grant under paragraph (1), an entity shall—

(A) be a tribal college or university (as defined in section 316(b)(3) of the Higher Education Act (20 U.S.C. 1059(b)(3)); and

(B) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(4) PRIORITY.—In providing grants under paragraph (1), the Secretary shall give priority to grant applications that—

(A) propose training that exceeds proposed minimum standards for training tractor-trailer drivers of the Department of Transportation;

(B) propose training that exceeds the entry level truck driver certification standards set by the Professional Truck Driver Institute; and

(C) propose an education partnership with a private trucking firm, trucking association, or similar entity in order to ensure the effectiveness of the grant program under this section.

(5) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $5,000,000 for the period of fiscal years 2004 through 2009.

SA 2399. Mr. GRASSLEY (for himself and Mr. BAUCUS) submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Section 5212 is amended to read as follows:

SEC. 5212. TRANSFER OF CERTAIN AMOUNTS FROM THE AIRPORT AND AIRWAY TRUST FUND TO THE HIGHWAY TRUST FUND TO REFLECT HIGHWAY USE OF JET FUEL.

(a) IN GENERAL.—Section 9502(d) is amended by adding at the end the following new paragraph:

''(7) TRANSFERS FROM THE TRUST FUND TO THE HIGHWAY TRUST FUND.—

''(A) IN GENERAL.—The Secretary shall pay annually from the Airport and Airway Trust Fund into the Highway Trust Fund an amount (as determined by him) equivalent to amounts received in the Airport and Airway Trust Fund which are attributable to fuel that is used primarily for highway transportation purposes.

''(B) AMOUNTS TRANSFERRED TO MASS TRANSIT ACCOUNT.—The Secretary shall transfer 11 percent of the amounts paid into the Highway Trust Fund under subparagraph (A) to the Mass Transit Account established under section 9503(e).''.

(b) CONFORMING AMENDMENTS.—

(1) Subsection (a) of section 9503 is amended—

(A) by striking ''appropriated or credited'' and inserting ''paid, appropriated, or credited'', and

(B) by striking ''or section 9602(b)'' and inserting '', section 9502(d)(7), or section 9602(b)''.

(2) Subsection (e)(1) of section 9503 is amended by striking ''or section 9602(b)'' and inserting '', section 9502(d)(7), or section 9602(b)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

SA 2400. Mr. GRASSLEY (for himself and Mr. BAUCUS) submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Part IV of subtitle C of title V is amended by inserting at the end the following new section:

SEC. 5246. ELECTRONIC REPORTING.

(a) IN GENERAL.—Section 4101(d), as amended by section 5273 of this Act, is amended by adding at the end the following new sentence: ''Any person who is required to report under this subsection and who has 25 or more reportable transactions in a month shall file such report in electronic format.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply on October 1, 2004.

SA 2401. Mr. STEVENS (for himself and Mr. INOUYE) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 717, line 10, strike ''transportation,'' and insert ''transportation (and, in Alaska and Hawaii, includes regularly scheduled intrastate bus service for the general public),''.

SA 2402. Mr. THOMAS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 321, line 7, strike ''and'' and all that follows through line 13, and insert the following:

(C) in paragraph (3)(A), by striking ''under this title'' and inserting ''under this chapter and section 125(e)''; and

(D) in paragraph (4)—

(i) in subparagraph (B)—

(I) by striking ''(B) RESERVATION.—Of the amounts'' and all that follows through ''to replace,'' and inserting the following:

SA 2403. Mr. HOLLINGS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 539, line 12 strike ''airport operations''.

SA 2404. Mr. HOLLINGS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 818, beginning in line 11, strike ''Federal Railroad Administration, Federal Motor Carrier Safety Administration, or the Federal Aviation Administration'' and insert the following, ''Federal Railroad Administration or the Motor Carrier Safety Administration''.

SA 2405. Mr. HOLLINGS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 819, beginning in line 1, strike ''Federal Railroad Administration, the Federal Motor Carrier Safety Administration, and the Federal Aviation Administration'' and insert the following: ''Federal Railroad Administration and the Motor Carrier Safety Administration.''.

SA 2406. Mr. INHOFE submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 321, strike line 7 and all that follows through page 326, line 12 and insert the following:

Secretary.'';

(C) in paragraph (3)—

(i) in subparagraph (A), by striking ''under this title'' and inserting ''under this chapter and section 125(e)''; and

(ii) by adding at the end the following:

''(C) FEDERAL LANDS HIGHWAY PROGRAM DEMONSTRATION PROJECT.—

''(i) IN GENERAL.—The Secretary shall establish a demonstration project under which all funds made available under this chapter for Indian reservation roads and for highway bridges located on Indian reservation roads as provided for in subparagraph (A) shall be made available, on the request of an affected Indian tribal government, to the Indian tribal government for use in carrying out, in accordance with the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b et seq.), contracts and agreements for the planning, research, engineering, and construction described in that subparagraph.

''(ii) EXCLUSION OF AGENCY PARTICIPATION.—In accordance with subparagraph (B),

all funds for Indian reservation roads and for highway bridges located on Indian reservation roads to which clause (i) applies shall be paid without regard to the organizational level at which the Federal lands highway program has previously carried out the programs, functions, services, or activities involved.

''(iii) SELECTION OF PARTICIPATING TRIBES.—

''(I) PARTICIPANTS.—

''(aa) IN GENERAL.—In addition to Indian tribes or tribal organizations that, as of the date of enactment of this subparagraph, are contracting or compacting for any Indian reservation road function or program, for each fiscal year, the Secretary may select up to 15 Indian tribes from the applicant pool described in subclause (II) to participate in the demonstration project carried out under clause (i).

''(bb) CONSORTIA.—Two or more Indian tribes that are otherwise eligible to participate in a program or activity to which this title applies may form a consortium to be considered as a single Indian tribe for the purpose of becoming part of the applicant pool under subclause (II).

''(cc) FUNDING.—An Indian tribe participating in the pilot program under this subparagraph shall receive funding in an amount equal to the sum of the funding that the Indian tribe would otherwise receive in accordance with the funding formula established under the other provisions of this subsection, and an additional percentage of that amount equal to the percentage of funds withheld during the applicable fiscal year for the road program management costs of the Bureau of Indian Affairs under subsection (f)(1).

''(II) APPLICANT POOL.—The applicant pool described in this subclause shall consist of each Indian tribe (or consortium) that—

''(aa) has successfully completed the planning phase described in subclause (IV);

''(bb) has requested participation in the demonstration project under this subparagraph through the adoption of a resolution or other official action by the tribal governing body; and

''(cc) has demonstrated financial stability and financial management capability in accordance with subclause (III) during the 3-fiscal-year period immediately preceding the fiscal year for which participation under this subparagraph is being requested.

''(III) CRITERIA FOR DETERMINING FINANCIAL STABILITY AND FINANCIAL MANAGEMENT CAPACITY.—For the purpose of subclause (II), evidence that, during the 3-year period referred to in subclause (II)(cc), an Indian tribe had no uncorrected significant and material audit exceptions in the required annual audit of the Indian tribe's self-determination contracts or self-governance funding agreements with any Federal agency shall be conclusive evidence of the required stability and capability.

''(IV) PLANNING PHASE.—

''(aa) IN GENERAL.—An Indian tribe (or consortium) requesting participation in the demonstration project under this subparagraph shall complete a planning phase that shall include legal and budgetary research and internal tribal government and organization preparation.

''(bb) ELIGIBILITY.—An Indian tribe (or consortium) described in item (aa) shall be eligible to receive a grant under this subclause to plan and negotiate participation in a project described in that item.

''(V) REPORT TO CONGRESS.—Not later than September 30, 2006, the Secretary shall submit to Congress a report describing the implementation of the demonstration project and any recommendations for improving the project.''; and

(D) in paragraph (4)—

(i) in subparagraph (B)—

(I) by striking ''(B) RESERVATION.—Of the amounts'' and all that follows through ''to replace,'' and inserting the following:

''(B) FUNDING.—

''(i) RESERVATION OF FUNDS.—Of the amounts authorized to be appropriated for Indian reservation roads for each fiscal year, the Secretary, in cooperation with the Secretary of the Interior, shall reserve not less than $15,000,000 for each of fiscal years 2004 through 2009 to carry out planning, design, engineering, preconstruction, construction, and inspection of projects to replace,''; and

(II) by adding at the end the following:

''(ii) AVAILABILITY.—Funds made available to carry out this subparagraph shall be available for obligation in the same manner as if the funds were apportioned under chapter 1.''; and

(ii) by striking subparagraph (D) and inserting the following:

''(D) APPROVAL REQUIREMENT.—

''(i) IN GENERAL.—Subject to clause (ii), on request by an Indian tribe or the Secretary of the Interior, the Secretary may make funds available under this subsection for preliminary engineering for Indian reservation road bridge projects.

''(ii) CONSTRUCTION AND CONSTRUCTION ENGINEERING.—The Secretary may make funds available under clause (i) for construction and construction engineering only after approval by the Secretary of applicable plans, specifications, and estimates.''; and

(5) by adding at the end the following:

''(f) ADMINISTRATION OF INDIAN RESERVATION ROADS.—

''(1) CONTRACT AUTHORITY.—Notwithstanding any other provision of law, for any fiscal year, not more than 6 percent of the contract authority amounts made available from the Highway Trust Fund to the Bureau of Indian Affairs under this title shall be used to pay the expenses incurred by the Bureau in administering the Indian reservation roads program (including the administrative expenses relating to individual projects associated with the Indian reservation roads program).

''(2) HEALTH AND SAFETY ASSURANCES.—Notwithstanding any other provision of law, an Indian tribe or tribal organization may commence road and bridge construction under the Transportation Equity Act for the 21st Century (Public Law 105-178) or the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 that is funded through a contract or agreement under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b et seq.) if the Indian tribe or tribal organization—

''(A) provides assurances in the contract or agreement that the construction will meet or exceed applicable health and safety standards;

''(B) obtains the advance review of the plans and specifications from a licensed professional that has certified that the plans and specifications meet or exceed the applicable health and safety standards; and

''(C) provides a copy of the certification under subparagraph (B) to the Assistant Secretary for Indian Affairs.''.

(d) PLANNING AND AGENCY COORDINATION.—Section 204 of title 23, United States Code, is amended—

(1) in subsection (a)(1), by inserting ''refuge roads, recreation roads,'' after ''parkways,'';

(2) by striking subsection (b) and inserting the following:

''(b) USE OF FUNDS.—

''(1) IN GENERAL.—Funds available for public lands highways, recreation roads, park roads and parkways, forest highways, and Indian reservation roads shall be used by the Secretary and the Secretary of the appropriate Federal land management agency to pay the cost of transportation planning, research, engineering, operation and maintenance of transit facilities, and construction of the highways, roads, parkways, forest highways, and transit facilities located on public land, national parks, and Indian reservations.

''(2) CONTRACT.—In connection with an activity described in paragraph (1), the Secretary and the Secretary of the appropriate Federal land management agency may enter into a construction contract or other appropriate agreement with—

''(A) a State (including a political subdivision of a State); or

''(B) an Indian tribe.

''(3) INDIAN RESERVATION ROADS.—In the case of an Indian reservation road—

''(A) Indian labor may be used, in accordance with such rules and regulations as may be promulgated by the Secretary of the Interior, to carry out any construction or other activity described in paragraph (1); and

''(B) funds made available to carry out this section may be used to pay bridge preconstruction costs (including planning, design, and engineering).

''(4) FEDERAL EMPLOYMENT.—No maximum on Federal employment shall be applicable to construction or improvement of Indian reservation roads.

''(5) AVAILABILITY OF FUNDS.—Funds available under this section for each class of Federal lands highway shall be available for any kind of transportation project eligible for assistance under this title that is within or adjacent to, or that provides access to, the areas served by the particular class of Federal lands highway.

''(6) RESERVATION OF FUNDS.—The Secretary of the Interior may reserve funds from administrative funds of the Bureau of Indian Affairs that are associated with the Indian reservation road program to finance the Indian technical centers authorized under section 504(b).''; and

(3) in subsection (k)(1)—

(A) in subparagraph (B)—

(i) by striking ''(2), (5),'' and inserting ''(2), (3), (5),''; and

(ii) by striking ''and'' after the semicolon;

(B) in subparagraph (C), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

''(D) maintenance of public roads in national fish hatcheries under the jurisdiction of the United States Fish and Wildlife Service;

''(E) the non-Federal share of the cost of any project funded under this title or chapter 53 of title 49 that provides access to or within a wildlife refuge; and

''(F) maintenance and improvement of recreational trails (except that expenditures on trails under this subparagraph shall not exceed 5 percent of available funds for each fiscal year).''.

(e) MAINTENANCE OF INDIAN RESERVATION ROADS.—Section 204(c) of title 23, United States Code, is amended by striking the second and third sentences and inserting the following: ''Notwithstanding any other provision of this title, of the amount of funds apportioned for Indian reservation roads from the Highway Trust Fund, an Indian tribe may expend for the purpose of maintenance not more than the greater of $250,000 or 25 percent of the apportioned amount. The Bureau of Indian Affairs shall continue to retain primary responsibility, including annual funding request responsibility, for road maintenance programs on Indian reservations. The Secretary shall ensure that funding made available under this subsection for maintenance of Indian reservation roads for each fiscal year is supplementary to and not

in lieu of any obligation of funds by the Bureau of Indian Affairs for road maintenance programs on Indian reservations.''.

(f) AUTHORIZATION OF CONTRACT AUTHORITY FOR STATES WITH INDIAN RESERVATIONS.—Section 1214(d)(5)(A) of the Transportation Equity Act for the 21st Century (23 U.S.C. 202 note; 112 Stat. 206) is amended by striking ''$1,500,000 for each of fiscal years 1998 through 2003'' and inserting ''$1,800,000 for each of fiscal years 2004 through 2009''.

(g) INDIAN RESERVATION RURAL TRANSIT PROGRAM.—Section 5311 of title 49, United States Code, is amended by adding at the end the following:

''(k) INDIAN RESERVATION RURAL TRANSIT PROGRAM.—

''(1) IN GENERAL.—The Secretary shall establish and carry out a program to provide competitive grants to Indian tribes to establish rural transit programs on reservations or other land under the jurisdiction of the Indian tribes.

''(2) AMOUNT OF GRANTS.—The amount of a grant provided to an Indian tribe under subparagraph (A) shall be based on the need of the Indian tribe, as determined by the Secretary of Transportation.

''(3) AUTHORIZATION OF FUNDING.—For each of fiscal years 2004 through 2009, of the amount made available under section 5338, $15,000,000 shall be made available to carry out this subsection.''.

SA 2407. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

TITLE ___ SURFACE TRANSPORTATION AND TRANSIT EMPOWERMENT

SEC. ___1. SHORT TITLE.

This title may be cited as the ''Surface Transportation and Transit Empowerment Act''.

SEC. ___2. DEFINITIONS.

In this title, the following definitions apply:

(1) CORE HIGHWAY PROGRAMS.—The term ''core highway programs'' means the following programs:

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

(B) Highway bridge replacement and rehabilitation (excluding off-System bridges) under section 144 of that title.

(C)(i) Indian reservation roads under section 204 of that title.

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

(iii) Parkways and park roads under section 204 of that title.

(D) Highway safety programs under section 402 of that title.

(E) Highway safety research and development under section 403 of that title.

(F) Motor carrier safety grants under section 31104 of title 49, United States Code.

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

(H) National defense highways under section 311 of that title.

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

(2) CORE PROGRAM STATE.—The term ''core program State'' means a State which makes an election under section ___3.

(3) ELECTION PERIOD.—The term ''election period'' means the period beginning with the fiscal year determined under section ___3(b) and ending not later than with fiscal year 2009.

(4) FUTURE INVESTMENT ACCOUNT.—The term ''Future Investment Account'' means the Future Investment Account established under section 9503(f) of the Internal Revenue Code of 1986.

(5) HIGHWAY ACCOUNT.—The term ''Highway Account'' means the portion of the Highway Trust Fund established under section 9503 of the Internal Revenue Code of 1986 which is not the Mass Transit Account or the Future Investment Account.

(6) MASS TRANSIT ACCOUNT.—The term ''Mass Transit Account'' means the Mass Transit Account established under section 9503(e) of the Internal Revenue Code of 1986.

(7) SURFACE TRANSPORTATION.—The term ''surface transportation'' includes mass transit and rail.

(8) TIER I CORE PROGRAM STATE.—The term ''tier I core program State'' means a core program State that is eligible for a core highway programs payment and a non-core highway programs block grant under section ___3.

(9) TIER II CORE PROGRAM STATE.—The term ''tier II core program State'' means a core program State that is eligible for a core highway programs payment under section ___3 and that elects under section ___3(e) to reduce its Federal fuel tax rate with a corresponding reduction in its non-core highway programs block grant.

(10) TIER I MASS TRANSIT STATE.—The term ''tier I mass transit State'' means a State that is eligible for a mass transit block grant under section ___4.

(11) TIER II MASS TRANSIT STATE.—The term ''tier II mass transit State'' means a State that elects under section ___4(c) to eliminate its mass transit fuel tax rate with a corresponding elimination of its mass transit block grant.

SEC. ___3. FUNDING OF HIGHWAY PROGRAMS IN CORE PROGRAM STATES.

(a) ELECTION TO BECOME A CORE PROGRAM STATE.—Each State which makes an election described in subsection (b) shall be eligible with respect to each fiscal year during the State's election period for—

(1) a core highway programs payment; and

(2) a non-core highway programs block grant,

in lieu of any other payment from the Highway Account and the Future Highway Investment Sub Account of the Future Investment Account.

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

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

(2) such election is made by a State that certifies that such State has a metropolitan planning organization established under section 134 of title 23, United States Code, and that such organization will maintain a system for processing funds received by the State under this Act throughout the election period; and

(3) such election is submitted to the Secretary in such form and manner as the Secretary prescribes.

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

(1) DETERMINATION OF AMOUNT OF PAYMENT.—

(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall determine for each fiscal year the payment necessary to meet the commitments of core highway programs for each core program State.

(B) LIMITATIONS.—

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

(I) except with respect to core highway programs described in subparagraphs (G), (H), and (I) of section ___2(1), the funding level for such program for such year under clause (ii) in lieu of the funding level for such program for such year under any other provision of law, and

(II) the annual obligation limitation for such program for such year imposed under any provision of law.

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

(I) For the Interstate maintenance program, $5,500,000,000 for fiscal year 2004, $6,300,000,000 for fiscal year 2005, $6,550,000,000 for fiscal year 2006, $6,650,000,000 for fiscal year 2007, $7,650,000,000 for fiscal year 2008, and $7,950,000,000 for fiscal year 2009.

(II) For highway bridge replacement and rehabilitation, $4,650,754,076 for fiscal year 2004, $5,507,287,150 for fiscal year 2005, $5,713,860,644 for fiscal year 2006, $5,730,266,418 for fiscal year 2007, $6,016,042,650 for fiscal year 2008, and $6,103,714,622 for fiscal year 2009.

(III)(aa) For Indian reservation roads, $300,000,000 for fiscal year 2004, $325,000,000 for fiscal year 2005, $350,000,000 for fiscal year 2006, $375,000,000 for fiscal year 2007, $400,000,000 for fiscal year 2008, and $425,000,000 for fiscal year 2009.

(bb) For public lands highways, $300,000,000 each of fiscal years 2004 through 2009.

(cc) For parkways and park roads, $300,000,000 for fiscal year 2004, $310,000,000 for fiscal year 2005, and $320,000,000 for each of fiscal years 2006 through 2009.

(IV) For highway safety programs, $171,000,000 for each of fiscal years 1998 through 2003.

(V) For highway safety research and development, $44,000,000 for each of fiscal years 1998 through 2003.

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

(2) USE OF PAYMENT.—

(A) IN GENERAL.—The core highway programs payment for any core program State shall be available, as provided by appropriation Acts, to the State for any core highway program purpose in such State.

(B) TRANSFERABILITY OF FUNDS.—To the extent that a core program State determines that funds made available under this subsection to the State for a purpose are in excess of the needs of the State for that purpose, the State may transfer the excess funds to, and use the excess funds for, any surface transportation purpose in the State.

(d) DETERMINATION AND USE OF NON-CORE HIGHWAY PROGRAMS BLOCK GRANT.—

(1) DETERMINATION OF AMOUNT OF BLOCK GRANT.—Subject to subsection (e), the amount of the non-core highway programs block grant for any tier I core program State for any fiscal year is equal to the excess of—

(A) the amount of taxes transferred to the Highway Account and the Future Highway Investment Sub Account of the Future Investment Account for such fiscal year which is attributable to highway users in that State as determined by the Secretary of the Treasury (taking into account proper reductions for uses of such taxes for purposes other than the Federal-aid highway program); over

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

(2) USE OF BLOCK GRANT.—The non-core highway programs block grant for any tier I core program State shall be available, as provided by appropriation Acts, to the State for any surface transportation purpose in such State. Any project carrying out such a purpose shall be exempt from any Federal

regulation other than with respect to health and safety standards and practices.

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

(1) IN GENERAL.—With respect to fiscal years beginning after the satisfaction year and ending with the termination of the election period, a core program State may notify the Secretary (in the same manner as the election described in subsection (b)) of an election to become a tier II core program State and to have imposed on highway users in the State the State's core highway programs financing rate with respect to the taxes transferred to the Highway Account and the Future Highway Investment Sub Account of the Future Investment Account which are attributable to such highway users in lieu of the tax rates otherwise established in the Internal Revenue Code of 1986 for such fiscal years.

(2) DETERMINATION OF CORE HIGHWAY PROGRAMS FINANCING RATE.—

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

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

(ii) the uses of the taxes described in paragraph (1) for purposes other than the Federal-aid highway program for such fiscal year;

(iii) any adjustments necessary as a result of a determination under this paragraph for a preceding fiscal year; and

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

(B) REPORT.—Not later than August 1, the Secretary of the Treasury shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, a report that describes the determination required under subparagraph (A).

(C) CONGRESSIONAL APPROVAL REQUIRED.—The Secretary of the Treasury shall not implement the determination required to be included in the report submitted under subparagraph (B) unless a joint resolution is enacted, in accordance with subparagraph (D), approving such determination before the following October 1.

(D) CONGRESSIONAL CONSIDERATION.—

(i) TERMS OF THE RESOLUTION.—For purposes of subparagraph (C), the term ''joint resolution'' means only a joint resolution that is introduced before October 1 and—

(I) that does not have a preamble;

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

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

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

(I) in the House of Representatives, shall be referred to the Committee on Ways and Means; and

(II) in the Senate, shall be referred to the Committee on Finance.

(iii) DISCHARGE.—If a committee to which a resolution described in clause (i) is referred has not reported such resolution by the end of the 30-day period beginning on the date on which the Secretary of the Treasury submits the report required under subparagraph (B), such committee shall be, at the end of such period, discharged from further consideration of such resolution, and such resolution shall be placed on the appropriate calendar of the House involved.

(iv) CONSIDERATION.—Within 30 days after the date on which the committee to which a resolution described in clause (i) has reported, or has been discharged from further consideration of such resolution, such resolution shall be considered in the same manner as a resolution is considered under subsections (d), (e), and (f) of section 2908 of the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2687 note).

(3) SATISFACTION YEAR.—For purposes of paragraph (1), the term ''satisfaction year'' means the fiscal year during which all Federal non-core highway program obligations of a core program State payable from the Highway Account and the Future Highway Investment Sub Account of the Future Investment Account existing on the date of the election by such State described in subsection (a) are paid.

SEC. ___4. FUNDING OF TRANSIT PROGRAMS IN MASS TRANSIT BLOCK GRANT STATES.

(a) ELECTION TO BECOME A MASS TRANSIT BLOCK GRANT STATE.—A core program State or any other State may notify the Secretary (in the same manner as the election described in section ___3(b)) of an election to receive with respect to each fiscal year during the State's election period a mass transit block grant, in lieu of any other payment from the Mass Transit Account and the Future Transit Investment Sub Account of the Future Investment Account. An election under this subsection shall not affect a State's continued eligibility for revenues provided through the general fund of the Treasury for transit programs.

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

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

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

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

(1) IN GENERAL.—With respect to fiscal years beginning after the satisfaction year and ending with the termination of the election period, a State which has made an election under subsection (a) may notify the Secretary (in the same manner as such an election) of an election to become a tier II mass transit State and to eliminate the financing rate with respect to the taxes transferred to the Mass Transit Account and the Future Transit Investment Sub Account of the Future Investment Account which are attributable to the highway users of the State in lieu of the mass transit block grant for such fiscal years.

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

(A) IN GENERAL.—Upon notification by the Secretary of an election by a State under paragraph (1), the Secretary of the Treasury shall, not later than August 1, submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, a report that notifies the committees of such an election.

(B) CONGRESSIONAL APPROVAL REQUIRED.—The Secretary of the Treasury shall not implement the election included in the report submitted under paragraph (1) unless a joint resolution is enacted, in accordance with paragraph (3), approving such election before the following October 1.

(3) CONGRESSIONAL CONSIDERATION.—

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

(i) that does not have a preamble;

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

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

(B) CONSIDERATION.—A resolution described in subparagraph (A) shall be considered in the same manner as a resolution is considered under clauses (ii), (iii), and (iv) of section ___3(e)(2)(D).

(4) SATISFACTION YEAR.—For purposes of this section, the term ''satisfaction year'' means the fiscal year during which all Federal transit program obligations of a State payable from the Mass Transit Account and the Future Transit Investment Sub Account of the Future Investment Account existing on the date of the election by such State described in subsection (a) are paid.

SEC. ___5. ENFORCEMENT.

If the Secretary determines that a core program State (or any other State under section ___4(b)(2)) has used funds under this Act for a purpose that is not a surface transportation purpose, the amount of the improperly used funds shall be deducted from any amount the State would otherwise receive from the Highway Account for the fiscal year that begins after the date of the determination.

SEC. ___6. REPORTS.

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

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

(2) report to the Secretary, by January 1 following the end of the fiscal year, on the result of the assessment.

(b) REPORT OF THE SECRETARY.—The Secretary shall submit to the appropriate committees of Congress an annual report and evaluation of the State surface transportation programs funded under this Act based on the State assessments and reports submitted under subsection (a). Such report shall include any conclusions and recommendations that the Secretary considers appropriate.

SEC. ___7. INTERSTATE SURFACE TRANSPORTATION COMPACTS.

(a) DEFINITIONS.—In this section, the following definitions apply:

(1) INFRASTRUCTURE BANK.—The term ''infrastructure bank'' means a surface transportation infrastructure bank established under an interstate compact under subsection (b)(5) and described in subsection (d).

(2) PARTICIPATING STATES.—The term ''participating States'' means the States that are

parties to an interstate compact entered into under subsection (b).

(3) SURFACE TRANSPORTATION PROJECT.—The term ''surface transportation project'' means a surface transportation project, program, or activity described in subsection (b).

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

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

(2) develop programs to promote and fund surface transportation safety initiatives and establish surface transportation safety standards for the participating States;

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

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

(5) establish surface transportation infrastructure banks to promote regional or other multistate investment in infrastructure described in paragraph (3).

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

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

(2) use any Federal or State funds made available for that type of surface transportation project;

(3) on such terms and conditions as the participating States consider advisable—

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

(B) issue bonds; and

(4) obtain financing by other means permitted under Federal or State law, including surface transportation infrastructure banks under subsection (d).

(d) INFRASTRUCTURE BANKS.—

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

(A) make loans;

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

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

(2) FORMS OF ASSISTANCE.—

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

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

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

(i) credit enhancement;

(ii) a capital reserve for bond or debt instrument financing;

(iii) bond or debt instrument financing issuance costs;

(iv) bond or debt issuance financing insurance;

(v) subsidization of interest rates;

(vi) letters of credit;

(vii) any credit instrument;

(viii) bond or debt financing instrument security; and

(ix) any other form of debt financing that relates to the qualifying surface transportation project.

(3) NO OBLIGATION OF UNITED STATES.—

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

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

SEC. ___8. FEDERAL-AID FACILITY PRIVATIZATION.

(a) DEFINITIONS.—In this section, the following definitions apply:

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

(2) PRIVATIZATION.—The term ''privatization'' means the disposition or transfer of a transportation infrastructure asset, whether by sale, lease, or similar arrangement, from a State or local government to a private party.

(3) STATE OR LOCAL GOVERNMENT.—The term ''State or local government'' means the government of—

(A) any State;

(B) the District of Columbia;

(C) any commonwealth, territory, or possession of the United States;

(D) any county, municipality, city, town, township, local public authority, school district, special district, intrastate district, regional or interstate government entity, council of governments, or agency or instrumentality of a local government; or

(E) any federally recognized Indian tribe.

(4) TRANSPORTATION INFRASTRUCTURE ASSET.—

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

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

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

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

(2) subject to subsection (c), approve requests from State and local governments to privatize transportation infrastructure assets and waive or modify any condition relating to the original Federal program that funded the asset.

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

(1) the State or local government demonstrates that a market mechanism, legally enforceable agreement, or regulatory mechanism will ensure that the transportation infrastructure asset will continue to be used for the general objectives of the original Federal program that funded the asset (which shall not be considered to include every condition required for the recipient of Federal funds to have obtained the original Federal funds), so long as needed for those objectives; and

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

(d) LACK OF OBLIGATION TO REPAY FEDERAL FUNDS.—A State or local government shall have no obligation to repay to any agency of the Federal Government any Federal funds received by the State or local government in connection with a transportation infrastructure asset that is privatized under this section.

(e) USE OF PROCEEDS.—

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

(2) RECOVERY OF CERTAIN COSTS.—Notwithstanding any other provision of law, the State or local government shall be permitted to recover from the privatization of a transportation infrastructure asset—

(A) the capital investment in the transportation infrastructure asset made by the State or local government;

(B) an amount equal to the unreimbursed operating expenses in the transportation infrastructure asset paid by the State or local government; and

(C) a reasonable rate of return on the investment made under subparagraph (A) and expenses paid under subparagraph (B).

SEC. ___9. ESTABLISHMENT OF FUTURE INVESTMENT ACCOUNT.

Section 9503 of the Internal Revenue Code of 1986 (relating to Highway Trust Fund), as amended by this Act, is amended by adding at the end the following:

''(f) ESTABLISHMENT OF FUTURE INVESTMENT ACCOUNT.—

''(1) CREATION OF ACCOUNT.—There is established in the Highway Trust Fund a separate account to be known as the 'Future Investment Account', consisting of such amounts as may be transferred or credited to the Future Highway Investment Sub Account and the Future Transit Investment Sub Account of the Future Investment Account as provided in this subsection or section 9602(b).

''(2) TRANSFERS TO FUTURE INVESTMENT ACCOUNT.—

''(A) IN GENERAL.—The Secretary of the Treasury shall transfer to the Future Highway Investment Sub Account the future highway investment portion and to the Future Transit Investment Sub Account the future transit investment portion of the amounts appropriated to the Highway Trust Fund under subsection (b) which are attributable to taxes under sections 4041 and 4081 imposed after September 30, [1997].

''(B) FUTURE INVESTMENT PORTIONS.—For purposes of subparagraph (A)—

''(i) the term 'future highway investment portion' means an amount determined at the rate of 3.44 cents for each gallon with respect to which tax was imposed under section 4041 or 4081, and

''(ii) the term 'future transit investment portion' means an amount determined at the rate of .86 cent for each gallon with respect to which tax was so imposed.

''(3) EXPENDITURES FROM ACCOUNT.—Amounts in the Future Investment Account shall be available, as provided by appropriation Acts, in a Federal budget neutral manner, for making expenditures after October 1, 2003—

''(A) in the case of the Future Highway Investment Sub Account, in accordance with elections made under section ___3(a) of the Surface Transportation and Transit Empowerment Act, and

''(B) in the case of the Future Transit Investment Sub Account, in accordance with elections made under section ___4(a) of the Surface Transportation and Transit Empowerment Act.''.

SEC. ___10. EFFECTIVE DATE CONTINGENT UPON CERTIFICATION OF DEFICIT NEUTRALITY.

(a) PURPOSE.—The purpose of this section is to ensure that—

(1) this Act will become effective only if the Director of the Office of Management and Budget (referred to in this section as the ''Director'') certifies that this Act is deficit neutral;

(2) discretionary spending limits are reduced to capture the savings realized in devolving transportation functions to the State level pursuant to this Act; and

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

(b) EFFECTIVE DATE CONTINGENCY.—Notwithstanding any other provision of this Act, this Act shall take effect only if—

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

(2) the report contains a certification by the Director that, based on the required estimates, the reduction in discretionary outlays resulting from the reduction in contract authority is at least as great as the reduction in revenues for each fiscal year through fiscal year 2009.

(c) OMB ESTIMATES AND REPORT.—

(1) REQUIREMENTS.—Not later than 5 calendar days after the date of notification by the Secretary of any election described in section ___3(b), the Director shall—

(A) estimate the net change in revenues resulting from this Act for each fiscal year through fiscal year 2009;

(B) estimate the net change in discretionary outlays resulting from the reduction in contract authority under this Act for each fiscal year through fiscal year 2009;

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

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

(2) APPLICABLE ASSUMPTIONS AND GUIDELINES.—

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

(B) OUTLAY ESTIMATES.—The outlay estimates required under paragraph (1)(B) shall be determined by comparing the level of discretionary outlays resulting from this Act with the corresponding level of discretionary outlays projected in the baseline under section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 907).

(d) CONFORMING ADJUSTMENT TO DISCRETIONARY SPENDING LIMITS.—Upon compliance with the requirements specified in subsection (b), the Director shall adjust the adjusted discretionary spending limits for each fiscal year through fiscal year 2009 under section 601(a)(2) of the Congressional Budget Act of 1974 (2 U.S.C. 665(a)(2)) by the estimated reductions in discretionary outlays under subsection (a)(2).

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

SA 2408. Mr. FITZGERALD (for himself and Mr. DURBIN) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 738, strike lines 5 through 12 and insert the following:

motor vehicles that became effective by December 31, 2002.

''(ii) For each of fiscal years 2004 through 2009, the Secretary shall, after making grants under clause (i) of this subparagraph, make a one-time grant to each State that either enacts for the first time after December 31, 2002, and has in effect

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SA 2409. Mrs. BOXER (for herself, Mr. DODD, and Mrs. FEINSTEIN) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 267, line 2, strike all through page 268, line 6.

SA 2410. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 1109, after line 22, add the following:

SEC. ___. MODIFICATIONS TO GAS GUZZLERS TAX TO ENCOURAGE GREATER AUTO FUEL EFFICIENCY.

(a) INCREASE IN TAX RATE.—Subsection (a) of section 4064 (relating to gas guzzlers tax) is amended to read as follows:

''(a) IMPOSITION OF TAX.—

''(1) IN GENERAL.—There is hereby imposed on the sale by the manufacturer of each automobile a tax determined in accordance with the following table:

If the fuel economy for the model year of the model type in which the automobile falls is:	The tax is:
Less than 5 mpg below the applicable fuel economy standard	$0
At least 5 but less than 6 mpg below such standard	1,000
At least 6 but less than 7 mpg below such standard	1,500
At least 7 but less than 8 mpg below such standard	2,000
At least 8 but less than 9 mpg below such standard	2,500
At least 9 but less than 10 mpg below such standard	3,100
At least 10 but less than 11 mpg below such standard	3,800
At least 11 but less than 12 mpg below such standard	4,600
At least 12 but less than 13 mpg below such standard	5,500
At least 13 but less than 14 mpg below such standard	6,500
At least 14 mpg below such standard	7,700.

''(2) INFLATION ADJUSTMENT.—

''(A) IN GENERAL.—In the case of any taxable year beginning after 2005, each dollar amount referred to in paragraph (1) shall be increased by an amount equal to—

''(i) such dollar amount, multiplied by

''(ii) the cost-of-living adjustment determined under section (1)(f)(3) for the calendar year in which the taxable year begins, by substituting '2004' for '1992'.

''(B) ROUNDING.—If any amount as adjusted under subparagraph (A) is not a multiple of $100, such amount shall be rounded to the next lowest multiple of $50.''.

(b) EXPANSION OF DEFINITION OF AUTOMOBILE.—

(1) INCREASE IN WEIGHT.—Section 4064(b)(1)(A)(ii) (defining automobile) is amended by striking ''6,000 pounds'' and inserting ''12,000 pounds''.

(2) INCLUSION OF CERTAIN VEHICLES.—Subparagraph (B) of section 4064(b)(1) is amended to read as follows:

''(B) INCLUSION OF CERTAIN VEHICLES.—The term 'automobile' includes any sport utility vehicle. For purposes of the preceding sentence, the term 'sport utility vehicle' does not include—

''(i) a vehicle which does not have a primary load carrying device or container attached or which is an incomplete truck (as defined in 40 C.F.R. 86.1803–01),

''(ii) a vehicle which has a seating capacity of more than 12 persons,

''(iii) a vehicle which has a seating capacity of more than 9 persons behind the driver's seat, or

''(iv) a vehicle which is equipped with a cargo area of at least 6 feet in interior length which is an open area or is designed for use as an open area but is enclosed by a cap and is not readily accessible directly from the passenger compartment.''.

(c) ADDITIONAL DEFINITIONS.—Section 4064(b) (relating to definitions) is amended by adding at the end the following new paragraphs:

''(8) APPLICABLE FUEL ECONOMY STANDARD.—The term 'applicable fuel economy standard' means, with respect to any model year—

''(A) in the case of automobiles not exceeding 6,000 pounds in unloaded gross vehicle weight, the average fuel economy standard as defined in section 32902 of title 49, United States Code, for passenger automobiles for such model year, and

''(B) in the case of automobiles exceeding 6,000 pounds in unloaded gross vehicle weight, such automobiles shall be considered to be 8,400 pounds in unloaded gross vehicle weight for the purposes of determining the average fuel economy standard as defined in such section 32902, for such model year.

''(9) MPG.—The term 'mpg' means miles per gallon.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to sales after October 31, 2005.

SEC. ___. HIGHLY FUEL-EFFICIENT AUTOMOBILE CREDIT.

(a) IN GENERAL.—Subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to refundable credits) is amended by redesignating section 36 as section 37 and by inserting after section 35 the following new section:

''SEC. 36. HIGHLY FUEL-EFFICIENT AUTOMOBILE CREDIT.

''(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to the new highly fuel-efficient automobile credit determined under subsection (b).

''(b) NEW HIGHLY FUEL-EFFICIENT AUTOMOBILE CREDIT.—For purposes of subsection

(a), the new highly fuel-efficient automobile credit with respect to any new automobile placed in service by the taxpayer during the taxable year is determined in accordance with the following tables:

If the fuel economy for the model year of the model type in which the passenger automobile falls is:	The credit is:
Less than 5 mpg above the applicable fuel economy standard	$0
At least 5 but less than 6 mpg above such standard	200
At least 6 but less than 7 mpg above such standard	250
At least 7 but less than 8 mpg above such standard	300
At least 8 but less than 9 mpg above such standard	350
At least 9 but less than 10 mpg above such standard	500
At least 10 but less than 11 mpg above such standard	1,000
At least 11 but less than 12 mpg above such standard	1,500
At least 12 but less than 13 mpg above such standard	2,000
At least 13 but less than 14 mpg above such standard	2,500
At least 14 mpg above such standard	3,000.

If the fuel economy for the model year of the model type in which the non-passenger automobile falls is:	The credit is:
Less than 5 mpg above the applicable fuel economy standard	$0
At least 5 but less than 6 mpg above such standard	200
At least 6 but less than 7 mpg above such standard	250
At least 7 but less than 8 mpg above such standard	300
At least 8 but less than 9 mpg above such standard	350
At least 9 but less than 10 mpg above such standard	500
At least 10 but less than 11 mpg above such standard	1,000
At least 11 but less than 12 mpg above such standard	1,500
At least 12 but less than 13 mpg above such standard	2,000
At least 13 but less than 14 mpg above such standard	2,500
At least 14 mpg above such standard	3,000.

''(c) NEW AUTOMOBILE.—For purposes of this section, the term 'new automobile' means a passenger automobile or non-passenger automobile—

''(1) the original use of which commences with the taxpayer,

''(2) which is acquired for use or lease by the taxpayer and not for resale, and

''(3) which is made by a manufacturer.

''(d) PASSENGER AUTOMOBILE; NON-PASSENGER AUTOMOBILE.—For purposes of this section—

''(1) PASSENGER AUTOMOBILE.—The term 'passenger automobile' has the meaning given the term 'automobile' by section 4064(b)(1).

''(2) NON-PASSENGER AUTOMOBILE.—

''(A) IN GENERAL.—The term 'non-passenger automobile' means any automobile (as defined in section 4064(b)(1)(A)), but only if such automobile is described in subparagraph (B).

''(B) NON-PASSENGER AUTOMOBILES DESCRIBED.—An automobile is described in this subparagraph if such automobile is—

''(i) a vehicle which does not have a primary load carrying device or container attached,

''(ii) a vehicle which has a seating capacity of more than 12 persons,

''(iii) a vehicle which has a seating capacity of more than 9 persons behind the driver's seat, or

''(iv) a vehicle which is equipped with a cargo area of at least 6 feet in interior length which does not extend beyond the frame of the vehicle and which is an open area or is designed for use as an open area but is enclosed by a cap and is not readily accessible directly from the passenger compartment.

''(e) OTHER DEFINITIONS.—Except as provided in subsection (d), for purposes of this section, any term used in this section and also in section 4064 shall have the meaning given such term by section 4064.

''(f) SPECIAL RULES.—For purposes of this section—

''(1) REDUCTION IN BASIS.—For purposes of this subtitle, the basis of any property for which a credit is allowable under subsection (a) shall be reduced by the amount of such credit so allowed.

''(2) NO DOUBLE BENEFIT.—The amount of any deduction or other credit allowable under this chapter with respect to an automobile described under subsection (b), shall be reduced by the amount of credit allowed under subsection (a) for such automobile for the taxable year.

''(3) PROPERTY USED BY TAX-EXEMPT ENTITIES.—In the case of a credit amount which is allowable with respect to an automobile which is acquired by an entity exempt from tax under this chapter, the person which sells or leases such automobile to the entity shall be treated as the taxpayer with respect to the automobile for purposes of this section and the credit shall be allowed to such person, but only if the person clearly discloses to the entity at the time of any sale or lease the specific amount of any credit otherwise allowable to the entity under this section.

''(4) RECAPTURE.—The Secretary shall, by regulations, provide for recapturing the benefit of any credit allowable under subsection (a) with respect to any property which ceases to be property eligible for such credit (including recapture in the case of a lease period of less than the economic life of an automobile).

''(5) PROPERTY USED OUTSIDE UNITED STATES, ETC., NOT QUALIFIED.—No credit shall be allowed under subsection (a) with respect to any property referred to in section 50(b) or with respect to the portion of the cost of any property taken into account under section 179.

''(6) ELECTION TO NOT TAKE CREDIT.—No credit shall be allowed under subsection (a) for any automobile if the taxpayer elects to not have this section apply to such automobile.

''(7) INTERACTION WITH AIR QUALITY AND MOTOR VEHICLE SAFETY STANDARDS.—Unless otherwise provided in this section, an automobile shall not be considered eligible for a credit under this section unless such automobile is in compliance with—

''(A) the applicable provisions of the Clean Air Act for the applicable make and model year of the automobile (or applicable air quality provisions of State law in the case of a State which has adopted such provision under a waiver under section 209(b) of the Clean Air Act), and

''(B) the motor vehicle safety provisions of sections 30101 through 30169 of title 49, United States Code.

''(g) REGULATIONS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall promulgate such regulations as necessary to carry out the provisions of this section.

''(2) COORDINATION IN PRESCRIPTION OF CERTAIN REGULATIONS.—The Secretary of the Treasury, in coordination with the Secretary of Transportation and the Administrator of the Environmental Protection Agency, shall prescribe such regulations as necessary to determine whether an automobile meets the requirements to be eligible for a credit under this section.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 1016(a) is amended by striking ''and'' at the end of paragraph (27), by striking the period at the end of paragraph (28) and inserting '', and'', and by adding at the end the following new paragraph:

''(29) to the extent provided in section 36(f)(1).''.

(2) Section 6501(m) is amended by inserting ''36(f)(6),'' after ''30(d)(4),''.

(3) Paragraph (2) of section 1324(b) of title 31, United States Code, is amended by inserting before the period '', or from section 36 of such Code''.

(4) The table of sections for subpart C of part IV of chapter 1 is amended by striking the last item and inserting the following new items:

''Sec. 36. Highly fuel-efficient automobile credit.

''Sec. 37. Overpayments of tax.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after October 31, 2005, in taxable years ending after such date.

SA 2411. Mr. McCAIN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

In section 139 of title 23, United States Code, as added by section 1201 of the amendment—

(1) strike ''SET-ASIDE.—'' in subsection (b)(2) and insert ''FUNDING.—'';

(2) strike ''of the amounts made available'' in subsection (b)(2) and insert ''the amounts made available'';

(3) strike ''$439,000,000'' in subsection (b)(2);

(4) strike ''allocated'' in subsection (c)(1)(A) and insert ''apportioned'';

(5) strike ''subsection (d),'' in subsection (c)(1)(B) and insert ''subsection (e).'';

(6) redesignate subsections (d) and (e) as subsections (e) and (f), respectively, and insert the following after subsection (c):

''(d) DISTRIBUTION OF FUNDS.—

''(1) INFRASTRUCTURE PERFORMANCE AND MAINTENANCE PROGRAM DISTRIBUTION.—Notwithstanding section 1101(13) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004, and in lieu of the amounts authorized by that section, there are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for carrying out the infrastructure performance and maintenance program under this section—

''(A) $2,000,000,000 for each of fiscal years 2004 and 2005; and

''(B) $1,750,000,000 for each of fiscal years 2006, 2007, and 2008.

''(2) EQUITY DISTRIBUTION.—On October 1 of each fiscal year, the Secretary shall reserve a sufficient amount of the funding available to carry out this section to provide a final equity adjustment, after making the apportionment under section 105 of this title, for each State to increase the percentage return of all highway apportionments, as compared to the tax payments attributable to the States paid into the Highway Trust Fund (other than the Mass Transit Account), to—

''(A) for fiscal year 2005, 91 percent;

''(B) for fiscal year 2006, 92 percent;
''(C) for fiscal year 2007, 93 percent;
''(D) for fiscal year 2008, 94 percent; and
''(E) for fiscal year 2009, 95 percent.

''(3) REMAINDER DISTRIBUTION.—On October 1 of each fiscal year, the Secretary shall apportion the funds available for allocation under this section among the several States, after the application of paragraph (1), according to the ratio that—

''(1) the percentage of tax payments attributable to highway users in each State paid into the Highway Trust Fund (other than the Mass Transit Account), bears to

''(2) 100 percent of tax payments attributable to highway users in all States paid into the Highway Trust Fund (other than the Mass Transit Account).''; and

(7) strike subsection (e), as redesignated, and insert the following:

''(e) REDISTRIBUTION OF ALLOCATED FUNDS AND OBLIGATION AUTHORITY.—On the date that is 180 days after the date of apportionment, or as soon thereafter as practicable, for each fiscal year, the Secretary shall—

''(1) withdraw—

''(A) any funds allocated to a State under this section that remain unobligated; and

''(B) an equal amount of obligation authority provided for the use of the funds in accordance with section 1101(a)(13) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003; and

''(2) reallocate the funds and redistribute the obligation authority to those States that—

''(A) have fully obligated all amounts allocated under this section for the fiscal year; and

''(B) demonstrate that the State is able to obligate additional amounts for projects eligible under this section before the end of the fiscal year.

''(f) APPLICATION WITH SECTION 105.—Nothwithstanding section 105(a)(2)(H) of this title, section 105(a) shall not apply to funds apportioned under this section.''.

(e) FUNDING CAP FROM HIGHWAY TRUST FUND.—Prior to making any apportionments or allocations under Chapter 1 of USC 23 for fiscal year 2009, the Secretary shall compare the sum of all apportionments and allocations for fiscal years 2004 through 2008 plus the projected apportionments and allocations for fiscal year 2009 to the funding cap of $255,000,000,000. If the total sum of such apportionments and allocations exceeds the funding cap of $255,000,000,000, the Secretary shall proportionally reduce all apportionments and allocations for fiscal year 2009 so the total sum equals $255,000,000,000.

SA 2412. Mr. INHOFE submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of section 4522, insert the following:

(b) CONFORMING AMENDMENTS.—

(1) IN GENERAL.—Section 3 of the Dingell-Johnson Sport Fish Restoration Act (16 U.S.C. 777b) is amended—

(A) by striking ''Sport Fish Restoration Account'' and inserting ''Sport Fish Restoration Trust Fund''; and

(B) by striking ''that Account'' and inserting ''that Trust Fund, except as provided in section 9504(c) of the Internal Revenue Code of 1986''.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) take effect on October 1, 2004.

SA 2413. Mr. INHOFE submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 115, between lines 9 and 10, insert the following:

SEC. 13___. HIGHWAY USE TAX EVASION PROJECTS.

(a) PROJECTS.—Section 143(b) of title 23, United States Code, is amended—

(1) in paragraph (2), by inserting before the period at the end the following: '', except that, for each of fiscal years 2004 through 2009, $2,000,000 shall be available only to carry out intergovernmental enforcement efforts, including research and training'';

(2) in paragraph (3), by inserting before the period at the end the following: '', except as otherwise provided in this section'';

(3) in paragraph (4)—

(A) in subparagraph (F), by striking ''and'' at the end;

(B) in subparagraph (G), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

''(H) to support efforts between States and Indian tribes to address issues relating to State motor fuel taxes; and

''(I) to analyze and implement programs to reduce tax evasion associated with foreign imported fuel.''; and

(4) by adding at the end the following:

''(9) REPORTS.—

''(A) IN GENERAL.—The Commissioner of the Internal Revenue Service and participating States shall submit to the Secretary annual reports that describe the projects, examinations, and criminal investigations funded by and carried out under this section.

''(B) YIELD.—The reports shall specify the annual yield estimated for each project funded under this section.''.

(b) EXCISE SUMMARY TERMINAL ACTIVITY REPORTING SYSTEM.—Section 143(c) of title 23, United States Code, is amended—

(1) in paragraph (1)—

(A) by striking ''Not later than August 1, 1998,'' and inserting ''Not later than 90 days after the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004,'';

(B) by striking ''development'' and inserting ''completion, operation,'';

(C) by striking ''an excise fuel reporting system'' and inserting ''the excise summary terminal activity reporting system''; and

(D) by striking ''(in this subsection referred to as the 'system')'';

(2) in paragraph (2)—

(A) by striking ''the system'' each place it appears and inserting ''the excise summary terminal activity reporting system'';

(B) in subparagraph (A), by striking ''develop'' and inserting ''complete, operate,'';

(C) in subparagraph (B), by striking ''and'' at the end;

(D) in subparagraph (C), by striking the period at the end and inserting ''; and''; and

(E) by adding at the end the following:

''(D) the Commissioner of the Internal Revenue Service shall submit to the Secretary, and the Secretary shall approve, a budget and project plan for the completion, operation, and maintenance of the excise summary terminal activity reporting system.''; and

(3) by striking paragraph (3) and inserting the following:

''(3) FUNDING.—Of the amounts made available to carry out this section for each of fiscal years 2004 through 2009, the Secretary shall make funds available to the Internal Revenue Service to complete, operate, and maintain the excise summary terminal activity reporting system in accordance with this subsection.''.

(c) REGISTRATION SYSTEM AND ELECTRONIC DATABASE.—Section 143 of title 23, United States Code, is amended by adding at the end the following:

''(d) PIPELINE, VESSEL, AND BARGE REGISTRATION SYSTEM.—

''(1) IN GENERAL.—Not later than 90 days after the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004, the Secretary shall enter into a memorandum of understanding with the Commissioner of the Internal Revenue Service for the purposes of the development, operation, and maintenance of a registration system for pipelines, vessels, and barges, and operators of the pipelines, vessels, and barges, that make bulk transfers of taxable fuel.

''(2) ELEMENTS OF MEMORANDUM OF UNDERSTANDING.—The memorandum of understanding shall provide that—

''(A) the Internal Revenue Service shall develop, operate, and maintain the registration system through contracts;

''(B) the Commissioner of the Internal Revenue Service shall submit to the Secretary, and the Secretary shall approve, a budget and project plan for development, operation, and maintenance of the registration system;

''(C) the registration system shall be under the control of the Internal Revenue Service; and

''(D) the registration system shall be made available for use by appropriate State and Federal revenue, tax, and law enforcement authorities, subject to section 6103 of the Internal Revenue Code of 1986.

''(3) FUNDING.—Of the amounts made available to carry out this section for each of fiscal years 2004 through 2009, the Secretary shall make funds available to the Internal Revenue Service to complete, operate, and maintain in accordance with this subsection the registration system described in paragraph (1).

''(e) HEAVY VEHICLE USE TAX PAYMENT DATABASE.—

''(1) IN GENERAL.—Not later than 90 days after the date of enactment of Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004, the Secretary shall enter into a memorandum of understanding with the Commissioner of the Internal Revenue Service for the purposes of the development, operation, and maintenance of an electronic database for heavy vehicle highway use tax payments.

''(2) ELEMENTS OF MEMORANDUM OF UNDERSTANDING.—The memorandum of understanding shall provide that—

''(A) the Internal Revenue Service shall develop, operate, and maintain the electronic database through contracts;

''(B) the Commissioner of the Internal Revenue Service shall submit and the Secretary shall approve a budget and project plan for establishment, operation, and maintenance of the electronic database;

''(C) the electronic database shall be under the control of the Internal Revenue Service; and

''(D) the electronic database shall be made available for use by appropriate State and Federal revenue, tax, and law enforcement authorities, subject to section 6103 of the Internal Revenue Code of 1986.

''(3) FUNDING.—Of the amounts made available to carry out this section for each of fiscal years 2004 through 2009, the Secretary shall make funds available to the Internal Revenue Service to establish, operate, and maintain in accordance with this subsection

the electronic database described in paragraph (1).

''(f) REPORTS.—Not later than March 30 and September 30 of each year, the Internal Revenue Service shall submit to the Secretary reports on the status of the Internal Revenue Service projects funded under this section relating to—

''(1) the excise summary terminal activity reporting system under subsection (c);

''(2) the pipeline, vessel, and barge registration system under subsection (d); and

''(3) the heavy vehicle use tax electronic database under subsection (e).''.

(d) ALLOCATIONS.—Of the amounts made available under section 104(a)(1) of title 23, United States Code, there shall made available for highway use tax evasion projects the following amounts:

(1) For each of fiscal years 2004 through 2009, $4,500,000 shall be allocated to the States.

(2) For fiscal year 2004, $20,050,000 shall be allocated to the Internal Revenue Service, of which $10,500,000 shall be used for the excise summary terminal activity reporting system.

(3) For each of fiscal years 2005 and 2006, $48,000,000 shall be allocated to the Internal Revenue Service, of which $4,500,000 shall be used for the excise summary terminal activity reporting system.

(4) For fiscal year 2007, $38,000,000 shall be allocated to the Internal Revenue Service, of which $4,500,000 shall be used for the excise summary terminal activity reporting system.

(5) For each of fiscal years 2008 and 2009, $4,500,000 shall be allocated to the Internal Revenue Service, which shall be used for the excise summary terminal activity reporting system.

SA 2414. Mr. NICKLES submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 1298, strike lines 16 through 24, and insert:

PART IV—SENSE OF SENATE

It is the sense of the Senate that highway spending should not be funded using a shift in corporate estimated tax receipts.

SA 2415. Mr. BURNS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 737, between lines 17 and 18, insert the following new paragraph:

(4) by inserting after subsection (e), as redesignated, the following:

''(f) MINIMUM APPORTIONMENT AND CRITERIA.—

''(1) MINIMUM APPORTIONMENT.—Notwithstanding any other provision of this section, the Secretary shall grant to any State that qualifies under paragraph (2) and has not received, as a result of other provisions of this section, at least ½ of 1 percent of the total funds authorized for a fiscal year for grants under this section, such additional funds as are necessary to result in such State receiving ½ of 1 percent of the total funds authorized for grants under this section for that fiscal year. Funds for grants under this subsection shall be derived from pro-rata reduction of grant amounts that otherwise would be awarded pursuant to other subsections of this section.

''(2) CRITERIA.—To qualify for a grant under this subsection, a State—

''(A) shall meet the requirements of subsection (a)(2) of this section; and

''(B) shall—

''(i) meet 3 of the 6 criteria for qualifying for grants under this section (as this section was in effect for fiscal year 2003 funding); or

''(ii) for the most recent year for which data is available, have a seat belt utilization rate that is either higher than the national average for that year or higher than the utilization rate in that State in the second most recent year for which data is available.

''(3) USES OF FUNDS.—Grants under this subsection may be used for—

''(A) any activity that was an eligible use of grants under this section for fiscal year 2003;

''(B) any activity otherwise eligible under this section, other than activities that are made eligible only for those States that meet the criteria set forth in subparagraph (b)(2)(A) of this section; and

''(C) any other activity undertaken by the State for the purpose of increasing seat belt utilization unless disapproved by the Secretary on the basis that it bears no relation to that objective.''.

SA 2416. Mr. BAYH (for himself, Mr. LUGAR, and Mrs. CLINTON) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 393, after line 19, add the following:

Subtitle J—Clean School Buses

SEC. 1911. DEFINITIONS.

In this subtitle:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Environmental Protection Agency.

(2) ALTERNATIVE FUEL.—The term ''alternative fuel'' means liquefied natural gas, compressed natural gas, liquefied petroleum gas, hydrogen, propane, or methanol or ethanol at no less than 85 percent by volume.

(3) ALTERNATIVE FUEL SCHOOL BUS.—The term ''alternative fuel school bus'' means a school bus that meets all of the requirements of this subtitle and is operated solely on an alternative fuel.

(4) EMISSIONS CONTROL RETROFIT TECHNOLOGY.—The term ''emissions control retrofit technology'' means a particulate filter or other emissions control equipment that is verified or certified by the Administrator or the California Air Resources Board as an effective emission reduction technology when installed on an existing school bus.

(5) IDLING.—The term ''idling'' means operating an engine while remaining stationary for more than approximately 15 minutes, except that the term does not apply to routine stoppages associated with traffic movement or congestion.

(6) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.

(7) ULTRA-LOW SULFUR DIESEL FUEL.—The term ''ultra-low sulfur diesel fuel'' means diesel fuel that contains sulfur at not more than 15 parts per million.

(8) ULTRA-LOW SULFUR DIESEL FUEL SCHOOL BUS.—The term ''ultra-low sulfur diesel fuel school bus'' means a school bus that meets all of the requirements of this subtitle and is operated solely on ultra-low sulfur diesel fuel.

SEC. 1912. PROGRAM FOR REPLACEMENT OF CERTAIN SCHOOL BUSES WITH CLEAN SCHOOL BUSES.

(a) ESTABLISHMENT.—The Administrator, in consultation with the Secretary and other appropriate Federal departments and agencies, shall establish a program for awarding grants on a competitive basis to eligible entities for the replacement of existing school buses manufactured before model year 1991 with alternative fuel school buses and ultra-low sulfur diesel fuel school buses.

(b) REQUIREMENTS.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Administrator shall establish and publish in the Federal Register grant requirements on eligibility for assistance, and on implementation of the program established under subsection (a), including instructions for the submission of grant applications and certification requirements to ensure compliance with this subtitle.

(2) APPLICATION DEADLINES.—The requirements established under paragraph (1) shall require submission of grant applications not later than—

(A) in the case of the first year of program implementation, the date that is 180 days after the publication of the requirements in the Federal Register; and

(B) in the case of each subsequent year, June 1 of the year.

(c) ELIGIBLE RECIPIENTS.—A grant shall be awarded under this section only—

(1) to 1 or more local or State governmental entities responsible for providing school bus service to 1 or more public school systems or responsible for the purchase of school buses;

(2) to 1 or more contracting entities that provide school bus service to 1 or more public school systems, if the grant application is submitted jointly with the 1 or more school systems to be served by the buses, except that the application may provide that buses purchased using funds awarded shall be owned, operated, and maintained exclusively by the 1 or more contracting entities; or

(3) to a nonprofit school transportation association representing private contracting entities, if the association has notified and received approval from the 1 or more school systems to be served by the buses.

(d) AWARD DEADLINES.—

(1) IN GENERAL.—Subject to paragraph (2), the Administrator shall award a grant made to a qualified applicant for a fiscal year—

(A) in the case of the first fiscal year of program implementation, not later than the date that is 90 days after the application deadline established under subsection (b)(2); and

(B) in the case of each subsequent fiscal year, not later than August 1 of the fiscal year.

(2) INSUFFICIENT NUMBER OF QUALIFIED GRANT APPLICATIONS.—If the Administrator does not receive a sufficient number of qualified grant applications to meet the requirements of subsection (i)(1) for a fiscal year, the Administrator shall award a grant made to a qualified applicant under subsection (i)(2) not later than September 30 of the fiscal year.

(e) TYPES OF GRANTS.—

(1) IN GENERAL.—A grant under this section shall be used for the replacement of school buses manufactured before model year 1991 with alternative fuel school buses and ultra-low sulfur diesel fuel school buses.

(2) NO ECONOMIC BENEFIT.—Other than the receipt of the grant, a recipient of a grant under this section may not receive any economic benefit in connection with the receipt of the grant.

(3) PRIORITY OF GRANT APPLICATIONS.—The Administrator shall give priority to applicants that propose to replace school buses manufactured before model year 1977.

(f) CONDITIONS OF GRANT.—A grant provided under this section shall include the following conditions:

(1) SCHOOL BUS FLEET.—All buses acquired with funds provided under the grant shall be operated as part of the school bus fleet for which the grant was made for a minimum of 5 years.

(2) USE OF FUNDS.—Funds provided under the grant may only be used—

(A) to pay the cost, except as provided in paragraph (3), of new alternative fuel school buses or ultra-low sulfur diesel fuel school buses, including State taxes and contract fees associated with the acquisition of such buses; and

(B) to provide—

(i) up to 20 percent of the price of the alternative fuel school buses acquired, for necessary alternative fuel infrastructure if the infrastructure will only be available to the grant recipient; and

(ii) up to 25 percent of the price of the alternative fuel school buses acquired, for necessary alternative fuel infrastructure if the infrastructure will be available to the grant recipient and to other bus fleets.

(3) GRANT RECIPIENT FUNDS.—The grant recipient shall be required to provide at least—

(A) in the case of a grant recipient described in paragraph (1) or (3) of subsection (c), the lesser of—

(i) an amount equal to 15 percent of the total cost of each bus received; or

(ii) $15,000 per bus; and

(B) in the case of a grant recipient described in subsection (c)(2), the lesser of—

(i) an amount equal to 20 percent of the total cost of each bus received; or

(ii) $20,000 per bus.

(4) ULTRA-LOW SULFUR DIESEL FUEL.—In the case of a grant recipient receiving a grant for ultra-low sulfur diesel fuel school buses, the grant recipient shall be required to provide documentation to the satisfaction of the Administrator that diesel fuel containing sulfur at not more than 15 parts per million is available for carrying out the purposes of the grant, and a commitment by the applicant to use such fuel in carrying out the purposes of the grant.

(5) TIMING.—All alternative fuel school buses, ultra-low sulfur diesel fuel school buses, or alternative fuel infrastructure acquired under a grant awarded under this section shall be purchased and placed in service as soon as practicable.

(g) BUSES.—

(1) IN GENERAL.—Except as provided in paragraph (2), funding under a grant made under this section for the acquisition of new alternative fuel school buses or ultra-low sulfur diesel fuel school buses shall only be used to acquire school buses—

(A) with a gross vehicle weight of greater than 14,000 pounds;

(B) that are powered by a heavy duty engine;

(C) in the case of alternative fuel school buses manufactured in model years 2004 through 2006, that emit not more than 1.8 grams per brake horsepower-hour of nonmethane hydrocarbons and oxides of nitrogen and .01 grams per brake horsepower-hour of particulate matter; and

(D) in the case of ultra-low sulfur diesel fuel school buses manufactured in model years 2004 through 2006, that emit not more than 2.5 grams per brake horsepower-hour of nonmethane hydrocarbons and oxides of nitrogen and .01 grams per brake horsepower-hour of particulate matter.

(2) LIMITATIONS.—A bus shall not be acquired under this section that emits nonmethane hydrocarbons, oxides of nitrogen, or particulate matter at a rate greater than the best performing technology of the same class of ultra-low sulfur diesel fuel school buses commercially available at the time the grant is made.

(h) DEPLOYMENT AND DISTRIBUTION.—The Administrator shall—

(1) seek, to the maximum extent practicable, to achieve nationwide deployment of alternative fuel school buses and ultra-low sulfur diesel fuel school buses through the program under this section; and

(2) ensure a broad geographic distribution of grant awards, with a goal of no State receiving more than 10 percent of the grant funding made available under this section for a fiscal year.

(i) ALLOCATION OF FUNDS.—

(1) IN GENERAL.—Subject to paragraph (2), of the amount of grant funding made available to carry out this section for any fiscal year, the Administrator shall use—

(A) 70 percent for the acquisition of alternative fuel school buses or supporting infrastructure; and

(B) 30 percent for the acquisition of ultra-low sulfur diesel fuel school buses.

(2) INSUFFICIENT NUMBER OF QUALIFIED GRANT APPLICATIONS.—After the first fiscal year in which this program is in effect, if the Administrator does not receive a sufficient number of qualified grant applications to meet the requirements of subparagraph (A) or (B) of paragraph (1) for a fiscal year, effective beginning on August 1 of the fiscal year, the Administrator shall make the remaining funds available to other qualified grant applicants under this section.

(j) REDUCTION OF SCHOOL BUS IDLING.—Each local educational agency (as defined in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801)) that receives Federal funds under the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) is encouraged to develop a policy, consistent with the health, safety, and welfare of students and the proper operation and maintenance of school buses, to reduce the incidence of unnecessary school bus idling at schools when picking up and unloading students.

(k) ANNUAL REPORT.—

(1) IN GENERAL.—Not later than January 31 of each year, the Administrator shall transmit to Congress a report evaluating implementation of the programs under this section and section 1913.

(2) COMPONENTS.—The reports shall include a description of—

(A) the total number of grant applications received;

(B) the number and types of alternative fuel school buses, ultra-low sulfur diesel fuel school buses, and retrofitted buses requested in grant applications;

(C) grants awarded and the criteria used to select the grant recipients;

(D) certified engine emission levels of all buses purchased or retrofitted under the programs under this section and section 1913;

(E) an evaluation of the in-use emission level of buses purchased or retrofitted under the programs under this section and section 1913; and

(F) any other information the Administrator considers appropriate.

(l) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Administrator to carry out this section, to remain available until expended—

(1) $45,000,000 for fiscal year 2005;

(2) $65,000,000 for fiscal year 2006;

(3) $90,000,000 for fiscal year 2007; and

(4) such sums as are necessary for each of fiscal years 2008 and 2009.

SEC. 1913. DIESEL RETROFIT PROGRAM.

(a) ESTABLISHMENT.—The Administrator, in consultation with the Secretary, shall establish a program for awarding grants on a competitive basis to entities for the installation of retrofit technologies for diesel school buses.

(b) ELIGIBLE RECIPIENTS.—A grant shall be awarded under this section only—

(1) to a local or State governmental entity responsible for providing school bus service to 1 or more public school systems;

(2) to 1 or more contracting entities that provide school bus service to 1 or more public school systems, if the grant application is submitted jointly with the 1 or more school systems that the buses will serve, except that the application may provide that buses purchased using funds awarded shall be owned, operated, and maintained exclusively by the 1 or more contracting entities; or

(3) to a nonprofit school transportation association representing private contracting entities, if the association has notified and received approval from the 1 or more school systems to be served by the buses.

(c) AWARDS.—

(1) IN GENERAL.—The Administrator shall seek, to the maximum extent practicable, to ensure a broad geographic distribution of grants under this section.

(2) PREFERENCES.—In making awards of grants under this section, the Administrator shall give preference to proposals that—

(A) will achieve the greatest reductions in emissions of nonmethane hydrocarbons, oxides of nitrogen, or particulate matter per proposal or per bus; or

(B) involve the use of emissions control retrofit technology on diesel school buses that operate solely on ultra-low sulfur diesel fuel.

(d) CONDITIONS OF GRANT.—A grant shall be provided under this section on the conditions that—

(1) buses on which retrofit emissions-control technology are to be demonstrated—

(A) will operate on ultra-low sulfur diesel fuel where such fuel is reasonably available or required for sale by State or local law or regulation;

(B) were manufactured in model year 1991 or later; and

(C) will be used for the transportation of school children to and from school for a minimum of 5 years;

(2) grant funds will be used for the purchase of emission control retrofit technology, including State taxes and contract fees; and

(3) grant recipients will provide at least 15 percent of the total cost of the retrofit, including the purchase of emission control retrofit technology and all necessary labor for installation of the retrofit.

(e) VERIFICATION.—Not later than 90 days after the date of enactment of this Act, the Administrator shall publish in the Federal Register procedures to verify—

(1) the retrofit emissions-control technology to be demonstrated;

(2) that buses powered by ultra-low sulfur diesel fuel on which retrofit emissions-control technology are to be demonstrated will operate on diesel fuel containing not more than 15 parts per million of sulfur; and

(3) that grants are administered in accordance with this section.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Administrator to carry out this section, to remain available until expended—

(1) $20,000,000 for fiscal year 2005;

(2) $35,000,000 for fiscal year 2006;

(3) $45,000,000 for fiscal year 2007; and

(4) such sums as are necessary for each of fiscal years 2008 and 2009.

SA 2417. Mr. HARKIN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 730, strike line 18 and insert the following:

''(4) USE OF SIMULATION TECHNOLOGY.—The Secretary shall use simulation studies to better understand the human factors involved in the research areas described in paragraph (1) and to find possible accident reducing methods where practical.

''(5) REPORTS.—

On page 734, line 8, insert '', including simulation studies,'' after ''activities''.

SA 2418. Mr. CARPER submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 527, line 1, strike ''intercity passenger rail,''.

SA 2419. Mr. CARPER submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 524, line 16, insert ''and intercity rail'' after ''intercity bus''.

SA 2420. Mr. CARPER submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 522, line 21, insert '', which are coordinated with other modes of transportation,'' after ''systems''.

SA 2421. Mr. CARPER submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 590, strike line 9, and insert the following:

subrecipient of assistance under section 5310.

''(D) STATEWIDE TRANSIT PROVIDER GRANTEES.—A statewide transit provider that receives a grant under this section shall be subject to the terms, conditions, requirements, and provisions of this section or section 5311, consistent with the scope and purpose of the grant and the location of the project.'';

SA 2422. Mr. CARPER submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 594, strike lines 15 through 17, and insert the following:

''(E) reductions in local infrastructure costs achieved through compact land use development and positive impacts on the capacity, utilization, or longevity of other surface transportation assets and facilities;

SA 2423. Mr. CARPER submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 542, strike line 24 and all that follows through page 543, line 6, and insert the following:

''(A) an identification of transportation facilities, including major roadways, transit, multimodal and intermodal facilities, intermodal connectors, and other relevant facilities identified by the metropolitan planning organization, which should function as an integrated metropolitan transportation system, emphasizing those facilities that serve important national and regional transportation functions;

SA 2424. Mr. ROCKEFELLER submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 4152 and insert the following:

SEC. 4152. VEHICLE CRASH EJECTION PREVENTION.

(a) IN GENERAL.—Subchapter II of chapter 301 is amended by adding at the end the following:

''§ 30128. Vehicle accident ejection protection

''(a) IN GENERAL.—The Secretary shall issue a safety standard to reduce complete and partial ejection from passenger motor vehicles with a gross vehicle weight rating of up to 10,000 pounds that are involved in accidents that present a risk of occupant ejection. The reduction in such ejections shall be based on the combined ejection-mitigation capabilities of safety technologies, such as advanced side glazing, side curtains, and side impact air bags.

''(b) DOOR LOCK AND RETENTION STANDARD.—The Secretary shall issue a rule to require manufacturers of new passenger motor vehicles distributed in commerce for sale in the United States to make such modifications to door locks, door latches, and retention components of doors in such vehicles as the Secretary determines to be necessary to prevent occupant ejection in vehicle accidents.''.

(b) RULEMAKING DEADLINES.—

(1) RULEMAKING.—The Secretary of Transportation shall issue—

(A) a notice of a proposed rulemaking under section 30128 of title 49, United States Code, not later than June 30, 2005; and

(B) a final rule under that section not later than June 30, 2006.

(2) EFFECTIVE DATE OF REQUIREMENTS.—Any requirement imposed under the final rule issued under paragraph (1) shall become fully effective no later than December 31, 2008.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation $500,000 for each of fiscal years 2004 and 2005 to promulgate rules under section 30128 of title 49, United States Code.

(d) CONFORMING AMENDMENT.—The chapter analysis for chapter 301 is amended by inserting after the item relating to section 30127 the following:

''30128. Vehicle accident ejection protection.''.

SA 2425. Mr. LOTT submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 389, between lines 15 and 16, insert the following:

SEC. 18___. MULTISTATE INTERNATIONAL CORRIDOR DEVELOPMENT PROGRAM.

(a) ESTABLISHMENT.—The Secretary shall establish a program to develop international trade corridors to facilitate the movement of freight from international ports of entry through and to the interior of the United States.

(b) ELIGIBLE RECIPIENTS.—State transportation departments and metropolitan planning organizations shall be eligible to receive and administer funds provided under the program.

(c) ELIGIBLE ACTIVITIES.—The Secretary shall make allocations under this program for any activity eligible for funding under title 23, United States Code, including multistate highway and multistate multimodal planning and project construction.

(d) OTHER PROVISIONS REGARDING ELIGIBILITY.—All activities funded under this program shall be consistent with the continuing, cooperative, and comprehensive planning processes required by sections 134 and 135 of title 23, United States Code.

(e) SELECTION CRITERIA.—The Secretary shall only select projects for corridors—

(1) that have significant levels or increases in truck and traffic volume relating to international freight movement;

(2) connect to at least 1 international terminus;

(3) traverse at least 3 States; and

(4) are identified by section 115(c) of the Intermodal Transportation Efficiency Act of 1991 (Public Law 102–240; 105 Stat. 2032).

(f) PROGRAM PRIORITIES.—In administering the program, the Secretary shall—

(1) encourage and enable States and other jurisdictions to work together to develop plans for multimodal and multijurisdictional transportation decisionmaking; and

(2) give priority to studies that emphasize multimodal planning, including planning for operational improvements that increase mobility, freight productivity, access to marine ports, safety, and security while enhancing the environment.

(g) FEDERAL SHARE.—The Federal share required for any study carried out under this section shall be available for obligation in the same manner as if the funds were apportioned under chapter I of title 23, United States Code.

SA 2426. Mr. DASCHLE submitted an amendment intended to be proposed to

amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. SENIOR TRANSPORTATION DEMONSTRATION PROJECT GRANTS.

(a) DEFINITIONS.—As used in this section, the following definitions shall apply:

(1) ELIGIBLE ENTITY.—The term ''eligible entity'' includes—

(A) States;

(B) units of local government;

(C) local transportation organizations;

(D) nonprofit organizations;

(E) Indian tribes; and

(F) institutions of higher learning.

(2) SENIOR CITIZEN.—The term ''senior citizen'' means any individual who has reached 65 years of age.

(b) GRANTS AUTHORIZED.—The Secretary of Transportation shall award demonstration project grants to 10 eligible entities to establish mass transportation assistance pilot programs to plan and provide adequate and appropriate transportation for senior citizens.

(c) USE OF FUNDS.—Grant funds received under this section may be used to—

(1) evaluate the state of transportation services for senior citizens;

(2) recognize barriers to mobility that senior citizens encounter in their communities;

(3) establish partnerships and promote coordination among community stakeholders, including public, not-for-profit, and for-profit providers of transportation services for senior citizens;

(4) identify future transportation needs of senior citizens within local communities;

(5) establish strategies to meet the unique needs of healthy and frail senior citizens; and

(6) facilitate funding for operating expenses under section 5310 of title 49, United States Code.

(d) APPLICATION.—

(1) IN GENERAL.—Each eligible entity desiring a grant under this section shall submit an application to the Secretary at such time, at such place, and containing such information as the Secretary may reasonably require.

(2) SELECTION OF GRANTEES.—

(A) IN GENERAL.—The Secretary shall establish a committee, comprised of transportation providers, transportation planners, academicians, and consumers, who are interested in and knowledgeable of senior transportation issues, to select the eligible entities that will receive planning and direct service transportation demonstration project grants under this section.

(B) GEOGRAPHICAL REPRESENTATION.—Except as provided under subparagraph (C), the committee described in subparagraph (A) shall base its selection of grantees based on a fair representation of various geographical locations throughout the United States.

(C) PILOT PROGRAM STATES.—Not less than 1 grant shall be awarded to eligible entities within each of the following States:

(i) Connecticut.

(ii) South Dakota.

(iii) Alabama.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $10,000,000 for fiscal year 2005 to carry out this section, which shall remain available until expended.

SA 2427. Mr. DASCHLE submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 36, strikes lines 11 through 20 and insert the following:

(i) $325,000,000 for fiscal year 2004;

(ii) $350,000,000 for fiscal year 2005;

(iii) $375,000,000 for fiscal year 2006;

(iv) $400,000,000 for fiscal year 2007;

(v) $425,000,000 for fiscal year 2008; and

(vi) $425,000,000 for fiscal year 2009.

SA 2428. Mr. DASCHLE submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 48, between lines 16 and 17, insert the following:

(k) AMOUNT OF OBLIGATION LIMITATION FOR INDIAN RESERVATION ROADS.—The amount of any obligation limitation for the Indian reservation roads program shall be equal to the total amount of contract authority made available for the Indian reservation roads program for fiscal years 2004 through 2009.

SA 2429. Mr. DASCHLE submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 398 at the appropriate place insert the following:

(H) $2,000,000 for fiscal year 2005 shall remain available until expended for asphalt and asphalt-related reclamation research at the South Dakota School of Mines.

SA 2430. Mr. DORGAN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 147, after the item following line 24, add the following:

SEC. 1409. OPEN CONTAINER REQUIREMENTS.

Section 154 of title 23, United States Code, is amended by striking subsection (c) and inserting the following:

''(c) TRANSFER OF FUNDS.—

''(1) IN GENERAL.—The Secretary shall withhold the applicable percentage for the fiscal year of the amount required to be apportioned for Federal-aid highways to any State under each of paragraphs (1), (3), and (4) of section 104(b), if a State has not enacted or is not enforcing a provision described in subsection (b), as follows:

''For:	**The applicable percentage is:**
Fiscal year 2008	2 percent.
Fiscal year 2009	2 percent.
Fiscal year 2010	2 percent.
Fiscal year 2011 and each subsequent fiscal year	2 percent.

''(2) RESTORATION.—If (during the 4-year period beginning on the date the apportionment for any State is reduced in accordance with this subsection) the Secretary determines that the State has enacted and is enforcing a provision described in subsection (b), the apportionment of the State shall be increased by an amount equal to the amount of the reduction made during the 4-year period.''.

SA 2431. Mr. GRAHAM of Florida submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 56, strike line 16 and all that follows through page 57, line 2, and insert the following:

''(3) MINIMUM SHARE OF TAX PAYMENTS.—

''(A) IN GENERAL.—Notwithstanding subsection (d), for each fiscal year, the Secretary shall allocate among the States amounts sufficient to ensure that no State receives a percentage of apportionments for the fiscal year for the programs specified in subsection (a)(2) that is less than the applicable percentage under subparagraph (B) of estimated tax payments attributable to highway users in the State paid into the Highway Trust Fund (other than the Mass Transit Account) in the most recent fiscal year for which data are available.

''(B) MINIMUM PERCENTAGES.—The percentage referred to in subparagraph (A) shall be—

''(i) for fiscal year 2004, 90.5 percent;

''(ii) for fiscal year 2005, 91 percent;

''(iii) for fiscal year 2006, 92 percent;

''(iv) for fiscal year 2007, 93 percent;

''(v) for fiscal year 2008, 94 percent; and

''(vi) for fiscal year 2009, 95 percent.

''(C) ADJUSTMENT.—Funding for the programs under subsection (a)(2) shall be adjusted proportionately so that the total funding proportioned complies with the obligation limitations under section 1102 of the Safe, Accountable, Flexible, and Efficient Equity Act of 2003.

SA 2432. Mr. GRAHAM of Florida submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE, to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 52, strike line 1 and all that follows through page 58, line 21, and insert the following:

''(1) IN GENERAL.—Subject to subsections (c) and (e), for each of fiscal years 2004 through 2009, the Secretary shall allocate among the States amounts sufficient to ensure that no State receives a percentage of the total apportionments for the fiscal year for the programs specified in paragraph (2) that is less than the percentage calculated under subsection (b).

''(2) SPECIFIC PROGRAMS.—The programs referred to in subsection (a) are—

''(A) the Interstate maintenance program under section 119;

''(B) the national highway system program under section 103;

''(C) the bridge program under section 144;

''(D) the surface transportation program under section 133;

''(E) the highway safety improvement program under section 148;

''(F) the congestion mitigation and air quality improvement program under section 149;

''(G) metropolitan planning programs under section 104(f) (other than planning programs funded by amounts provided under the equity bonus program under this section);

''(H) the infrastructure performance and maintenance program under section 139;

''(I) the equity bonus program under this section;

''(J) the Appalachian development highway system program under subtitle IV of title 40;

''(K) the recreational trails program under section 206;

''(L) the safe routes to schools program under section 150; and

''(M) the rail-highway grade crossing program under section 130.

''(b) STATE PERCENTAGE.—

''(1) IN GENERAL.—The percentage referred to in subsection (a) for each State shall be—

''(A) 95 percent of the quotient obtained by dividing—

''(i) the estimated tax payments attributable to highway users in the State paid into the Highway Trust Fund (other than the Mass Transit Account) in the most recent fiscal year for which data are available; by

''(ii) the estimated tax payments attributable to highway users in all States paid into the Highway Trust Fund (other than the Mass Transit Account) for the fiscal year; or

''(B) for a State with a total population density of less than 20 persons per square mile, as reported in the decennial census conducted by the Federal Government in 2000, a total population of less than 1,000,000, as reported in that decennial census, or a median household income of less than $35,000, as reported in that decennial census, the greater of—

''(i) the percentage under paragraph (1); or

''(ii) the average percentage of the State's share of total apportionments for the period of fiscal years 1998 through 2003 for the programs specified in paragraph (2).

''(2) SPECIFIC PROGRAMS.—The programs referred to in paragraph (1)(B)(ii) are (as in effect on the day before the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004)—

''(A) the Interstate maintenance program under section 119;

''(B) the national highway system program under section 103;

''(C) the bridge program under section 144;

''(D) the surface transportation program under section 133;

''(E) the recreational trails program under section 206;

''(F) the high priority projects program under section 117;

''(G) the minimum guarantee provided under this section;

''(H) revenue aligned budget authority amounts provided under section 110;

''(I) the congestion mitigation and air quality improvement program under section 149;

''(J) the Appalachian development highway system program under subtitle IV of title 40; and

''(K) metropolitan planning programs under section 104(f).

''(c) SPECIAL RULES.—

''(1) MINIMUM COMBINED ALLOCATION.—For each fiscal year, before making the allocations under subsection (a)(1), the Secretary shall allocate among the States amounts sufficient to ensure that no State receives a combined total of amounts allocated under subsection (a)(1), apportionments for the programs specified in subsection (a)(2), and amounts allocated under this subsection, that is less than 110 percent of the average for fiscal years 1998 through 2003 of the annual apportionments for the State for all programs specified in subsection (b)(2).

''(2) NO NEGATIVE ADJUSTMENT.—Notwithstanding subsection (e), no negative adjustment shall be made under subsection (a)(1) to the apportionment of any State.

''(3) MINIMUM SHARE OF TAX PAYMENTS.—Notwithstanding subsection (e), for each fiscal year, the Secretary shall allocate among the States amounts sufficient to ensure that no State receives a percentage of apportionments for the fiscal year for the programs specified in subsection (a)(2) that is less than 90.5 percent of the percentage share of the State of estimated tax payments attributable to highway users in the State paid into the Highway Trust Fund (other than the Mass Transit Account) in the most recent fiscal year for which data are available.

''(d) FINAL EQUITY BONUS.—A final equity adjustment shall be made for all States to raise the percentage return of all highway apportionments and allocations, as compared with the tax payments attributable to that State paid into the Highway Trust Fund (other than the Mass Transit Account), to the following percentages:

''(1) Fiscal year 2005, 91 percent.

''(2) Fiscal year 2006, 92 percent.

''(3) Fiscal year 2007, 93 percent.

''(4) Fiscal year 2008, 94 percent.

''(5) Fiscal year 2009, 95 percent.

''(e) LIMITATION ON ADJUSTMENTS.—

''(1) IN GENERAL.—Except as provided in paragraphs (2) and (3) of subsection (c), no State shall receive, for any fiscal year, additional amounts under subsection (a)(1) if—

''(A) the total apportionments of the State for the fiscal year for the programs specified in subsection (a)(2); exceed

''(B) the percentage of the average, for the period of fiscal years 1998 through 2003, of the annual apportionments of the State for all programs specified in subsection (b)(2), as specified in paragraph (2).

''(2) PERCENTAGES.—The percentages referred to in paragraph (1)(B) are—

''(A) for fiscal year 2004, 120 percent;

''(B) for fiscal year 2005, 130 percent;

''(C) for fiscal year 2006, 134 percent;

''(D) for fiscal year 2007, 137 percent;

''(E) for fiscal year 2008, 145 percent; and

''(F) for fiscal year 2009, 250 percent.

''(f) PROGRAMMATIC DISTRIBUTION OF FUNDS.—The Secretary shall apportion the amounts made available under this section so that the amount apportioned to each State under this section for each program referred to in subparagraphs (A) through (G) of subsection (a)(2) is equal to the amount determined by multiplying the amount to be apportioned under this section by the proportion that—

''(1) the amount of funds apportioned to each State for each program referred to in subparagraphs (A) through (G) of subsection (a)(2) for a fiscal year; bears to

''(2) the total amount of funds apportioned to each State for all such programs for the fiscal year.

''(g) METRO PLANNING SET ASIDE.—Notwithstanding section 104(f), no set aside provided for under that section shall apply to funds allocated under this section.

''(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) such sums as are necessary to carry out this section for each of fiscal years 2004 through 2009.''.

SA 2433. Mr. GRAHAM of Florida submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE, to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 63, strike line 23 and all that follows through page 64, line 2, and insert the following:

''(2) EQUITY BONUS.—A sufficient amount of funding available to carry out this section shall be reserved to provide a final equity adjustment for each State to increase the percentage return of all highway apportionments and allocations, as compared to the tax payments attributable to the State paid into the Highway Trust Fund (other than the Mass Transit Account), to—

''(A) for fiscal year 2005, 91 percent;

''(B) for fiscal year 2006, 92 percent;

''(C) for fiscal year 2007, 93 percent;

''(D) for fiscal year 2008, 94 percent; and

''(E) for fiscal year 2009, 95 percent.

SA 2435. Mr. GRAHAM of Florida submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE, to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 57, strike line 6 and all that follows through line 23 and insert the following: receive, for any of fiscal years 2004 through 2008, additional amounts under subsection (a)(1) if—

''(A) the total apportionments of the State for the fiscal year for the programs specified in subsection (a)(2); exceed

''(B) the percentage of the average, for the period of fiscal years 1998 through 2003, of the annual apportionments of the State for all programs specified in subsection (b)(2), as specified in paragraph (2).

''(2) PERCENTAGES.—The percentages referred to in paragraph (1)(B) are—

''(A) for fiscal year 2004, 120 percent;

''(B) for fiscal year 2005, 130 percent;

''(C) for fiscal year 2006, 134 percent;

''(D) for fiscal year 2007, 137 percent; and

''(E) for fiscal year 2008, 145 percent.

SA 2431. Mr. GRAHAM of Florida submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 1030, after line 21, add the following:

SEC. 5004. INCREASE IN HIGHWAY FUELS TAX RATE.

(a) IN GENERAL.—Section 4081(a)(2)(A) (relating to rates of tax) is amended—

(1) by striking ''18.3 cents'' in clause (i) and inserting ''23.1 cents'', and

(2) by striking ''24.3 cents'' in clause (ii) and inserting ''30.7 cents''.

(b) SECRETARIAL ADJUSTMENT.—Notwithstanding any provision of the Internal Revenue Code of 1986 to the contrary, not later than 30 days before the tax increase date (as defined in subsection (d)(3)(F)), the Secretary of the Treasury shall determine and provide for the proper rate, exemption, and credit adjustments necessary to maintain a comparable rate reduction to the rate imposed such date on gasoline, diesel fuel, or kerosene under section 4081 of the Internal Revenue Code of 1986 for any fuel, fuel mixture, or fuel use with respect to which such a reduction is in effect on such date.

(c) FLOOR STOCKS TAX.—

(1) IN GENERAL.—There is hereby imposed on highway fuel held on a tax increase date, by any person a tax equal to—

(A) the tax which would have been imposed on the day before such date on such fuel had

the amendments made by this section been in effect at all times before such date, reduced by

(B) the tax imposed before such date under section 4081 of the Internal Revenue Code of 1986, as in effect on the day before such tax increase date.

(2) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—A person holding gasoline, diesel fuel, or kerosene on a tax increase date, to which the tax imposed by paragraph (1) applies shall be liable for such tax.

(B) METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be paid in such manner as the Secretary shall prescribe.

(C) TIME FOR PAYMENT.—The tax imposed by paragraph (1) shall be paid on or before the date which is 3 months after the tax increase date.

(3) DEFINITIONS.—For purposes of this subsection—

(A) HELD BY A PERSON.—Highway fuel shall be considered as ''held by a person'' if title thereto has passed to such person (whether or not delivery to the person has been made).

(B) HIGHWAY FUEL.—The term ''highway fuel'' means gasoline, diesel fuel, and kerosene.

(C) GASOLINE.—The term ''gasoline'' has the meaning given such term by section 4083(a)(2) of such Code.

(D) DIESEL FUEL.—The term ''diesel fuel'' has the meaning given such term by section 4083(a)(3) of such Code.

(E) SECRETARY.—The term ''Secretary'' means the Secretary of the Treasury or the Secretary's delegate.

(F) TAX INCREASE DATE.—The term ''tax increase date'' means July 1, 2004.

(4) EXCEPTION FOR EXEMPT USES.—The tax imposed by paragraph (1) shall not apply to highway fuel held by any person exclusively for any use to the extent a credit or refund of the tax imposed by section 4081 of such Code, as the case may be, is allowable for such use.

(5) EXCEPTION FOR FUEL HELD IN VEHICLE TANK.—No tax shall be imposed by paragraph (1) on highway fuel held in the tank of a motor vehicle, motorboat, train, or aircraft.

(6) OTHER LAW APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4081 of such Code shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply with respect to the floor stock taxes imposed by paragraph (1) to the same extent as if such taxes were imposed by such section 4081.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on July 1, 2004.

SA 2436. Mr. GRAHAM of Florida submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 1030, after line 21, add the following:

SEC. 5004. INCREASE IN HIGHWAY FUELS TAX RATE.

(a) IN GENERAL.—Section 4081(a)(2)(A) (relating to rates of tax) is amended—

(1) by striking ''18.3 cents'' in clause (i) and inserting ''22 cents'', and

(2) by striking ''24.3 cents'' in clause (ii) and inserting ''29.2 cents''.

(b) INFLATION ADJUSTMENT.—Section 4081(a) is amended by adding at the end the following new paragraph:

''(3) INFLATION ADJUSTMENT OF HIGHWAY MOTOR FUELS EXCISE TAX RATES.—In the case of any calendar year beginning after 2004, each of the rates of tax specified in clauses (i) and (ii) of paragraph (2)(A) shall be increased by an amount equal to—

''(1) such rate of tax, multiplied by

''(2) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year, by substituting 'calendar year 2003' for 'calendar year 1992' in subparagraph (B) thereof.''.

(c) SECRETARIAL ADJUSTMENT.—Notwithstanding any provision of the Internal Revenue Code of 1986 to the contrary, not later than 30 days before any tax increase date (as defined in subsection (d)(3)(F)), the Secretary of the Treasury shall determine and provide for the proper rate, exemption, and credit adjustments necessary to maintain a comparable rate reduction to the rate imposed such date on gasoline, diesel fuel, or kerosene under section 4081 of the Internal Revenue Code of 1986 for any fuel, fuel mixture, or fuel use with respect to which such a reduction is in effect on such date.

(d) FLOOR STOCKS TAX.—

(1) IN GENERAL.—There is hereby imposed on highway fuel held on a tax increase date, by any person a tax equal to—

(A) the tax which would have been imposed on the day before such date on such fuel had the amendments made by this section been in effect at all times before such date, reduced by

(B) the tax imposed before such date under section 4081 of the Internal Revenue Code of 1986, as in effect on the day before such tax increase date.

(2) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—A person holding gasoline, diesel fuel, or kerosene on a tax increase date, to which the tax imposed by paragraph (1) applies shall be liable for such tax.

(B) METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be paid in such manner as the Secretary shall prescribe.

(C) TIME FOR PAYMENT.—The tax imposed by paragraph (1) shall be paid on or before the date which is 3 months after the tax increase date.

(3) DEFINITIONS.—For purposes of this subsection—

(A) HELD BY A PERSON.—Highway fuel shall be considered as ''held by a person'' if title thereto has passed to such person (whether or not delivery to the person has been made).

(B) HIGHWAY FUEL.—The term ''highway fuel'' means gasoline, diesel fuel, and kerosene.

(C) GASOLINE.—The term ''gasoline'' has the meaning given such term by section 4083(a)(2) of such Code.

(D) DIESEL FUEL.—The term ''diesel fuel'' has the meaning given such term by section 4083(a)(3) of such Code.

(E) SECRETARY.—The term ''Secretary'' means the Secretary of the Treasury or the Secretary's delegate.

(F) TAX INCREASE DATE.—The term ''tax increase date'' means July 1, 2004, and January 1 of each calendar year beginning after 2004.

(4) EXCEPTION FOR EXEMPT USES.—The tax imposed by paragraph (1) shall not apply to highway fuel held by any person exclusively for any use to the extent a credit or refund of the tax imposed by section 4081 of such Code, as the case may be, is allowable for such use.

(5) EXCEPTION FOR FUEL HELD IN VEHICLE TANK.—No tax shall be imposed by paragraph (1) on highway fuel held in the tank of a motor vehicle, motorboat, train, or aircraft.

(6) OTHER LAW APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4081 of such Code shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply with respect to the floor stock taxes imposed by paragraph (1) to the same extent as if such taxes were imposed by such section 4081.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on July 1, 2004.

SA 2437. Mr. GRAHAM of Florida submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 346, line 13, strike ''and Washington'' and insert ''Washington, and any State with a seaport affected by increased trade volume due to the North American Free Trade Agreement''.

SA 2438. Mr. GRAHAM of Florida submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 288, strike line 16 and all that follows through page 289, line 18.

On page 293, after the matter following line 22, add the following:

(d) TRAFFIC INCIDENT MANAGEMENT PROGRAM.—

(1) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code, as amended by this Act, is further amended by adding at the end the following new section:

''§ 168a. Traffic incident management program

''(a) IN GENERAL.—The Secretary shall establish and implement a traffic incident management program in accordance with this section to assist States and localities in—

''(1) regional traffic incident management program planning; and

''(2) carrying out projects to mitigate the effects of traffic delays due to accidents, breakdowns, and other non-recurring incidents on highways.

''(b) USE OF FUNDS.—Funds apportioned to a State under this section may be used for—

''(1) regional collaboration and coordination activities that lead to regional traffic incident management policies, programs, plans, procedures, and agreements;

''(2) purchase or lease of telecommunications equipment for first responders as part of the development of a regional traffic incident management program;

''(3) purchase or lease of equipment to support the clearance of traffic incidents;

''(4) payments to contractors for towing and recovery services as part of a regional traffic incident management program;

''(5) rental of vehicle storage or staging areas immediately adjacent to roadways as part of a regional traffic incident management program;

''(6) traffic service patrols as part of a regional traffic incident management program;

''(7) enhanced hazardous materials incident response;

''(8) traffic management systems in support of traffic incident management;

''(9) traffic incident management training;

''(10) crash investigation equipment;

''(11) other activities under a regional traffic incident management plan; and

''(12) Statewide incident reporting systems as described in section 169.

''(c) REGIONAL TRAFFIC INCIDENT MANAGEMENT PLAN.—

''(1) IN GENERAL.—Funds apportioned under this section may not be obligated for an urbanized area with a population greater than 200,000 until a regional traffic incident management plan is developed for such urbanized area.

''(2) PLAN DEVELOPMENT.—

''(A) COLLABORATION.—Any urbanized area described in paragraph (1) that receives funds apportioned under this section shall engage in regional collaboration and coordination activities to develop the regional traffic incident management plan required for such area under that paragraph.

''(B) PLAN ELEMENTS.—The regional traffic incident management plan for an urbanized area under paragraph (1) shall include—

''(i) a strategy, adopted by transportation, public safety, and appropriate private sector participants, for funding, implementing, managing, operating, and evaluating the traffic incident management program initiatives and activities for the urbanized area in manner that ensures regional coordination of such initiatives and activities;

''(ii) an estimate of the impact of the plan on traffic delays; and

''(iii) a description of the means by which traffic incident management information will be shared among operators, service providers, public safety officials, and the general public.

''(C) AVAILABILITY OF FUNDS.—The development of a regional traffic incident management plan shall constitute regional collaboration and coordination activities for purposes of subsection (b)(1) for which funds apportioned under this section may be obligated.

''(d) FUNDING.—

''(1) IN GENERAL.—There is hereby made available from the Highway Trust Fund (other than the Mass Transit Account) for obligation without further appropriation, $500,000,000 for each of fiscal years 2004 through 2009 to carry out this section.

''(2) APPORTIONMENT AMONG STATES.—Funds made available under paragraph (1) shall be apportioned among the States according to the ratio by which the aggregate population of each State, or part thereof, in urbanized areas with a population greater than 200,000 bears to the total population of all States, or parts thereof, in such urbanized areas.

''(3) DISTRIBUTION WITHIN STATES.—Funds apportioned to a State under paragraph (2) shall be made available to carry out projects and activities under regional traffic incident managements plans in each urbanized area in the State with a population greater than 200,000 according to the ratio by which the population of such urbanized area, or part thereof, in the State bears to the total population of all such urbanized areas in the State.

''(e) DETERMINATION OF POPULATIONS.—For purposes of determining populations of areas under this section, the Secretary shall use information from the most current decennial census, as supplied by the Secretary of Commerce.''.

(2) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, as amended by this Act, is further amended by inserting after the item relating to section 168 the following new item:

''168a. Traffic incident management program.''.

(3) EQUITY BONUS.—Section 105(a)(2) of title 23, United States Code, as amended by section 1104 of this Act, is further amended—

(A) in subparagraph (L), by striking ''and'' at the end;

(B) in subparagraph (M), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following new subparagraph:

''(N) the traffic incident management program under section 168a.''.

(4) OFFSET.—The amount available for the infrastructure performance and maintenance plan required by section 139 of title 23, United States Code, as added by section 1201, is hereby reduced by $3,000,000,000 in order to provide an offset for the costs of the traffic incident management program required by section 168a of title 23, United States Code, as added by paragraph (1).

On page 295, beginning on line 4, strike ''section 1701(c)(1))'' and insert ''section 1701(d)(1))''.

SA 2439. Mr. GRAHAM of Florida submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 460, strike lines 18 through 23.

SA 2440. Mr. GRAHAM of Florida submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 186, between lines 7 and 8, insert the following:

(c) SAVINGS PROVISION.—

(1) NO EFFECT ON EXISTING ENVIRONMENTAL REVIEW PROCESSES.—Nothing in this section—

(A) affects any environmental review process developed and approved under section 1309 of the Transportation Equity Act for the 21st Century (112 Stat. 232), as in effect on the day before the date of enactment of this Act; or

(B) prevents the Secretary, with the concurrence of any cooperating agencies, from developing environmental review processes that are consistent with the provisions of that section.

(2) ELIGIBILITY FOR ASSISTANCE.—Agencies that participated in an environmental review process under section 1309 of the Transportation Equity Act for the 21st Century that is continued under section 326 of title 23, United States Code, shall be eligible for assistance under subsection (j) of the latter section.

SA 2441. Ms. STABENOW (for herself and Mr. LEVIN) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 611, strike line 21 and all that follows through page 613, line 9, and insert the following:

''(B)(i) $101,800,000 of the amounts made available under section 5338(b)(4) shall be allocated for the Bus Transit Equity Subaccount, established under paragraph (7); and

''(i) the remaining amounts made available under section 5338(b)(4) shall be allocated for capital projects for buses and bus-related equipment and facilities.

''(3) FIXED GUIDEWAY MODERNIZATION.—The amounts made available for fixed guideway modernization under section 5338(b)(2)(K) for fiscal year 2005 and each fiscal year thereafter shall be allocated in accordance with section 5337.

''(4) PRELIMINARY ENGINEERING.—Not more that 8 percent of the allocation described in paragraphs (1)(A) and (2)(A) may be expended on preliminary engineering.

''(5) FUNDING FOR FERRY BOATS.—Of the amounts described in paragraphs (1)(A) and (2)(A), $10,400,000 shall be available in each of the fiscal years 2004 through 2009 for capital projects in Alaska and Hawaii for new fixed guideway systems and extension projects utilizing ferry boats, ferry boat terminals, or approaches to ferry boat terminals.

''(6) BUS AND BUS FACILITY GRANTS.—

''(A) CONSIDERATIONS.—In making grants under paragraphs (1)(C) and (2)(B), the Secretary shall consider the age and condition of buses, bus fleets, related equipment, and bus-related facilities.

''(B) PROJECTS NOT IN URBANIZED AREAS.—Of the amounts made available under paragraphs (1)(C) and (2)(B), not less than 5.5 percent shall be available in each fiscal year for projects that are not in urbanized areas.

''(C) INTERMODAL TERMINALS.—Of the amounts made available under paragraphs (1)(C) and (2)(B), not less than $75,000,000 shall be available in each fiscal year for intermodal terminal projects, including the intercity bus portion of such projects.

''(7) BUS TRANSIT EQUITY SUBACCOUNT.—

''(A) ESTABLISHMENT.—There is established a Bus Transit Equity Subaccount within the Mass Transit Account of the Highway Trust Fund.

''(B) ELIGIBILITY.—Any of the 50 States shall be eligible for funding under the Bus Transit Equity Subaccount if the State—

''(i) is otherwise scheduled to receive under sections 5307, 5309, 5310, and 5311, for fiscal years 2004 through 2009, an amount that is less than 175 percent of the amount the State received under sections 5307, 5309, 5310, and 5311, for fiscal years 1998 through 2003; and

''(ii) received less than 1.25 percent of the total amount allocated to the 50 States in fiscal year 2002 for fixed guideways modernization and new starts.

''(C) ALLOCATION.—Each eligible State under subparagraph (B) shall be allocated from the Bus Transit Equity Subaccount, for each of the fiscal years 2005 through 2009, an amount that is equal to 20 percent of the difference between the amount the State is otherwise scheduled to receive under sections 5307, 5309, 5310, and 5311, for fiscal years 2004 through 2009, and the amount which is equal to 175 percent of the amount the State received under sections 5307, 5309, 5310, and 5311 for fiscal years 1998 through 2003.''.

SA 2442. Mr. SARBANES (for himself, Ms. MIKULSKI, and Mr. ALLEN) submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 1168, insert between lines 16 and 17 the following:

SEC. 5507a. FEDERAL EMPLOYEE COMMUTER BENEFITS.

(a) SHORT TITLE.—This section may be cited as the ''Federal Employee Commuter Benefits Act of 2004''.

(b) TRANSIT PASS TRANSPORTATION FRINGE BENEFITS.—

(1) IN GENERAL.—Effective as of the first day of the next fiscal year beginning after the date of the enactment of this Act, each covered agency shall implement a program under which all qualified Federal employees serving in or under such agency shall be offered transit pass transportation fringe benefits, as described in paragraph (2).

(2) BENEFITS DESCRIBED.—The benefits described in this paragraph are, as of any given date, the transit pass transportation fringe benefits which, under section 2 of Executive Order 13150, are then currently required to be offered by Federal agencies in the National Capital Region.

(3) DEFINITIONS.—In this subsection—

(A) the term ''covered agency'' means any agency, to the extent of its facilities in the National Capital Region;

(B) the term ''agency'' means any agency (as defined by 7905(a)(2) of title 5, United States Code) not otherwise covered by section 2 of Executive Order 13150, the United States Postal Service, the Postal Rate Commission, and the Smithsonian Institution;

(C) the term ''National Capital Region'' includes the District of Columbia and every county or other geographic area covered by section 2 of Executive Order 13150;

(D) the term ''Executive Order 13150'' refers to Executive Order 13150 (5 U.S.C. 7905 note);

(E) the term ''Federal agency'' is used in the same way as under section 2 of Executive Order 13150; and

(F) any determination as to whether or not one is a ''qualified Federal employee'' shall be made applying the same criteria as would apply under section 2 of Executive Order 13150.

(4) RULE OF CONSTRUCTION.—Nothing in this subsection shall be considered to require that a covered agency—

(A) terminate any program or benefits in existence on the date of the enactment of this Act, or postpone any plans to implement (before the effective date referred to in paragraph (1)) any program or benefits permitted or required under any other provision of law; or

(B) discontinue (on or after the effective date referred to in paragraph (1)) any program or benefits referred to in subparagraph (A), so long as such program or benefits satisfy the requirements of paragraphs (1) through (3).

(c) AUTHORITY TO USE GOVERNMENT VEHICLES TO TRANSPORT FEDERAL EMPLOYEES BETWEEN THEIR PLACE OF EMPLOYMENT AND MASS TRANSIT FACILITIES.—

(1) IN GENERAL.—Section 1344 of title 31, United States Code, is amended—

(A) by redesignating subsections (g) and (h) as subsections (h) and (i), respectively; and

(B) by inserting after subsection (f) the following:

''(g)(1) A passenger carrier may be used to transport an officer or employee of a Federal agency between the officer's or employee's place of employment and a mass transit facility (whether or not publicly owned) in accordance with succeeding provisions of this subsection.

''(2) Notwithstanding section 1343, a Federal agency that provides transportation services under this subsection (including by passenger carrier) shall absorb the costs of such services using any funds available to such agency, whether by appropriation or otherwise.

''(3) In carrying out this subsection, a Federal agency shall—

''(A) to the maximum extent practicable, use alternative fuel vehicles to provide transportation services;

''(B) to the extent consistent with the purposes of this subsection, provide transportation services in a manner that does not result in additional gross income for Federal income tax purposes; and

''(C) coordinate with other Federal agencies to share, and otherwise avoid duplication of, transportation services provided under this subsection.

''(4) For purposes of any determination under chapter 81 of title 5, an individual shall not be considered to be in the 'performance of duty' by virtue of the fact that such individual is receiving transportation services under this subsection.

''(5)(A) The Administrator of General Services, after consultation with the National Capital Planning Commission and other appropriate agencies, shall prescribe any regulations necessary to carry out this subsection.

''(B) Transportation services under this subsection shall be subject neither to the last sentence of subsection (d)(3) nor to any regulations under the last sentence of subsection (e)(1).

''(6) In this subsection, the term 'passenger carrier' means a passenger motor vehicle, aircraft, boat, ship, or other similar means of transportation that is owned or leased by the United States Government or the government of the District of Columbia.''.

(2) FUNDS FOR MAINTENANCE, REPAIR, ETC.—Subsection (a) of section 1344 of title 31, United States Code, is amended by adding at the end the following:

''(3) For purposes of paragraph (1), the transportation of an individual between such individual's place of employment and a mass transit facility pursuant to subsection (g) is transportation for an official purpose.''.

(3) COORDINATION.—The authority to provide transportation services under section 1344(g) of title 31, United States Code (as amended by paragraph (1)) shall be in addition to any authority otherwise available to the agency involved.

SA 2443. Mr. DODD (for himself and Mr. LIEBERMAN) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 58, strike line 17 and insert the following:

''(g) HIGH POPULATION DENSITY EQUITY ADJUSTMENT.—

''(1) IN GENERAL.—In addition to other amounts received under this section and section 1101 of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004, the Secretary shall allocate to each State (other than the District of Columbia) with a population density of greater than 250 individuals per square mile, as determined by the 2000 decennial census, a high density State bonus in the proportion that—

''(A) the average population density of the State; bears to

''(B) the average population density all such States.

''(2) FUNDING.—

''(A) IN GENERAL.—There shall be made available to the Secretary to carry out this subsection, from amounts made available to carry out section 139, $500,000,000 for each of fiscal years 2004 through 2009.

''(B) APPORTIONMENT.—Funds made available to carry out this subsection shall be apportioned in accordance with section 104(b).

''(3) NO EFFECT ON EQUITY BONUS.—The calculation and distribution of funds under other provisions of this section shall not be adjusted as a result of the allocation of funds under this subsection.

''(h) AUTHORIZATION OF APPROPRIATIONS.—There

SA 2444. Mr. DODD (for himself and Mr. LIEBERMAN) submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of section 105 of title 23, United States Code (as amended by section 1104), add the following:

''(__) SPECIAL RULES.—For each fiscal year, before making the allocations under subsection (a)(1), the Secretary shall allocate among the States amounts sufficient to ensure that no State receives a combined total of amounts allocated under subsection (a)(1), apportionments for the programs specified in subsection (a)(2), and amounts allocated under this subsection, that is less than 125 percent of the average for fiscal years 1998 through 2003 of the annual apportionments for the State for all programs specified in subsection (b)(2).''.

SA 2445. Mr. DODD (for himself and Mr. LIEBERMAN) submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 61, strike line 2 and all that follows through the matter following line 8 on page 64, and insert the following:

SEC. 1201. HIGH TRAFFIC DENSITY EQUITY ADJUSTMENT PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code, is amended by inserting after section 138 the following:

''§ 139. High traffic density equity adjustment program

''(a) ESTABLISHMENT OF PROGRAM.—The Secretary shall establish and implement a high traffic density equity adjustment program in accordance with this section.

''(b) ELIGIBLE PROJECTS.—

''(1) IN GENERAL.—A State may obligate funds allocated to the State under this section only for projects eligible under the Interstate maintenance program under section 119, the National Highway System program under section 103, the surface transportation program under section 133, the highway safety improvement program under section 148, the highway bridge replacement and rehabilitation program under section 144, and the congestion mitigation and air quality improvement program under section 149 that will—

''(A) preserve, maintain, or otherwise extend, in a cost-effective manner, the useful life of existing highway infrastructure elements; or

''(B) provide operational improvements (including traffic management and intelligent transportation system strategies and limited capacity enhancements) at points of recurring highway congestion.

''(2) SET-ASIDE.—Notwithstanding any other provision of law, of the amounts made available under section 1101(a)(14) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003, $439,000,000 shall be available for obligation to carry out this section without further appropriation.

''(3) HIGH TRAFFIC DENSITY EQUITY ADJUSTMENT PROGRAM.—

''(A) IN GENERAL.—The Secretary shall allocate the amounts made available under paragraph (2) in the ratio that—

''(i) the ratio of annual vehicle miles traveled to lane miles of each State greater than the ratio of total vehicle miles traveled to total lane miles of all States; bears to

''(ii) the ratio of total vehicle miles traveled to total lane miles of all States.

''(B) DETERMINATION OF ANNUAL VEHICLE MILES TRAVEL.—In determining annual vehicle miles per lane mile for purposes of this paragraph, the Secretary shall use the latest available annual estimates prepared by the Secretary of Transportation.

''(c) PERIOD OF AVAILABILITY.—

''(1) OBLIGATION WITHIN 180 DAYS.—

''(A) IN GENERAL.—Funds allocated to a State under this section shall be obligated by the State not later than 180 days after the date of apportionment.

''(B) UNOBLIGATED FUNDS.—Any amounts that remain unobligated at the end of that period shall be allocated in accordance with subsection (d).

''(2) OBLIGATION BY END OF FISCAL YEAR.—

''(A) IN GENERAL.—All funds allocated or reallocated under this section shall remain available for obligation until the last day of the fiscal year for which the funds are apportioned.

''(B) UNOBLIGATED FUNDS.—Any amounts allocated that remain unobligated at the end of the fiscal year shall lapse.

''(d) REDISTRIBUTION OF ALLOCATED FUNDS AND OBLIGATION AUTHORITY.—

''(1) IN GENERAL.—On the date that is 180 days after the date of allocation, or as soon thereafter as practicable, for each fiscal year, the Secretary shall -

''(A) withdraw—

''(i) any funds allocated to a State under this section that remain unobligated; and

''(ii) an equal amount of obligation authority provided for the use of the funds in accordance with section 1101(a)(14) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003; and

''(B) reallocate the funds and redistribute the obligation authority to States that—

''(i) have fully obligated all amounts allocated under this section for the fiscal year; and

(ii) demonstrate that the State is able to obligate additional amounts for projects eligible under this section before the end of the fiscal year.

''(2) EQUITY BONUS.—The calculation and distribution of funds under section 105 shall not be adjusted as a result of the allocation of funds under this subsection.

''(e) FEDERAL SHARE PAYABLE.—The Federal share payable for a project funded under this section shall be determined in accordance with section 120.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 1 of title 23, United States Code, is amended by adding after the item relating to section 138 the following:

''139. High traffic density equity adjustment program.''.

SA 2446. Mr. STEVENS (for himself and Mr. INOUYE) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning with line 21 on page 71, strike through the matter between lines 6 and 7 on page 80 and insert the following:

SEC. 1203. FREIGHT TRANSPORTATION GATEWAYS; FREIGHT INTERMODAL CONNECTIONS.

(a) FREIGHT TRANSPORTATION GATEWAYS.—Chapter 3 of title 23, United States Code, is amended by adding at the end the following:

''§ 325. Freight transportation gateways

''(a) IN GENERAL.—

''(1) ESTABLISHMENT.—The Secretary shall establish a freight transportation gateways program to improve productivity, security, and safety of freight transportation gateways, while mitigating congestion and community impacts in the area of the gateways.

''(2) PURPOSES.—The purposes of the freight transportation gateways program shall be—

''(A) to facilitate and support multimodal freight transportation initiatives at the State and local levels in order to improve freight transportation gateways and mitigate the impact of congestion on the environment in the area, of the gateways;

''(B) to provide capital funding to address infrastructure and freight operational needs at freight transportation gateways;

''(C) to encourage adoption of new financing strategies to leverage State, local, and private investment in freight transportation gateways;

''(D) to facilitate access to intermodal freight transfer facilities; and

''(E) to increase economic efficiency by facilitating the movement of goods.

''(b) STATE RESPONSIBILITIES.—

''(1) PROJECT DEVELOPMENT PROCESS.—Each State, in coordination with metropolitan planning organizations, shall ensure that intermodal freight transportation, trade facilitation, and economic development needs are adequately considered and fully integrated into the project development process, including transportation planning through final design and construction of freight-related transportation projects.

''(2) FREIGHT TRANSPORTATION COORDINATOR.—

''(A) IN GENERAL.—Each State shall designate a freight transportation coordinator and, where appropriate, a maritime transportation system coordinator.

''(B) DUTIES.—Each coordinator shall—

''(i) foster public and private sector collaboration needed to implement complex solutions to freight transportation and the facilitation of transportation throughout the maritime transportation system, including—

''(I) coordination of metropolitan and statewide transportation activities with trade and economics interests;

''(II) coordination with other States, agencies, and organizations to find regional solutions to freight transportation problems; and

''(III) coordination with local officials of the Department of Defense and the Department of Homeland Security, and with other organizations, to develop regional solutions to military and homeland security transportation needs; and

''(ii) promote programs that build professional capacity to better plan, coordinate, integrate, and understand freight transportation needs for the State.

''(c) MARAD RESPONSIBILITIES.—

''(1) PURPOSES.—The purposes of the maritime transportation system enhancements implemented under this section are—

''(A) to develop a clearly defined freight program to implement a comprehensive program of intermodal solutions to freight needs;

''(B) to promote efficiencies in the transportation of intermodal freight by increasing the awareness of the economic importance of freight;

''(C) to create a national intermodal planning and development initiative to provide for strategic investments that need to be made for transportation projects of national significance;

''(D) to create a gateways of national significance program by restructuring the TEA–21 corridors and borders program to distribute funds where cohesive regional planning groups are already in place with plans to address infrastructure transportation infrastructure choke points;

''(E) to improve productivity of freight terminals by connecting those terminals to the nation's transportation infrastructure and dedicating resources to the efficiencies of these connectors;

''(F) to enhance productivity and efficiency of the United States economy through infrastructure improvements that facilitate just-in-time delivery and eliminate surface transportation congestion;

''(G) to improve air quality and transportation safety; and

''(H) to enhance freight movement security.

''(2) DUTIES.—The Maritime Administration shall prepare and maintain a national maritime transportation system and shall—

''(1) recognize designated State marine transportation system coordinators to foster public and private collaboration and coordinate regional solutions to freight transportation and gateway issues, and require States with port facilities, marine terminals, and viable commercial inland waterway systems to ensure that the coordinators duties include the consideration of comprehensive intermodal transportation needs in the planning process and coordinate with adjacent states to ensure intermodal solutions that maximize water transportation options in the movement of freight;

''(2) review and comment on each State marine transportation system submitted to the Secretary under this section;

''(3) compile all State plans and incorporate them into the national marine transportation system plan;

''(4) evaluate, every 2 years, marine transportation system enhancements to address freight movement congestion, security, and safety through the increased use of water transportation alternatives;

''(5) prioritize short sea shipping projects and programs in accordance with a national evaluation study and analysis of infrastructure needs and forecasted increases in trade demand;

''(6) integrate short sea shipping services with existing surface transportation projects;

''(7) foster the utilization of container-on-barge as a means of alleviating congestion in and around congested metropolitan areas;

''(8) foster brownfield development for the expansion of marine transportation system capacity to augment the limited amount of sustainable land available for competing transportation related uses;

''(9) support improvements to landside infrastructure that connects highways and railways to the marine transportation system;

''(10) promote accident prevention and protection of the environment as top marine transportation system priorities;

''(11) develop methods of streamlining project-planning processes to eliminate delays in marine transportation system improvements;

''(12) develop a coherent environmental regulatory process to streamline permitting; and

''(13) promote the increased use of on-dock and near-dock rail usage.

''(d) INNOVATIVE FINANCE STRATEGIES.—

''(1) IN GENERAL.—States and localities are encouraged to adopt innovative financing strategies for freight transportation gateway improvements, including—

''(A) new user fees;

''(B) modifications to existing user fees, including trade facilitation charges;

''(C) revenue options that incorporate private sector investment; and

''(D) a blending of Federal-aid and innovative finance programs.

''(2) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance to States and localities with respect to the strategies.

''(e) INTERMODAL FREIGHT TRANSPORTATION PROJECTS.—

''(1) USE OF SURFACE TRANSPORTATION PROGRAM FUNDS.—A State may obligate funds apportioned to the State under section 104(b)(3) for publicly-owned intermodal freight transportation projects that provide community and highway benefits by addressing economic, congestion, system reliability, security, safety, or environmental issues associated with freight transportation gateways.

''(2) ELIGIBLE PROJECTS.—A project eligible for funding under this section—

''(A) may include publicly-owned intermodal freight transfer facilities, access to the facilities, and operational improvements for the facilities (including capital investment for intelligent transportation systems), except that projects located within the boundaries of port terminals shall only include the transportation infrastructure modifications necessary to facilitate direct intermodal interchange, transfer, and access into and out of the port; and

''(B) may involve the combining of private andd public funds.''.

(b) ELIGIBILITY FOR SURFACE TRANSPORTATION PROGRAM FUNDS.—Section 133(b) of title 23, United States Code, is amended by inserting after paragraph (11) the following:

''(12) Intermodal freight transportation projects in accordance with section 325(e)(2).'.

(c) FREIGHT INTERMODAL CONNECTIONS TO NHS.—Section 103(b) of title 23, United States Code, is amended by adding at the end the following:

''(7) FREIGHT INTERMODAL CONNECTIONS TO THE NHS.—

''(A) FUNDING SET-ASIDE.—Of the funds apportioned to a State for each fiscal year under section 104(b)(1), an amount determined in accordance with subparagraph (B) shall only be available to the State to be obligated for projects on—

''(1) National Highway System routes connecting to intermodal freight terminals identified according to criteria specified in the report to Congress entitled 'Pulling Together: The National Highway System and its Connections to Major Intermodal Terminals' dated May 24, 1996, referred to in paragraph (1), and any modifications to the connections that are consistent with paragraph (4);

''(ii) strategic. highway network connectors to strategic military deployment ports;

''(iii) projects to eliminate railroad crossings or make railroad crossing improvements; and

''(iv) any intermodal project in the State of Alaska, or Hawaii that, the State determines to be vital to State transportation needs.

''(B) DETERMINATION OF AMOUNT.—The amount of funds for each State for a fiscal year that shall be set aside under subparagraph (A) shall be equal to the greater of—

''(i) the product obtained by multiplying—

''(I) the total amount of funds apportioned to the State under section 104(b)(1); by

''(II) the percentage of miles that routes specified in subparagraph (A) constitute of the total miles on the National Highway System in the State; or

''(ii) 2 percent of the annual apportionment to the State of funds under 104(b)(1).

''(C) EXEMPTION FROM SET-ASIDE.—For any fiscal year, a State may obligate the funds otherwise set aside by this paragraph for any project that is eligible under paragraph (6) and is located in the State on a segment of the National Highway System specified in paragraph (2), if the State certifies and the Secretary concurs that—

''(1) the designated National Highway System intermodal connectors described in subparagraph (A) are in good condition and provide an adequate level of service for military vehicle and civilian commercial vehicle use; and

''(ii) significant needs on the designated National Highway System intermodal connectors are being met or do not exist.

''(D) FLEXIBILITY.—-Port projects eligible for funding under this section may be transferred and administered by the Administrator of the Maritime Administration under the terms and conditions provided in section 626 of the Consolidated Appropriations Resolution, 2003.''.

(d) FEDERAL SHARE PAYABLE.—Section 120 of title 23, United States Code, is amended by adding at the end the following:

''(m) INCREASED FEDERAL SHARE FOR CONNECTORS.—In the case of a project to support a National Highway System intermodal freight connection or strategic highway network connector to a strategic military deployment port described in section 103(b)(7), the Federal share of the total cost of the project shall be 90 percent.''.

(e) LENGTH LIMITATIONS.—Section 31111(e) of title 49, United States Code, is amended—

(1) by striking ''The'' and inserting the following:

''(1) IN GENERAL.—The''; and

(2) by adding at the end the following:

''(2) LENGTH LIMITATIONS.—In the interests of economic competitiveness, security, and intermodal connectivity, not later than 3 years after the date of enactment of this paragraph, States shall update the list of Federal-aid system highways to include—

''(A) strategic highway network connectors to strategic military deployment ports; and

''(B) National Highway System intermodal freight connections serving military and commercial truck traffic going to major intermodal terminals as described in section 103(b)(7)(A)(i).''.

(f) CONFORMING AMENDMENT.—The analysis of chapter 3 of title 23, United States Code, is amended by adding at the end the following:

''325. Freight transportation gateways.''.

SA 2447. Mr. BURNS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 420, line 23, strike ''enhanced'' and insert ''integrated, interoperable emergency''.

SA 2448. Mr. BURNS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 120, line 18, after ''elements'' insert '', including integrated, interoperable emergency communications,''.

SA 2449. Mr. BURNS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 118, line 3, before ''equipment'' insert ''intergrated, interoperable emergency communications,''.

SA 2450. Mr. BURNS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 404, line 7, before ''communication'' insert ''integrated, interoperable emergency''.

SA 2451. Mr. BURNS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 260, after line 9, insert the following:

''(7) if the project or program involves the purchase of integrated, interoperable emergency communications equipment.''.

SA 2452. Mr. CONRAD submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 923, strike lines 8 through 10 and insert the following:

(a) FUNDING.—Section 125(c)(1) of title 23, United States Code, is amended by striking ''$100,000,000'' and inserting ''$300,000,000''.

(b) ROADS IN CLOSED BASINS.—Section 125 of title 23, United States Code, is amended by adding at the end the following:

''(g) ROADS IN CLOSED BASINS.—

''(1) DEFINITION OF CONSTRUCTION.—In this subsection, the term 'construction' includes—

''(A) monitoring, studies, evaluations, design, or preliminary engineering relating to construction; and

''(B) monitoring and evaluations relating to proposed construction.

''(2) FUNDING.—Subject to paragraph (3), the Secretary shall use amounts made available to carry out this section, through advancement or reimbursement, without further emergency declaration, for construction—

''(A) necessary for the continuation of roadway services and the impoundment of water, as the Secretary determines to be appropriate, in accordance with—

''(i) options and needs identified in the report of the Devils Lake Surface Transportation Task Force, Federal Highway Administration, entitled 'Roadways Serving as Water Barriers' and dated May 4, 2000 (referred to in this subsection as the 'report'); and

''(ii) any needs identified after publication of the report; or

''(B) for a grade raise to permanently restore a roadway identified in the report the use of which is lost or reduced, or could be lost or reduced, as a result of an actual or predicted water level that is within 3 feet of causing inundation of the roadway.

''(3) REQUIREMENT.—To be eligible for funding under paragraph (1), construction or a grade raise shall be carried out in an area that has been the subject of an emergency declaration issued during or after 1993.''.

SA 2453. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 1298, after line 24, add the following:

PART VI—TAX SHELTER AND TAX HAVEN REFORMS

SEC. 5671. PENALTY FOR PROMOTING ABUSIVE TAX SHELTERS.

(a) PENALTY FOR PROMOTING ABUSIVE TAX SHELTERS.—Section 6700 (relating to promoting abusive tax shelters, etc.) is amended—

(1) by redesignating subsections (b) and (c) as subsections (d) and (e), respectively,

(2) by striking ''a penalty'' and all that follows through the period in the first sentence of subsection (a) and inserting ''a penalty determined under subsection (b)'', and

(3) by inserting after subsection (a) the following new subsections:

''(b) AMOUNT OF PENALTY; CALCULATION OF PENALTY; LIABILITY FOR PENALTY.—

''(1) AMOUNT OF PENALTY.—The amount of the penalty imposed by subsection (a) shall not exceed the greater of—

''(A) 150 percent of the gross income derived (or to be derived) from such activity by the person or persons subject to such penalty, and

''(B) if readily subject to calculation, the total amount of underpayment by the taxpayer (including penalties, interest, and taxes) in connection with such activity.

''(2) CALCULATION OF PENALTY.—The penalty amount determined under paragraph (1) shall be calculated with respect to each instance of an activity described in subsection (a), each instance in which income was derived by the person or persons subject to such penalty, and each person who participated in such an activity.

''(3) LIABILITY FOR PENALTY.—If more than 1 person is liable under subsection (a) with respect to such activity, all such persons shall be jointly and severally liable for the penalty under such subsection.

''(c) PENALTY NOT DEDUCTIBLE.—The payment of any penalty imposed under this section or the payment of any amount to settle or avoid the imposition of such penalty shall not be considered an ordinary and necessary expense in carrying on a trade or business for purposes of this title and shall not be deductible by the person who is subject to such penalty or who makes such payment.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to activities after the date of the enactment of this Act.

(c) PRIOR SECTION TO HAVE NO EFFECT.—Notwithstanding section 5626 of this Act, such section, and the amendments made by such section, shall not take effect.

SEC. 5672. PENALTY FOR AIDING AND ABETTING THE UNDERSTATEMENT OF TAX LIABILITY.

(a) IN GENERAL.—Section 6701(a) (relating to imposition of penalty) is amended—

(1) by inserting ''the tax liability or'' after ''respect to,'' in paragraph (1),

(2) by inserting ''aid, assistance, procurement, or advice with respect to such'' before ''portion'' both places it appears in paragraphs (2) and (3), and

(3) by inserting ''instance of aid, assistance, procurement, or advice or each such'' before ''document'' in the matter following paragraph (3).

(b) AMOUNT OF PENALTY.—Subsection (b) of section 6701 (relating to penalties for aiding and abetting understatement of tax liability) is amended to read as follows:

''(b) AMOUNT OF PENALTY; CALCULATION OF PENALTY; LIABILITY FOR PENALTY.—

''(1) AMOUNT OF PENALTY.—The amount of the penalty imposed by subsection (a) shall not exceed the greater of—

''(i) 150 percent of the gross income derived (or to be derived) from such aid, assistance, procurement, or advice provided by the person or persons subject to such penalty, and

''(ii) if readily subject to calculation, the total amount of underpayment by the taxpayer (including penalties, interest, and taxes) in connection with the understatement of the liability for tax.

''(2) CALCULATION OF PENALTY.—The penalty amount determined under paragraph (1) shall be calculated with respect to each instance of aid, assistance, procurement, or advice described in subsection (a), each instance in which income was derived by the person or persons subject to such penalty, and each person who made such an understatement of the liability for tax.

''(3) LIABILITY FOR PENALTY.—If more than 1 person is liable under subsection (a) with respect to providing such aid, assistance, procurement, or advice, all such persons shall be jointly and severally liable for the penalty under such subsection.''.

(c) PENALTY NOT DEDUCTIBLE.—Section 6701 is amended by adding at the end the following new subsection:

''(g) PENALTY NOT DEDUCTIBLE.—The payment of any penalty imposed under this section or the payment of any amount to settle or avoid the imposition of such penalty shall not be considered an ordinary and necessary expense in carrying on a trade or business for purposes of this title and shall not be deductible by the person who is subject to such penalty or who makes such payment.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to activities after the date of the enactment of this Act.

SEC. 5673. PENALTY FOR FAILURE TO REGISTER TAX SHELTER.

(a) IN GENERAL.—Section 6707 (relating to failure to furnish information regarding tax shelters) is amended to read as follows:

''SEC. 6707. FAILURE TO FURNISH INFORMATION ON POTENTIALLY ABUSIVE TAX SHELTER OR LISTED TRANSACTION.

''(a) IN GENERAL.—If a person who is required to file a return under section 6111 with respect to any potentially abusive tax shelter—

''(1) fails to file such return on or before the date prescribed therefor, or

''(2) files false or incomplete information with the Secretary with respect to such shelter,

such person shall pay a penalty with respect to such return in the amount determined under subsection (b).

''(b) AMOUNT OF PENALTY.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the penalty imposed under subsection (a) with respect to any failure shall be not less than $50,000 and not more than $100,000.

''(2) LISTED TRANSACTIONS.—The penalty imposed under subsection (a) with respect to any listed transaction shall be an amount equal to the greater of—

''(A) $200,000, or

''(B) 100 percent of the gross income derived by such person for providing aid, assistance, procurement, advice, or other services with respect to the listed transaction before the date the return including the transaction is filed under section 6111.

Subparagraph (B) shall be applied by substituting '150 percent' for '100 percent' in the case of an intentional failure or act described in subsection (a).

''(c) CERTAIN RULES TO APPLY.—The provisions of section 6707A(d) allowing the Commissioner of Internal Revenue to rescind a penalty under certain circumstances shall apply to any penalty imposed under this section.

''(d) POTENTIALLY ABUSIVE TAX SHELTERS AND LISTED TRANSACTIONS.—The terms 'potentially abusive tax shelter' and 'listed transaction' have the respective meanings given to such terms by section 6707A(c).

''(e) PENALTY NOT DEDUCTIBLE.—The payment of any penalty imposed under this section or the payment of any amount to settle or avoid the imposition of such penalty shall not be considered an ordinary and necessary expense in carrying on a trade or business for purposes of this title and shall not be deductible by the person who is subject to such penalty or who makes such payment.''.

(b) CLERICAL AMENDMENT.—The item relating to section 6707 in the table of sections for part I of subchapter B of chapter 68 is amended by striking ''regarding tax shelters'' and inserting ''on potentially abusive tax shelter or listed transaction''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns the due date for which is after the date of the enactment of this Act.

(d) PRIOR SECTION TO HAVE NO EFFECT.—Notwithstanding section 5618(c) of this Act, such section, and the amendments made by such section, shall not take effect.

SEC. 5674. PENALTY FOR FAILING TO MAINTAIN CLIENT LIST.

(a) IN GENERAL.—Subsection (a) of section 6708 (relating to failure to maintain lists of investors in potentially abusive tax shelters) is amended to read as follows:

''(a) IMPOSITION OF PENALTY.—

''(1) IN GENERAL.—If any person who is required to maintain a list under section 6112(a) fails to make such list available upon written request to the Secretary in accordance with section 6112(b)(1)(A) within 20 business days after the date of the Secretary's request, such person shall pay a penalty of $10,000 for each day of such failure after such 20th day. If such person makes available an incomplete list upon such request, such person shall pay a penalty of $100 per each omitted name for each day of such omission after such 20th day.

''(2) GOOD CAUSE EXCEPTION.—No penalty shall be imposed by paragraph (1) with respect to the failure on any day if, in the judgment of the Secretary, such failure is due to good cause.''.

(b) PENALTY NOT DEDUCTIBLE.—Section 6708 is amended by adding at the end the following new subsection:

''(c) PENALTY NOT DEDUCTIBLE.—The payment of any penalty imposed under this section or the payment of any amount to settle or avoid the imposition of such penalty shall not be considered an ordinary and necessary expense in carrying on a trade or business for purposes of this title and shall not be deductible by the person who is subject to such penalty or who makes such payment.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to requests made by the Secretary of the Treasury after the date of the enactment of this Act.

(d) PRIOR SECTION TO HAVE NO EFFECT.—Notwithstanding section 5619(b) of this Act,

such section, and the amendments made by such section, shall not take effect.

SEC. 5675. PENALTY FOR FAILING TO DISCLOSE POTENTIALLY ABUSIVE TAX SHELTER.

(a) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by inserting after section 6707 the following new section:

"SEC. 6707A. PENALTY FOR FAILURE TO INCLUDE POTENTIALLY ABUSIVE TAX SHELTER INFORMATION WITH RETURN OR STATEMENT.

"(a) IMPOSITION OF PENALTY.—Any person who fails to include on any return or statement any information with respect to a potentially abusive tax shelter which is required under section 6011 to be included with such return or statement shall pay a penalty in the amount determined under subsection (b).

"(b) AMOUNT OF PENALTY.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amount of the penalty under subsection (a) shall be $50,000.

"(2) LISTED TRANSACTION.—Except as provided in paragraph 3, the amount of the penalty under subsection (a) with respect to a listed transaction shall be $100,000.

"(3) INCREASE IN PENALTY FOR INTENTIONAL NONDISCLOSURE.—In the case of an intentional failure by any person under subsection (a), the penalty under paragraph (1) shall be $100,000 and the penalty under paragraph (2) shall be $200,000.

"(c) DEFINITIONS.—For purposes of this section—

"(1) POTENTIALLY ABUSIVE TAX SHELTER.—The term 'potentially abusive tax shelter' means any transaction with respect to which information is required to be included with a return or statement, because the Secretary has determined by regulation or otherwise that such transaction has a potential for tax avoidance or evasion.

"(2) LISTED TRANSACTION.—Except as provided in regulations, the term 'listed transaction' means a potentially abusive tax shelter which is the same as, or substantially similar to, a transaction specifically identified by the Secretary as a tax avoidance transaction for purposes of section 6011.

"(d) AUTHORITY TO RESCIND PENALTY.—

"(1) IN GENERAL.—The Commissioner of Internal Revenue may rescind all or any portion of a penalty imposed by this section with respect to any violation if—

"(A) the violation is with respect to a potentially abusive tax shelter other than a listed transaction,

"(B) the person on whom the penalty is imposed has a history of complying with the requirements of this title,

"(C) it is shown that the violation is due to an unintentional mistake of fact,

"(D) imposing the penalty would be against equity and good conscience, and

"(E) rescinding the penalty would promote compliance with the requirements of this title and effective tax administration.

"(2) DISCRETION.—The exercise of authority under paragraph (1) shall be at the sole discretion of the Commissioner and may be delegated only to the head of the Office of Tax Shelter Analysis. The Commissioner, in the Commissioner's sole discretion, may establish a procedure to determine if a penalty should be referred to the Commissioner or the head of such Office for a determination under paragraph (1).

"(3) NO APPEAL.—Notwithstanding any other provision of law, any determination under this subsection may not be reviewed in any administrative or judicial proceeding.

"(4) RECORDS.—If a penalty is rescinded under paragraph (1), the Commissioner shall place in the file in the Office of the Commissioner the opinion of the Commissioner or the head of the Office of Tax Shelter Analysis with respect to the determination, including—

"(A) the facts and circumstances of the transaction,

"(B) the reasons for the rescission, and

"(C) the amount of the penalty rescinded.

A copy of such opinion shall be provided upon written request to the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, the Joint Committee on Taxation, or the General Accounting Office.

"(5) REPORT.—The Commissioner shall each year report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate—

"(A) a summary of the total number and aggregate amount of penalties imposed, and rescinded, under this section, and

"(B) a description of each penalty rescinded under this subsection and the reasons therefor.

"(e) PENALTY REPORTED TO SEC.—In the case of a person—

"(1) which is required to file periodic reports under section 13 or 15(d) of the Securities Exchange Act of 1934 or is required to be consolidated with another person for purposes of such reports, and

"(2) which—

"(A) is required to pay a penalty under this section with respect to a listed transaction,

"(B) is required to pay a penalty under section 6662A with respect to any potentially abusive tax shelter at a rate prescribed under section 6662A(c), or

"(C) is required to pay a penalty under section 6662B with respect to any noneconomic substance transaction,

the requirement to pay such penalty shall be disclosed in such reports filed by such person for such periods as the Secretary shall specify. Failure to make a disclosure in accordance with the preceding sentence shall be treated as a failure to which the penalty under subsection (b)(2) applies.

"(f) PENALTY IN ADDITION TO OTHER PENALTIES.—The penalty imposed by this section shall be in addition to any other penalty provided by law.

"(g) PENALTY NOT DEDUCTIBLE.—The payment of any penalty imposed under this section or the payment of any amount to settle or avoid the imposition of such penalty shall not be considered an ordinary and necessary expense in carrying on a trade or business for purposes of this title and shall not be deductible by the person who is subject to such penalty or who makes such payment.".

(b) CONFORMING AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by inserting after the item relating to section 6707 the following:

"Sec. 6707A. Penalty for failure to include potentially abusive tax shelter information with return or statement.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns and statements the due date for which is after the date of the enactment of this Act.

(d) PRIOR SECTION TO HAVE NO EFFECT.—Notwithstanding section 5612(c) of this Act, such section, and the amendments made by such section, shall not take effect.

SEC. 5676. IMPROVED DISCLOSURE OF POTENTIALLY ABUSIVE TAX SHELTERS.

(a) IN GENERAL.—Section 6111 (relating to registration of tax shelters) is amended to read as follows:

"SEC. 6111. DISCLOSURE OF POTENTIALLY ABUSIVE TAX SHELTERS.

"(a) IN GENERAL.—Each material advisor with respect to any potentially abusive tax shelter shall make a return (in such form as the Secretary may prescribe) setting forth—

"(1) information identifying and describing such shelter,

"(2) information describing any potential tax benefits expected to result from the shelter, and

"(3) such other information as the Secretary may prescribe.

Such return shall be filed not later than the date which is 30 days before the date on which the first sale of such shelter occurs or on any other date specified by the Secretary.

"(b) DEFINITIONS.—For purposes of this section—

"(1) MATERIAL ADVISOR.—

"(A) IN GENERAL.—The term 'material advisor' means any person—

"(i) who provides any material aid, assistance, or advice with respect to designing, organizing, managing, promoting, selling, implementing, or carrying out any potentially abusive tax shelter, and

"(ii) who directly or indirectly derives gross income in excess of the threshold amount for such aid, assistance, or advice.

"(B) THRESHOLD AMOUNT.—For purposes of subparagraph (A), the threshold amount is—

"(i) $50,000 in the case of a potentially abusive tax shelter substantially all of the tax benefits from which are provided to natural persons, and

"(ii) $100,000 in any other case.

"(2) POTENTIALLY ABUSIVE TAX SHELTER.—The term 'potentially abusive tax shelter' has the meaning given to such term by section 6707A(c).

"(c) REGULATIONS.—The Secretary may prescribe regulations which provide—

"(1) that only 1 person shall be required to meet the requirements of subsection (a) in cases in which 2 or more persons would otherwise be required to meet such requirements,

"(2) exemptions from the requirements of this section, and

"(3) such rules as may be necessary or appropriate to carry out the purposes of this section.".

(b) CONFORMING AMENDMENTS.—

(1) The item relating to section 6111 in the table of sections for subchapter B of chapter 61 is amended to read as follows:

"Sec. 6111. Disclosure of potentially abusive tax shelters.".

(2)(A) So much of section 6112 as precedes subsection (c) thereof is amended to read as follows:

"SEC. 6112. MATERIAL ADVISORS OF POTENTIALLY ABUSIVE TAX SHELTERS MUST KEEP CLIENT LISTS.

"(a) IN GENERAL.—Each material advisor (as defined in section 6111) with respect to any potentially abusive tax shelter (as defined in section 6707A(c)) shall maintain, in such manner as the Secretary may by regulations prescribe, a list—

"(1) identifying each person with respect to whom such advisor acted as such a material advisor with respect to such shelter, and

"(2) containing such other information as the Secretary may by regulations require.

This section shall apply without regard to whether a material advisor is required to file a return under section 6111 with respect to such transaction.".

(B) Section 6112 is amended by redesignating subsection (c) as subsection (b).

(C) Section 6112(b), as redesignated by subparagraph (B), is amended—

(i) by inserting "written" before "request" in paragraph (1)(A), and

(ii) by striking "shall prescribe" in paragraph (2) and inserting "may prescribe".

(D) The item relating to section 6112 in the table of sections for subchapter B of chapter 61 is amended to read as follows:

''Sec. 6112. Material advisors of potentially abusive tax shelters must keep client lists.''.

(3)(A) The heading for section 6708 is amended to read as follows:

''SEC. 6708. FAILURE TO MAINTAIN CLIENT LISTS WITH RESPECT TO POTENTIALLY ABUSIVE TAX SHELTERS.''.

(B) The item relating to section 6708 in the table of sections for part I of subchapter B of chapter 68 is amended to read as follows:

''Sec. 6708. Failure to maintain client lists with respect to potentially abusive tax shelters.''.

(c) REQUIRED DISCLOSURE NOT SUBJECT TO CLAIM OF CONFIDENTIALITY.—Section 6112(b)(1), as redesignated by subsection (b)(2)(B), is amended by adding at the end the following new flush sentence:

''For purposes of this section, the identity of any person on such list shall not be privileged.''.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to transactions with respect to which material aid, assistance, or advice referred to in section 6111(b)(1)(A)(i) of the Internal Revenue Code of 1986 (as added by this section) is provided after the date of the enactment of this Act.

(2) NO CLAIM OF CONFIDENTIALITY AGAINST DISCLOSURE.—The amendment made by subsection (c) shall take effect as if included in the amendments made by section 142 of the Deficit Reduction Act of 1984.

(e) PRIOR SECTION TO HAVE NO EFFECT.—Notwithstanding section 5617(d) of this Act, such section, and the amendments made by such section, shall not take effect.

SEC. 5677. EXTENSION OF STATUTE OF LIMITATIONS FOR UNDISCLOSED TAX SHELTER.

(a) IN GENERAL.—Section 6501(c) (relating to exceptions) is amended by adding at the end the following new paragraph:

''(10) POTENTIALLY ABUSIVE TAX SHELTERS.—If a taxpayer fails to include on any return or statement for any taxable year any information with respect to a potentially abusive tax shelter (as defined in section 6707A(c)) which is required under section 6011 to be included with such return or statement, the time for assessment of any tax imposed by this title with respect to such transaction shall not expire before the date which is 2 years after the earlier of—

''(A) the date on which the Secretary is furnished the information so required; or

''(B) the date that a material advisor (as defined in section 6111) meets the requirements of section 6112 with respect to a request by the Secretary under section 6112(b) relating to such transaction with respect to such taxpayer.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years with respect to which the period for assessing a deficiency did not expire before the date of the enactment of this Act.

(c) PRIOR SECTION TO HAVE NO EFFECT.—Notwithstanding section 5626(b) of this Act, such section, and the amendments made by such section, shall not take effect.

SEC. 5678. PENALTY FOR FAILING TO REPORT INTERESTS IN FOREIGN FINANCIAL ACCOUNTS.

(a) IN GENERAL.—Section 5321(a)(5) of title 31, United States Code, is amended to read as follows:

''(5) FOREIGN FINANCIAL AGENCY TRANSACTION VIOLATION.—

''(A) PENALTY AUTHORIZED.—The Secretary of the Treasury may impose a civil money penalty on any person who violates, or causes any violation of, any provision of section 5314.

''(B) AMOUNT OF PENALTY.—

''(i) IN GENERAL.—Except as provided in subparagraph (C), the amount of any civil penalty imposed under subparagraph (A) shall not exceed $10,000.

''(ii) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under subparagraph (A) with respect to any violation if—

''(I) such violation was due to reasonable cause, and

''(II) the amount of the transaction or the balance in the account at the time of the transaction was properly reported.

''(C) WILLFUL VIOLATIONS.—In the case of any person willfully violating, or willfully causing any violation of, any provision of section 5314, the amount of the civil penalty imposed under subparagraph (A) shall be—

''(i) not less than $5,000,

''(ii) not more than 50 percent of the amount determined under subparagraph (D), and

''(iii) subparagraph (B)(ii) shall not apply.

''(D) AMOUNT.—The amount determined under this subparagraph is—

''(i) in the case of a violation involving a transaction, the amount of the transaction, or

''(ii) in the case of a violation involving a failure to report the existence of an account or any identifying information required to be provided with respect to an account, the balance in the account at the time of the violation.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to violations occurring after the date of the enactment of this Act.

(c) PRIOR SECTION TO HAVE NO EFFECT.—Notwithstanding section 5622(b) of this Act, such section, and the amendments made by such section, shall not take effect.

SEC. 5679. CENSURE, CIVIL FINES, AND TAX OPINION STANDARDS FOR TAX PRACTITIONERS.

(a) CENSURE; IMPOSITION OF MONETARY PENALTY.—

(1) IN GENERAL.—Section 330(b) of title 31, United States Code, is amended—

(A) by inserting '', or censure,'' after ''Department'', and

(B) by adding at the end the following new flush sentence:

''The Secretary may impose a monetary penalty on any representative described in the preceding sentence. If the representative was acting on behalf of an employer or any firm or other entity in connection with the conduct giving rise to such penalty, the Secretary may impose a monetary penalty on such employer, firm, or entity if it knew, or reasonably should have known, of such conduct. Such penalty may be in addition to, or in lieu of, any suspension, disbarment, or censure of the representative.''.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to actions taken after the date of the enactment of this Act.

(b) TAX OPINION STANDARDS.—Section 330 of such title 31 is amended by adding at the end the following new subsection:

''(d) The Secretary of the Treasury shall impose standards applicable to the rendering of written advice with respect to any potentially abusive tax shelter or any entity, plan, arrangement, or transaction which has a potential for tax avoidance or evasion. Such standards shall address, but not be limited to, the following issues:

''(1) Independence of the practitioner issuing such written advice from persons promoting, marketing, or recommending the subject of the advice.

''(2) Collaboration among practitioners, or between a practitioner and other party, which could result in such collaborating parties having a joint financial interest in the subject of the advice.

''(3) Avoidance of conflicts of interest which would impair auditor independence.

''(4) For written advice issued by a firm, standards for reviewing the advice and ensuring the consensus support of the firm for positions taken.

''(5) Reliance on reasonable factual representations by the taxpayer and other parties.

''(6) Appropriateness of the fees charged by the practitioner for the written advice.''.

(c) PRIOR SECTION TO HAVE NO EFFECT.—Notwithstanding section 5624(a)(2) of this Act, such section, and the amendments made by such section, shall not take effect.

SEC. 5680. PREVENTING CORPORATE EXPATRIATION TO AVOID UNITED STATES INCOME TAX.

(a) IN GENERAL.—Paragraph (4) of section 7701(a) (defining domestic) is amended to read as follows:

''(4) DOMESTIC.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'domestic' when applied to a corporation or partnership means created or organized in the United States or under the law of the United States or of any State unless, in the case of a partnership, the Secretary provides otherwise by regulations.

''(B) CERTAIN CORPORATIONS TREATED AS DOMESTIC.—

''(i) IN GENERAL.—The acquiring corporation in a corporate expatriation transaction shall be treated as a domestic corporation.

''(ii) CORPORATE EXPATRIATION TRANSACTION.—For purposes of this subparagraph, the term 'corporate expatriation transaction' means any transaction if—

''(I) a nominally foreign corporation (referred to in this subparagraph as the 'acquiring corporation') acquires, as a result of such transaction, directly or indirectly substantially all of the properties held directly or indirectly by a domestic corporation, and

''(II) immediately after the transaction, more than 80 percent of the stock (by vote or value) of the acquiring corporation is held by former shareholders of the domestic corporation by reason of holding stock in the domestic corporation.

''(iii) LOWER STOCK OWNERSHIP REQUIREMENT IN CERTAIN CASES.—Subclause (II) of clause (ii) shall be applied by substituting '50 percent' for '80 percent' with respect to any nominally foreign corporation if—

''(I) such corporation does not have substantial business activities (when compared to the total business activities of the expanded affiliated group) in the foreign country in which or under the law of which the corporation is created or organized, and

''(II) the stock of the corporation is publicly traded and the principal market for the public trading of such stock is in the United States.

''(iv) PARTNERSHIP TRANSACTIONS.—The term 'corporate expatriation transaction' includes any transaction if—

''(I) a nominally foreign corporation (referred to in this subparagraph as the 'acquiring corporation') acquires, as a result of such transaction, directly or indirectly properties constituting a trade or business of a domestic partnership,

''(II) immediately after the transaction, more than 80 percent of the stock (by vote or value) of the acquiring corporation is held by former partners of the domestic partnership or related foreign partnerships (determined without regard to stock of the acquiring corporation which is sold in a public offering related to the transaction), and

''(III) the acquiring corporation meets the requirements of subclauses (I) and (II) of clause (iii).

''(v) SPECIAL RULES.—For purposes of this subparagraph—

''(I) a series of related transactions shall be treated as 1 transaction, and

''(II) stock held by members of the expanded affiliated group which includes the acquiring corporation shall not be taken into account in determining ownership.

''(vi) OTHER DEFINITIONS.—For purposes of this subparagraph—

''(I) NOMINALLY FOREIGN CORPORATION.—The term 'nominally foreign corporation' means any corporation which would (but for this subparagraph) be treated as a foreign corporation.

''(II) EXPANDED AFFILIATED GROUP.—The term 'expanded affiliated group' means an affiliated group (as defined in section 1504(a) without regard to section 1504(b)).

''(III) RELATED FOREIGN PARTNERSHIP.—A foreign partnership is related to a domestic partnership if they are under common control (within the meaning of section 482), or they shared the same trademark or tradename.''

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendment made by this section shall apply to corporate expatriation transactions completed after September 11, 2001.

(2) SPECIAL RULE.—The amendment made by this section shall also apply to corporate expatriation transactions completed on or before September 11, 2001, but only with respect to taxable years of the acquiring corporation beginning after December 31, 2003.

(c) PRIOR SECTION TO HAVE NO EFFECT.—Section 5651(a)(2) of this Act, and the amendments made by such section, shall not take effect.

SA 2454. Mr. LEVIN (for himself and Ms. STABENOW) submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 1298, after line 24, add the following:

Subtitle H—Incentives for Alternative Motor Vehicles

PART I—INCENTIVES

SEC. 5671. ALTERNATIVE MOTOR VEHICLE CREDIT.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 (relating to foreign tax credit, etc.) is amended by adding at the end the following new section:

''SEC. 30B. ALTERNATIVE MOTOR VEHICLE CREDIT.

''(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

''(1) the new qualified fuel cell motor vehicle credit determined under subsection (b),

''(2) the new qualified hybrid motor vehicle credit determined under subsection (c), and

''(3) the new qualified advanced lean burn technology motor vehicle credit determined under subsection (f).

''(b) NEW QUALIFIED FUEL CELL MOTOR VEHICLE CREDIT.—

''(1) IN GENERAL.—For purposes of subsection (a), the new qualified fuel cell motor vehicle credit determined under this subsection with respect to a new qualified fuel cell motor vehicle placed in service by the taxpayer during the taxable year is—

''(A) $4,000, if such vehicle has a gross vehicle weight rating of not more than 8,500 pounds, and

''(B) $10,000, if such vehicle has a gross vehicle weight rating of more than 8,500 pounds but not more than 14,000 pounds.

''(2) INCREASE FOR FUEL EFFICIENCY.—

''(A) IN GENERAL.—The amount determined under paragraph (1)(A) with respect to a new qualified fuel cell motor vehicle which is a passenger automobile or light truck shall be increased by—

''(i) $1,000, if such vehicle achieves at least 150 percent but less than 175 percent of the 2002 model year city fuel economy,

''(ii) $1,500, if such vehicle achieves at least 175 percent but less than 200 percent of the 2002 model year city fuel economy,

''(iii) $2,000, if such vehicle achieves at least 200 percent but less than 225 percent of the 2002 model year city fuel economy,

''(iv) $2,500, if such vehicle achieves at least 225 percent but less than 250 percent of the 2002 model year city fuel economy,

''(v) $3,000, if such vehicle achieves at least 250 percent but less than 275 percent of the 2002 model year city fuel economy,

''(vi) $3,500, if such vehicle achieves at least 275 percent but less than 300 percent of the 2002 model year city fuel economy, and

''(vii) $4,000, if such vehicle achieves at least 300 percent of the 2002 model year city fuel economy.

''(B) 2002 MODEL YEAR CITY FUEL ECONOMY.—For purposes of subparagraph (A), the 2002 model year city fuel economy with respect to a vehicle shall be determined in accordance with the following tables:

''(i) In the case of a passenger automobile:

''If vehicle inertia weight class is:	**The 2002 model year city fuel economy is:**
1,500 or 1,750 lbs	45.2 mpg
2,000 lbs	39.6 mpg
2,250 lbs	35.2 mpg
2,500 lbs	31.7 mpg
2,750 lbs	28.8 mpg
3,000 lbs	26.4 mpg
3,500 lbs	22.6 mpg
4,000 lbs	19.8 mpg
4,500 lbs	17.6 mpg
5,000 lbs	15.9 mpg
5,500 lbs	14.4 mpg
6,000 lbs	13.2 mpg
6,500 lbs	12.2 mpg
7,000 to 8,500 lbs	11.3 mpg.

''(ii) In the case of a light truck:

''If vehicle inertia weight class is:	**The 2002 model year city fuel economy is:**
1,500 or 1,750 lbs	39.4 mpg
2,000 lbs	35.2 mpg
2,250 lbs	31.8 mpg
2,500 lbs	29.0 mpg
2,750 lbs	26.8 mpg
3,000 lbs	24.9 mpg
3,500 lbs	21.8 mpg
4,000 lbs	19.4 mpg
4,500 lbs	17.6 mpg
5,000 lbs	16.1 mpg
5,500 lbs	14.8 mpg
6,000 lbs	13.7 mpg
6,500 lbs	12.8 mpg
7,000 to 8,500 lbs	12.1 mpg.

''(C) VEHICLE INERTIA WEIGHT CLASS.—For purposes of subparagraph (B), the term 'vehicle inertia weight class' has the same meaning as when defined in regulations prescribed by the Administrator of the Environmental Protection Agency for purposes of the administration of title II of the Clean Air Act (42 U.S.C. 7521 et seq.).

''(3) NEW QUALIFIED FUEL CELL MOTOR VEHICLE.—For purposes of this subsection, the term 'new qualified fuel cell motor vehicle' means a motor vehicle—

''(A) which is propelled by power derived from 1 or more cells which convert chemical energy directly into electricity by combining oxygen with hydrogen fuel which is stored on board the vehicle in any form and may or may not require reformation prior to use,

''(B) which, in the case of a passenger automobile or light truck for 2004 and later model vehicles, has received a certificate that such vehicle meets or exceeds the Bin 5 Tier II emission level established in regulations prescribed by the Administrator of the Environmental Protection Agency under section 202(i) of the Clean Air Act for that make and model year vehicle,

''(C) the original use of which commences with the taxpayer,

''(D) which is acquired for use or lease by the taxpayer and not for resale, and

''(E) which is made by a manufacturer.

''(c) NEW QUALIFIED HYBRID MOTOR VEHICLE CREDIT.—

''(1) IN GENERAL.—For purposes of subsection (a), the new qualified hybrid motor vehicle credit determined under this subsection with respect to a new qualified hybrid motor vehicle placed in service by the taxpayer during the taxable year is the credit amount determined under paragraph (2).

''(2) CREDIT AMOUNT.—

''(A) IN GENERAL.—The credit amount determined under this paragraph shall be determined in accordance with the following table:

''In the case of a new qualified hybrid motor vehicle which is a passenger automobile, medium duty passenger vehicle, or light truck and which provides the following percentage of the maximum available power:

''If percentage of the maximum available power is:	**The credit amount is:**
At least 4 percent but less than 10 percent.	$350
At least 10 percent but less than 20 percent.	$600
At least 20 percent but less than 30 percent.	$850
At least 30 percent	$1,100.

''(B) INCREASE FOR FUEL EFFICIENCY.—

''(i) AMOUNT.—The amount determined under subparagraph (A) with respect to a new qualified hybrid motor vehicle which is a passenger automobile or light truck shall be increased by—

''(I) $600, if such vehicle achieves at least 125 percent but less than 150 percent of the 2002 model year city fuel economy,

''(II) $1,100, if such vehicle achieves at least 150 percent but less than 175 percent of the 2002 model year city fuel economy,

''(III) $1,600, if such vehicle achieves at least 175 percent but less than 200 percent of the 2002 model year city fuel economy,

''(IV) $2,100, if such vehicle achieves at least 200 percent but less than 225 percent of the 2002 model year city fuel economy,

''(V) $2,600, if such vehicle achieves at least 225 percent but less than 250 percent of the 2002 model year city fuel economy, and

''(VI) $3,100, if such vehicle achieves at least 250 percent of the 2002 model year city fuel economy.

''(ii) 2002 MODEL YEAR CITY FUEL ECONOMY.—For purposes of clause (i), the 2002 model year city fuel economy with respect to a vehicle shall be determined on a gasoline gallon equivalent basis as determined by the Administrator of the Environmental Protection Agency using the tables provided in subsection (b)(2)(B) with respect to such vehicle.

''(iii) OPTION TO USE LIKE VEHICLE.—For purposes of clause (i), at the option of the vehicle manufacturer, the increase for fuel efficiency may be calculated by comparing the new qualified hybrid motor vehicle to a 'like vehicle'.

''(C) CONSERVATION CREDIT.—

''(i) AMOUNT.—The amount determined under subparagraph (A) with respect to a

passenger automobile, medium duty passenger vehicle, or light truck shall be increased by—

''(I) $350, if such vehicle achieves a lifetime fuel savings of at least 1,200 but less than 1,800 gallons of gasoline,

''(II) $600, if such vehicle achieves a lifetime fuel savings of at least 1,800 but less than 2,400 gallons of gasoline,

''(III) $850, if such vehicle achieves a lifetime fuel savings of at least 2,400 but less than 3,000 gallons of gasoline, and

''(IV) $1,100, if such vehicle achieves a lifetime fuel savings of at least 3,000 gallons of gasoline.

''(ii) LIFETIME FUEL SAVINGS FOR LIKE VEHICLE.—For purposes of clause (i), at the option of the vehicle manufacturer, the lifetime fuel savings fuel may be calculated by comparing the new qualified hybrid motor vehicle to a 'like vehicle'.

''(D) DEFINITIONS RELATING TO CREDIT AMOUNT.—

''(i) MAXIMUM AVAILABLE POWER.—For purposes of subparagraph (A), the term 'maximum available power' means the maximum power available from the rechargeable energy storage system, during a standard 10 second pulse power or equivalent test, divided by such maximum power and the SAE net power of the heat engine.

''(ii) LIKE VEHICLE.—For purposes of subparagraph (B)(iii), the term 'like vehicle' for a new qualified hybrid motor vehicle derived from a conventional production vehicle produced in the same model year means a model that is equivalent in the following areas:

''(I) Body style (2-door or 4-door).

''(II) Transmission (automatic or manual).

''(III) Acceleration performance (± 0.05 seconds).

''(IV) Drivetrain (2-wheel drive or 4-wheel drive).

''(V) Certification by the Administrator of the Environmental Protection Agency.

''(iii) LIFETIME FUEL SAVINGS.—For purposes of subparagraph (C), the term 'lifetime fuel savings' shall be calculated by dividing 120,000 by the difference between the 2002 model year city fuel economy for the vehicle inertia weight class (as defined in subsection (b)(2)(C)) and the city fuel economy for the new qualified hybrid motor vehicle.

''(3) NEW QUALIFIED HYBRID MOTOR VEHICLE.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'new qualified hybrid motor vehicle' means a motor vehicle—

''(i) which draws propulsion energy from onboard sources of stored energy which are both—

''(I) an internal combustion or heat engine using consumable fuel, and

''(II) a rechargeable energy storage system,

''(ii) which, in the case of a passenger automobile, medium duty passenger vehicle, or light truck—

''(I) for 2002 and later model vehicles, has received a certificate of conformity under the Clean Air Act and meets or exceeds the equivalent qualifying California low emission vehicle standard under section 243(e)(2) of the Clean Air Act for that make and model year, and

''(II) for 2004 and later model vehicles, has received a certificate that such vehicle meets or exceeds the Bin 5 Tier II emission level established in regulations prescribed by the Administrator of the Environmental Protection Agency under section 202(i) of the Clean Air Act for that make and model year vehicle,

''(iii) the original use of which commences with the taxpayer,

''(iv) which is acquired for use or lease by the taxpayer and not for resale, and

''(v) which is made by a manufacturer.

''(B) CONSUMABLE FUEL.—For purposes of subparagraph (A)(i)(I), the term 'consumable fuel' means any solid, liquid, or gaseous matter which releases energy when consumed by an auxiliary power unit.

''(d) NEW QUALIFIED ADVANCED LEAN BURN TECHNOLOGY MOTOR VEHICLE CREDIT.—

''(1) IN GENERAL.—For purposes of subsection (a), the new qualified advanced lean burn technology motor vehicle credit determined under this subsection with respect to a new qualified advanced lean burn technology motor vehicle placed in service by the taxpayer during the taxable year is the credit amount determined under paragraph (2).

''(2) CREDIT AMOUNT.—

''(A) INCREASE FOR FUEL EFFICIENCY.—The credit amount determined under this paragraph shall be—

''(i) $350, if such vehicle achieves at least 125 percent but less than 150 percent of the 2002 model year city fuel economy,

''(ii) $600, if such vehicle achieves at least 150 percent but less than 175 percent of the 2002 model year city fuel economy,

''(iii) $850, if such vehicle achieves at least 175 percent but less than 200 percent of the 2002 model year city fuel economy, and

''(iv) $1,100, if such vehicle achieves at least 200 percent of the 2002 model year city fuel economy.

For purposes of clause (i), the 2002 model year city fuel economy with respect to a vehicle shall be determined using the tables provided in subsection (b)(2)(B) with respect to such vehicle.

''(B) CONSERVATION CREDIT.—The amount determined under subparagraph (A) with respect to a new qualified advanced lean burn technology motor vehicle shall be increased by—

''(i) $350, if such vehicle achieves a lifetime fuel savings of at least 1,200 but less than 1,800 gallons of gasoline,

''(ii) $600, if such vehicle achieves a lifetime fuel savings of at least 1,800 but less than 2,400 gallons of gasoline,

''(iii) $850, if such vehicle achieves a lifetime fuel savings of at least 2,400 but less than 3,000 gallons of gasoline, and

''(iv) $1,100, if such vehicle achieves a lifetime fuel savings of at least 3,000 gallons of gasoline.

''(C) OPTION TO USE LIKE VEHICLE.—At the option of the vehicle manufacturer, the increase for fuel efficiency and conservation credit may be calculated by comparing the new qualified advanced lean burn technology motor vehicle to a like vehicle.

''(3) DEFINITIONS.—For purposes of this subsection—

''(A) NEW QUALIFIED ADVANCED LEAN BURN TECHNOLOGY MOTOR VEHICLE.—The term 'new qualified advanced lean burn technology motor vehicle' means a motor vehicle with an internal combustion engine—

''(i) which is designed to operate primarily using more air than is necessary for complete combustion of the fuel,

''(ii) which incorporates direct injection,

''(iii) which achieves at least 125 percent of the 2002 model year city fuel economy,

''(iv) which, for 2005 and later model vehicles, has received a certificate that such vehicle meets or exceeds the Bin 5 Tier II emission levels for passenger vehicles established in regulations prescribed by the Administrator of the Environmental Protection Agency under section 202(i) of the Clean Air Act for that make and model year vehicle, except any manufacturer may provide not to exceed 5,000 passenger vehicles per year which are Tier II compliant,

''(v) the original use of which commences with the taxpayer,

''(vi) which is acquired for use or lease by the taxpayer and not for resale, and

''(vii) which is made by a manufacturer.

''(B) LIKE VEHICLE.—The term 'like vehicle' for a new qualified advanced lean burn technology motor vehicle derived from a conventional production vehicle produced in the same model year means a model that is equivalent in the following areas:

''(i) Body style (2-door or 4-door),

''(ii) Transmission (automatic or manual),

''(iii) Acceleration performance (± 0.05 seconds).

''(iv) Drivetrain (2-wheel drive or 4-wheel drive).

''(v) Certification by the Administrator of the Environmental Protection Agency.

''(C) LIFETIME FUEL SAVINGS.—The term 'lifetime fuel savings' shall be calculated by dividing 120,000 by the difference between the 2002 model year city fuel economy for the vehicle inertia weight class (as defined in subsection (b)(2)(C)) and the city fuel economy for the new qualified hybrid motor vehicle.

''(e) APPLICATION WITH OTHER CREDITS.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess (if any) of—

''(1) the regular tax for the taxable year reduced by the sum of the credits allowable under subpart A and sections 27, 29, and 30, over

''(2) the tentative minimum tax for the taxable year.

''(f) LIMITATION ON NUMBER OF NEW QUALIFIED HYBRID AND ADVANCED LEAN-BURN TECHNOLOGY VEHICLES ELIGIBLE FOR CREDIT.—

''(1) IN GENERAL.—In the case of a qualified vehicle sold during the phaseout period, only the applicable percentage of the credit otherwise allowable under subsection (c) or (d) shall be allowed.

''(2) PHASEOUT PERIOD.—For purposes of this subsection, the phaseout period is the period beginning with the second calendar quarter following the calendar quarter which includes the first date on which the number of qualified vehicles manufactured by the manufacturer of the vehicle referred to in paragraph (1) sold for use in the United States after the date of the enactment of this section is at least 80,000.

''(3) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage is—

''(A) 50 percent for the first 2 calendar quarters of the phaseout period,

''(B) 25 percent for the 3d and 4th calendar quarters of the phaseout period, and

''(C) 0 percent for each calendar quarter thereafter.

''(4) CONTROLLED GROUPS.—

''(A) IN GENERAL.—For purposes of this subsection, all persons treated as a single employer under subsection (a) or (b) of section 52 or subsection (m) or (o) of section 414 shall be treated as a single manufacturer.

''(B) INCLUSION OF FOREIGN CORPORATIONS.—For purposes of subparagraph (A), in applying subsections (a) and (b) of section 52 to this section, section 1563 shall be applied without regard to subsection (b)(2)(C) thereof.

''(5) QUALIFIED VEHICLE.—For purposes of this subsection, the term 'qualified vehicle' means any new qualified hybrid motor vehicle and any new advanced lean burn technology motor vehicle.

''(g) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) MOTOR VEHICLE.—The term 'motor vehicle' has the meaning given such term by section 30(c)(2).

''(2) CITY FUEL ECONOMY.—The city fuel economy with respect to any vehicle shall be measured in a manner which is substantially similar to the manner city fuel economy is measured in accordance with procedures under part 600 of subchapter Q of chapter I of

title 40, Code of Federal Regulations, as in effect on the date of the enactment of this section.

''(3) OTHER TERMS.—The terms 'automobile', 'passenger automobile', 'medium duty passenger vehicle', 'light truck', and 'manufacturer' have the meanings given such terms in regulations prescribed by the Administrator of the Environmental Protection Agency for purposes of the administration of title II of the Clean Air Act (42 U.S.C. 7521 et seq.).

''(4) REDUCTION IN BASIS.—For purposes of this subtitle, the basis of any property for which a credit is allowable under subsection (a) shall be reduced by the amount of such credit so allowed (determined without regard to subsection (e)).

''(5) NO DOUBLE BENEFIT.—The amount of any deduction or other credit allowable under this chapter with respect to a vehicle described under subsection (b) or (c), shall be reduced by the amount of credit allowed under subsection (a) for such vehicle for the taxable year.

''(6) PROPERTY USED BY TAX-EXEMPT ENTITIES.—In the case of a credit amount which is allowable with respect to a motor vehicle which is acquired by an entity exempt from tax under this chapter, the person which sells or leases such vehicle to the entity shall be treated as the taxpayer with respect to the vehicle for purposes of this section and the credit shall be allowed to such person, but only if the person clearly discloses to the entity at the time of any sale or lease the specific amount of any credit otherwise allowable to the entity under this section.

''(7) RECAPTURE.—The Secretary shall, by regulations, provide for recapturing the benefit of any credit allowable under subsection (a) with respect to any property which ceases to be property eligible for such credit (including recapture in the case of a lease period of less than the economic life of a vehicle).

''(8) PROPERTY USED OUTSIDE UNITED STATES, ETC., NOT QUALIFIED.—No credit shall be allowed under subsection (a) with respect to any property referred to in section 50(b) or with respect to the portion of the cost of any property taken into account under section 179.

''(9) ELECTION TO NOT TAKE CREDIT.—No credit shall be allowed under subsection (a) for any vehicle if the taxpayer elects to not have this section apply to such vehicle.

''(10) CARRYBACK AND CARRYFORWARD ALLOWED.—

''(A) IN GENERAL.—If the credit allowable under subsection (a) for a taxable year exceeds the amount of the limitation under subsection (e) for such taxable year (in this paragraph referred to as the 'unused credit year'), such excess shall be a credit carryback to each of the 3 taxable years preceding the unused credit year and a credit carryforward to each of the 20 taxable years following the unused credit year, except that no excess may be carried to a taxable year beginning before the date of the enactment of this paragraph.

''(B) RULES.—Rules similar to the rules of section 39 shall apply with respect to the credit carryback and credit carryforward under subparagraph (A).

''(11) INTERACTION WITH AIR QUALITY AND MOTOR VEHICLE SAFETY STANDARDS.—Unless otherwise provided in this section, a motor vehicle shall not be considered eligible for a credit under this section unless such vehicle is in compliance with—

''(A) the applicable provisions of the Clean Air Act for the applicable make and model year of the vehicle (or applicable air quality provisions of State law in the case of a State which has adopted such provision under a waiver under section 209(b) of the Clean Air Act), and

''(B) the motor vehicle safety provisions of sections 30101 through 30169 of title 49, United States Code.

''(h) REGULATIONS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall promulgate such regulations as necessary to carry out the provisions of this section.

''(2) COORDINATION IN PRESCRIPTION OF CERTAIN REGULATIONS.—The Secretary of the Treasury, in coordination with the Secretary of Transportation and the Administrator of the Environmental Protection Agency, shall prescribe such regulations as necessary to determine whether a motor vehicle meets the requirements to be eligible for a credit under this section.

''(i) APPLICATION OF SECTION.—This section shall apply to——

''(1) any new qualified fuel cell motor vehicle (as described in subsection (b)) placed in service after December 31, 2004, and purchased before January 1, 2015, and

''(2) any new qualified hybrid motor vehicle (as described in subsection (c)) or new qualified advanced lean burn technology motor vehicle (as described in subsection (d)) placed in service after December 31, 2004, and purchased before January 1, 2010.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 1016(a) is amended by striking ''and'' at the end of paragraph (27), by striking the period at the end of paragraph (28) and inserting '', and'', and by adding at the end the following new paragraph:

''(29) to the extent provided in section 30B(g)(4).''.

(2) Section 55(c)(2) is amended by inserting ''30B(e),'' after ''30(b)(3),''.

(3) Section 6501(m) is amended by inserting ''30B(g)(9),'' after ''30(d)(4),''.

(4) The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 30A the following new item:

''Sec. 30B. Alternative motor vehicle credit.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 5672. CREDIT FOR INSTALLATION OF ALTERNATIVE FUELING STATIONS.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 (relating to foreign tax credit, etc.), as amended by this Act, is amended by adding at the end the following new section:

''SEC. 30C. CLEAN-FUEL VEHICLE REFUELING PROPERTY CREDIT.

''(a) CREDIT ALLOWED.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 50 percent of the amount paid or incurred by the taxpayer during the taxable year for the installation of qualified clean-fuel vehicle refueling property.

''(b) LIMITATION.—The credit allowed under subsection (a)—

''(1) with respect to any retail clean-fuel vehicle refueling property, shall not exceed $30,000, and

''(2) with respect to any residential clean-fuel vehicle refueling property, shall not exceed $1,000.

''(c) YEAR CREDIT ALLOWED.—Notwithstanding subsection (a), no credit shall be allowed under subsection (a) with respect to any qualified clean-fuel vehicle refueling property before the taxable year in which the property is placed in service by the taxpayer.

''(d) DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED CLEAN-FUEL VEHICLE REFUELING PROPERTY.—The term 'qualified clean-fuel vehicle refueling property' has the same meaning given such term by section 179A(d).

''(2) RESIDENTIAL CLEAN-FUEL VEHICLE REFUELING PROPERTY.—The term 'residential clean-fuel vehicle refueling property' means qualified clean-fuel vehicle refueling property which is installed on property which is used as the principal residence (within the meaning of section 121) of the taxpayer.

''(3) RETAIL CLEAN-FUEL VEHICLE REFUELING PROPERTY.—The term 'retail clean-fuel vehicle refueling property' means qualified clean-fuel vehicle refueling property which is installed on property (other than property described in paragraph (2)) used in a trade or business of the taxpayer.

''(e) APPLICATION WITH OTHER CREDITS.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess (if any) of—

''(1) the regular tax for the taxable year reduced by the sum of the credits allowable under subpart A and sections 27, 29, 30, and 30B, over

''(2) the tentative minimum tax for the taxable year.

''(f) BASIS REDUCTION.—For purposes of this title, the basis of any property shall be reduced by the portion of the cost of such property taken into account under subsection (a).

''(g) NO DOUBLE BENEFIT.—

''(1) COORDINATION WITH OTHER DEDUCTIONS AND CREDITS.—Except as provided in paragraph (2), the amount of any deduction or other credit allowable under this chapter for any cost taken into account in computing the amount of the credit determined under subsection (a) shall be reduced by the amount of such credit attributable to such cost.

''(2) NO DEDUCTION ALLOWED UNDER SECTION 179A.—No deduction shall be allowed under section 179A with respect to any property with respect to which a credit is allowed under subsection (a).

''(h) REFUELING PROPERTY INSTALLED FOR TAX-EXEMPT ENTITIES.—In the case of qualified clean-fuel vehicle refueling property installed on property owned or used by an entity exempt from tax under this chapter, the person which installs such refueling property for the entity shall be treated as the taxpayer with respect to the refueling property for purposes of this section (and such refueling property shall be treated as retail clean-fuel vehicle refueling property) and the credit shall be allowed to such person, but only if the person clearly discloses to the entity in any installation contract the specific amount of the credit allowable under this section.

''(i) CARRYFORWARD ALLOWED.—

''(1) IN GENERAL.—If the credit allowable under subsection (a) for a taxable year exceeds the amount of the limitation under subsection (e) for such taxable year, such excess shall be a credit carryforward to each of the 20 taxable years following such taxable year.

''(2) RULES.—Rules similar to the rules of section 39 shall apply with respect to the credit carryforward under paragraph (1).

''(j) SPECIAL RULES.—Rules similar to the rules of paragraphs (4) and (5) of section 179A(e) shall apply.

''(k) REGULATIONS.—The Secretary shall prescribe such regulations as necessary to carry out the provisions of this section.

''(l) TERMINATION.—This section shall not apply to any property placed in service—

''(1) in the case of property relating to hydrogen, after December 31, 2011, and

''(2) in the case of any other property, after December 31, 2007.''.

(b) MODIFICATIONS TO EXTENSION OF DEDUCTION FOR CERTAIN REFUELING PROPERTY.—

(1) INCREASE IN DEDUCTION FOR HYDROGEN INFRASTRUCTURE.—Section 179A(b)(2)(A)(i) is amended by inserting ''($200,000 in the case of property relating to hydrogen)'' after ''$100,000''.

(2) EXTENSION OF DEDUCTION.—Subsection (f) of section 179A is amended to read as follows:

''(f) TERMINATION.—This section shall not apply to any property placed in service—

''(1) in the case of property relating to hydrogen, after December 31, 2011, and

''(2) in the case of any other property, after December 31, 2007.''.

(3) EXTENSION OF PHASEOUT.—Section 179A(b)(1)(B) is amended—

(A) by striking ''calendar year 2004'' in clause (i) and inserting ''calendar years 2004 and 2005 (calendar years 2004 through 2009 in the case of property relating to hydrogen)'',

(B) by striking ''2005'' in clause (ii) and inserting ''2006 (calendar year 2010 in the case of property relating to hydrogen)'', and

(C) by striking ''2006'' in clause (iii) and inserting ''2007 (calendar year 2011 in the case of property relating to hydrogen)''.

(c) INCENTIVE FOR PRODUCTION OF HYDROGEN AT QUALIFIED CLEAN-FUEL VEHICLE REFUELING PROPERTY.—Section 179A(d) (defining qualified clean-fuel vehicle refueling property) is amended by adding at the end the following new flush sentence:

''In the case of clean-burning fuel which is hydrogen produced from another clean-burning fuel, paragraph (3)(A) shall be applied by substituting 'production, storage, or dispensing' for 'storage or dispensing' both places it appears.''.

(d) CONFORMING AMENDMENTS.—

(1) Section 1016(a), as amended by this Act, is amended by striking ''and'' at the end of paragraph (28), by striking the period at the end of paragraph (29) and inserting '', and'', and by adding at the end the following new paragraph:

''(30) to the extent provided in section 30C(f).''.

(2) Section 55(c)(2), as amended by this Act, is amended by inserting ''30C(e),'' after ''30B(e),''.

(3) The table of sections for subpart B of part IV of subchapter A of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 30B the following new item:

''Sec. 30C. Clean-fuel vehicle refueling property credit.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 5673. BIODIESEL CREDIT EXPANSION.

Section 312(b) of the Energy Policy Act of 1992 (42 U.S.C. 13220(b)) is amended—

(1) by striking ''CREDITS.—'' and all that follows through ''At the request'' and inserting ''CREDITS.—At the request''; and

(2) by striking paragraph (2).

PART II—REVENUE PROVISIONS

SEC. 5675. PENALTY FOR PROMOTING ABUSIVE TAX SHELTERS.

(a) PENALTY FOR PROMOTING ABUSIVE TAX SHELTERS.—Section 6700 (relating to promoting abusive tax shelters, etc.) is amended—

(1) by redesignating subsections (b) and (c) as subsections (d) and (e), respectively,

(2) by striking ''a penalty'' and all that follows through the period in the first sentence of subsection (a) and inserting ''a penalty determined under subsection (b)'', and

(3) by inserting after subsection (a) the following new subsections:

''(b) AMOUNT OF PENALTY; CALCULATION OF PENALTY; LIABILITY FOR PENALTY.—

''(1) AMOUNT OF PENALTY.—The amount of the penalty imposed by subsection (a) shall not exceed the greater of—

''(A) 150 percent of the gross income derived (or to be derived) from such activity by the person or persons subject to such penalty, and

''(B) if readily subject to calculation, the total amount of underpayment by the taxpayer (including penalties, interest, and taxes) in connection with such activity.

''(2) CALCULATION OF PENALTY.—The penalty amount determined under paragraph (1) shall be calculated with respect to each instance of an activity described in subsection (a), each instance in which income was derived by the person or persons subject to such penalty, and each person who participated in such an activity.

''(3) LIABILITY FOR PENALTY.—If more than 1 person is liable under subsection (a) with respect to such activity, all such persons shall be jointly and severally liable for the penalty under such subsection.

''(c) PENALTY NOT DEDUCTIBLE.—The payment of any penalty imposed under this section or the payment of any amount to settle or avoid the imposition of such penalty shall not be considered an ordinary and necessary expense in carrying on a trade or business for purposes of this title and shall not be deductible by the person who is subject to such penalty or who makes such payment.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to activities after the date of the enactment of this Act.

(c) PRIOR SECTION TO HAVE NO EFFECT.—Notwithstanding section 5625 of this Act, such section, and the amendments made by such section, shall not take effect.

SEC. 5676. PENALTY FOR AIDING AND ABETTING THE UNDERSTATEMENT OF TAX LIABILITY.

(a) IN GENERAL.—Section 6701(a) (relating to imposition of penalty) is amended—

(1) by inserting ''the tax liability or'' after ''respect to,'' in paragraph (1),

(2) by inserting ''aid, assistance, procurement, or advice with respect to such'' before ''portion'' both places it appears in paragraphs (2) and (3), and

(3) by inserting ''instance of aid, assistance, procurement, or advice or each such'' before ''document'' in the matter following paragraph (3).

(b) AMOUNT OF PENALTY.—Subsection (b) of section 6701 (relating to penalties for aiding and abetting understatement of tax liability) is amended to read as follows:

''(b) AMOUNT OF PENALTY; CALCULATION OF PENALTY; LIABILITY FOR PENALTY.—

''(1) AMOUNT OF PENALTY.—The amount of the penalty imposed by subsection (a) shall not exceed the greater of—

''(i) 150 percent of the gross income derived (or to be derived) from such aid, assistance, procurement, or advice provided by the person or persons subject to such penalty, and

''(ii) if readily subject to calculation, the total amount of underpayment by the taxpayer (including penalties, interest, and taxes) in connection with the understatement of the liability for tax.

''(2) CALCULATION OF PENALTY.—The penalty amount determined under paragraph (1) shall be calculated with respect to each instance of aid, assistance, procurement, or advice described in subsection (a), each instance in which income was derived by the person or persons subject to such penalty, and each person who made such an understatement of the liability for tax.

''(3) LIABILITY FOR PENALTY.—If more than 1 person is liable under subsection (a) with respect to providing such aid, assistance, procurement, or advice, all such persons shall be jointly and severally liable for the penalty under such subsection.''.

(c) PENALTY NOT DEDUCTIBLE.—Section 6701 is amended by adding at the end the following new subsection:

''(g) PENALTY NOT DEDUCTIBLE.—The payment of any penalty imposed under this section or the payment of any amount to settle or avoid the imposition of such penalty shall not be considered an ordinary and necessary expense in carrying on a trade or business for purposes of this title and shall not be deductible by the person who is subject to such penalty or who makes such payment.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to activities after the date of the enactment of this Act.

SEC. 5677. PENALTY FOR FAILURE TO REGISTER TAX SHELTER.

(a) IN GENERAL.—Section 6707 (relating to failure to furnish information regarding tax shelters) is amended to read as follows:

''SEC. 6707. FAILURE TO FURNISH INFORMATION ON POTENTIALLY ABUSIVE TAX SHELTER OR LISTED TRANSACTION.

''(a) IN GENERAL.—If a person who is required to file a return under section 6111 with respect to any potentially abusive tax shelter—

''(1) fails to file such return on or before the date prescribed therefor, or

''(2) files false or incomplete information with the Secretary with respect to such shelter,

such person shall pay a penalty with respect to such return in the amount determined under subsection (b).

''(b) AMOUNT OF PENALTY.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the penalty imposed under subsection (a) with respect to any failure shall be not less than $50,000 and not more than $100,000.

''(2) LISTED TRANSACTIONS.—The penalty imposed under subsection (a) with respect to any listed transaction shall be an amount equal to the greater of—

''(A) $200,000, or

''(B) 100 percent of the gross income derived by such person for providing aid, assistance, procurement, advice, or other services with respect to the listed transaction before the date the return including the transaction is filed under section 6111.

Subparagraph (B) shall be applied by substituting '150 percent' for '100 percent' in the case of an intentional failure or act described in subsection (a).

''(c) CERTAIN RULES TO APPLY.—The provisions of section 6707A(d) allowing the Commissioner of Internal Revenue to rescind a penalty under certain circumstances shall apply to any penalty imposed under this section.

''(d) POTENTIALLY ABUSIVE TAX SHELTERS AND LISTED TRANSACTIONS.—The terms 'potentially abusive tax shelter' and 'listed transaction' have the respective meanings given to such terms by section 6707A(c).

''(e) PENALTY NOT DEDUCTIBLE.—The payment of any penalty imposed under this section or the payment of any amount to settle or avoid the imposition of such penalty shall not be considered an ordinary and necessary expense in carrying on a trade or business for purposes of this title and shall not be deductible by the person who is subject to such penalty or who makes such payment.''.

(b) CLERICAL AMENDMENT.—The item relating to section 6707 in the table of sections for part I of subchapter B of chapter 68 is amended by striking ''regarding tax shelters'' and inserting ''on potentially abusive tax shelter or listed transaction''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns the due date for which is after the date of the enactment of this Act.

(d) PRIOR SECTION TO HAVE NO EFFECT.—Notwithstanding section 5618(c) of this Act,

such section, and the amendments made by such section, shall not take effect.

SEC. 5678. PENALTY FOR FAILING TO MAINTAIN CLIENT LIST.

(a) IN GENERAL.—Subsection (a) of section 6708 (relating to failure to maintain lists of investors in potentially abusive tax shelters) is amended to read as follows:

''(a) IMPOSITION OF PENALTY.—

''(1) IN GENERAL.—If any person who is required to maintain a list under section 6112(a) fails to make such list available upon written request to the Secretary in accordance with section 6112(b)(1)(A) within 20 business days after the date of the Secretary's request, such person shall pay a penalty of $10,000 for each day of such failure after such 20th day. If such person makes available an incomplete list upon such request, such person shall pay a penalty of $100 per each omitted name for each day of such omission after such 20th day.

''(2) GOOD CAUSE EXCEPTION.—No penalty shall be imposed by paragraph (1) with respect to the failure on any day if, in the judgment of the Secretary, such failure is due to good cause.''.

(b) PENALTY NOT DEDUCTIBLE.—Section 6708 is amended by adding at the end the following new subsection:

''(c) PENALTY NOT DEDUCTIBLE.—The payment of any penalty imposed under this section or the payment of any amount to settle or avoid the imposition of such penalty shall not be considered an ordinary and necessary expense in carrying on a trade or business for purposes of this title and shall not be deductible by the person who is subject to such penalty or who makes such payment.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to requests made by the Secretary of the Treasury after the date of the enactment of this Act.

(d) PRIOR SECTION TO HAVE NO EFFECT.—Notwithstanding section 5619(b) of this Act, such section, and the amendments made by such section, shall not take effect.

SEC. 5679. PENALTY FOR FAILING TO DISCLOSE POTENTIALLY ABUSIVE TAX SHELTER.

(a) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by inserting after section 6707 the following new section:

''SEC. 6707A. PENALTY FOR FAILURE TO INCLUDE POTENTIALLY ABUSIVE TAX SHELTER INFORMATION WITH RETURN OR STATEMENT.

''(a) IMPOSITION OF PENALTY.—Any person who fails to include on any return or statement any information with respect to a potentially abusive tax shelter which is required under section 6011 to be included with such return or statement shall pay a penalty in the amount determined under subsection (b).

''(b) AMOUNT OF PENALTY.—

''(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amount of the penalty under subsection (a) shall be $50,000.

''(2) LISTED TRANSACTION.—Except as provided in paragraph 3, the amount of the penalty under subsection (a) with respect to a listed transaction shall be $100,000.

''(3) INCREASE IN PENALTY FOR INTENTIONAL NONDISCLOSURE.—In the case of an intentional failure by any person under subsection (a), the penalty under paragraph (1) shall be $100,000 and the penalty under paragraph (2) shall be $200,000.

''(c) DEFINITIONS.—For purposes of this section—

''(1) POTENTIALLY ABUSIVE TAX SHELTER.—The term 'potentially abusive tax shelter' means any transaction with respect to which information is required to be included with a return or statement, because the Secretary has determined by regulation or otherwise that such transaction has a potential for tax avoidance or evasion.

''(2) LISTED TRANSACTION.—Except as provided in regulations, the term 'listed transaction' means a potentially abusive tax shelter which is the same as, or substantially similar to, a transaction specifically identified by the Secretary as a tax avoidance transaction for purposes of section 6011.

''(d) AUTHORITY TO RESCIND PENALTY.—

''(1) IN GENERAL.—The Commissioner of Internal Revenue may rescind all or any portion of a penalty imposed by this section with respect to any violation if—

''(A) the violation is with respect to a potentially abusive tax shelter other than a listed transaction,

''(B) the person on whom the penalty is imposed has a history of complying with the requirements of this title,

''(C) it is shown that the violation is due to an unintentional mistake of fact,

''(D) imposing the penalty would be against equity and good conscience, and

''(E) rescinding the penalty would promote compliance with the requirements of this title and effective tax administration.

''(2) DISCRETION.—The exercise of authority under paragraph (1) shall be at the sole discretion of the Commissioner and may be delegated only to the head of the Office of Tax Shelter Analysis. The Commissioner, in the Commissioner's sole discretion, may establish a procedure to determine if a penalty should be referred to the Commissioner or the head of such Office for a determination under paragraph (1).

''(3) NO APPEAL.—Notwithstanding any other provision of law, any determination under this subsection may not be reviewed in any administrative or judicial proceeding.

''(4) RECORDS.—If a penalty is rescinded under paragraph (1), the Commissioner shall place in the file in the Office of the Commissioner the opinion of the Commissioner or the head of the Office of Tax Shelter Analysis with respect to the determination, including—

''(A) the facts and circumstances of the transaction,

''(B) the reasons for the rescission, and

''(C) the amount of the penalty rescinded.

A copy of such opinion shall be provided upon written request to the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, the Joint Committee on Taxation, or the General Accounting Office.

''(5) REPORT.—The Commissioner shall each year report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate—

''(A) a summary of the total number and aggregate amount of penalties imposed, and rescinded, under this section, and

''(B) a description of each penalty rescinded under this subsection and the reasons therefor.

''(e) PENALTY REPORTED TO SEC.—In the case of a person—

''(1) which is required to file periodic reports under section 13 or 15(d) of the Securities Exchange Act of 1934 or is required to be consolidated with another person for purposes of such reports, and

''(2) which—

''(A) is required to pay a penalty under this section with respect to a listed transaction,

''(B) is required to pay a penalty under section 6662A with respect to any potentially abusive tax shelter at a rate prescribed under section 6662A(c), or

''(C) is required to pay a penalty under section 6662B with respect to any noneconomic substance transaction,

the requirement to pay such penalty shall be disclosed in such reports filed by such person for such periods as the Secretary shall specify. Failure to make a disclosure in accordance with the preceding sentence shall be treated as a failure to which the penalty under subsection (b)(2) applies.

''(f) PENALTY IN ADDITION TO OTHER PENALTIES.—The penalty imposed by this section shall be in addition to any other penalty provided by law.

''(g) PENALTY NOT DEDUCTIBLE.—The payment of any penalty imposed under this section or the payment of any amount to settle or avoid the imposition of such penalty shall not be considered an ordinary and necessary expense in carrying on a trade or business for purposes of this title and shall not be deductible by the person who is subject to such penalty or who makes such payment.''.

(b) CONFORMING AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by inserting after the item relating to section 6707 the following:

''Sec. 6707A. Penalty for failure to include potentially abusive tax shelter information with return or statement.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns and statements the due date for which is after the date of the enactment of this Act.

(d) PRIOR SECTION TO HAVE NO EFFECT.—Notwithstanding section 5612(c) of this Act, such section, and the amendments made by such section, shall not take effect.

SEC. 5680. IMPROVED DISCLOSURE OF POTENTIALLY ABUSIVE TAX SHELTERS.

(a) IN GENERAL.—Section 6111 (relating to registration of tax shelters) is amended to read as follows:

''SEC. 6111. DISCLOSURE OF POTENTIALLY ABUSIVE TAX SHELTERS.

''(a) IN GENERAL.—Each material advisor with respect to any potentially abusive tax shelter shall make a return (in such form as the Secretary may prescribe) setting forth—

''(1) information identifying and describing such shelter,

''(2) information describing any potential tax benefits expected to result from the shelter, and

''(3) such other information as the Secretary may prescribe.

Such return shall be filed not later than the date which is 30 days before the date on which the first sale of such shelter occurs or on any other date specified by the Secretary.

''(b) DEFINITIONS.—For purposes of this section—

''(1) MATERIAL ADVISOR.—

''(A) IN GENERAL.—The term 'material advisor' means any person—

''(i) who provides any material aid, assistance, or advice with respect to designing, organizing, managing, promoting, selling, implementing, or carrying out any potentially abusive tax shelter, and

''(ii) who directly or indirectly derives gross income in excess of the threshold amount for such aid, assistance, or advice.

''(B) THRESHOLD AMOUNT.—For purposes of subparagraph (A), the threshold amount is—

''(i) $50,000 in the case of a potentially abusive tax shelter substantially all of the tax benefits from which are provided to natural persons, and

''(ii) $100,000 in any other case.

''(2) POTENTIALLY ABUSIVE TAX SHELTER.—The term 'potentially abusive tax shelter' has the meaning given to such term by section 6707A(c).

''(c) REGULATIONS.—The Secretary may prescribe regulations which provide—

''(1) that only 1 person shall be required to meet the requirements of subsection (a) in cases in which 2 or more persons would otherwise be required to meet such requirements,

''(2) exemptions from the requirements of this section, and

''(3) such rules as may be necessary or appropriate to carry out the purposes of this section.''.

(b) CONFORMING AMENDMENTS.—

(1) The item relating to section 6111 in the table of sections for subchapter B of chapter 61 is amended to read as follows:

''Sec. 6111. Disclosure of potentially abusive tax shelters.''.

(2)(A) So much of section 6112 as precedes subsection (c) thereof is amended to read as follows:

''SEC. 6112. MATERIAL ADVISORS OF POTENTIALLY ABUSIVE TAX SHELTERS MUST KEEP CLIENT LISTS.

''(a) IN GENERAL.—Each material advisor (as defined in section 6111) with respect to any potentially abusive tax shelter (as defined in section 6707A(c)) shall maintain, in such manner as the Secretary may by regulations prescribe, a list—

''(1) identifying each person with respect to whom such advisor acted as such a material advisor with respect to such shelter, and

''(2) containing such other information as the Secretary may by regulations require.

This section shall apply without regard to whether a material advisor is required to file a return under section 6111 with respect to such transaction.''.

(B) Section 6112 is amended by redesignating subsection (c) as subsection (b).

(C) Section 6112(b), as redesignated by subparagraph (B), is amended—

(i) by inserting ''written'' before ''request'' in paragraph (1)(A), and

(ii) by striking ''shall prescribe'' in paragraph (2) and inserting ''may prescribe''.

(D) The item relating to section 6112 in the table of sections for subchapter B of chapter 61 is amended to read as follows:

''Sec. 6112. Material advisors of potentially abusive tax shelters must keep client lists.''.

(3)(A) The heading for section 6708 is amended to read as follows:

''SEC. 6708. FAILURE TO MAINTAIN CLIENT LISTS WITH RESPECT TO POTENTIALLY ABUSIVE TAX SHELTERS.''.

(B) The item relating to section 6708 in the table of sections for part I of subchapter B of chapter 68 is amended to read as follows:

''Sec. 6708. Failure to maintain client lists with respect to potentially abusive tax shelters.''.

(c) REQUIRED DISCLOSURE NOT SUBJECT TO CLAIM OF CONFIDENTIALITY.—Section 6112(b)(1), as redesignated by subsection (b)(2)(B), is amended by adding at the end the following new flush sentence:

''For purposes of this section, the identity of any person on such list shall not be privileged.''.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to transactions with respect to which material aid, assistance, or advice referred to in section 6111(b)(1)(A)(i) of the Internal Revenue Code of 1986 (as added by this section) is provided after the date of the enactment of this Act.

(2) NO CLAIM OF CONFIDENTIALITY AGAINST DISCLOSURE.—The amendment made by subsection (c) shall take effect as if included in the amendments made by section 142 of the Deficit Reduction Act of 1984.

(e) PRIOR SECTION TO HAVE NO EFFECT.—Notwithstanding section 5617(d) of this Act, such section, and the amendments made by such section, shall not take effect.

SEC. 5681. EXTENSION OF STATUTE OF LIMITATIONS FOR UNDISCLOSED TAX SHELTER.

(a) IN GENERAL.—Section 6501(c) (relating to exceptions) is amended by adding at the end the following new paragraph:

''(10) POTENTIALLY ABUSIVE TAX SHELTERS.—If a taxpayer fails to include on any return or statement for any taxable year any information with respect to a potentially abusive tax shelter (as defined in section 6707A(c)) which is required under section 6011 to be included with such return or statement, the time for assessment of any tax imposed by this title with respect to such transaction shall not expire before the date which is 2 years after the earlier of—

''(A) the date on which the Secretary is furnished the information so required; or

''(B) the date that a material advisor (as defined in section 6111) meets the requirements of section 6112 with respect to a request by the Secretary under section 6112(b) relating to such transaction with respect to such taxpayer.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years with respect to which the period for assessing a deficiency did not expire before the date of the enactment of this Act.

(c) PRIOR SECTION TO HAVE NO EFFECT.—Notwithstanding section 5626(b) of this Act, such section, and the amendments made by such section, shall not take effect.

SEC. 5682. PENALTY FOR FAILING TO REPORT INTERESTS IN FOREIGN FINANCIAL ACCOUNTS.

(a) IN GENERAL.—Section 5321(a)(5) of title 31, United States Code, is amended to read as follows:

''(5) FOREIGN FINANCIAL AGENCY TRANSACTION VIOLATION.—

''(A) PENALTY AUTHORIZED.—The Secretary of the Treasury may impose a civil money penalty on any person who violates, or causes any violation of, any provision of section 5314.

''(B) AMOUNT OF PENALTY.—

''(i) IN GENERAL.—Except as provided in subparagraph (C), the amount of any civil penalty imposed under subparagraph (A) shall not exceed $10,000.

''(ii) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under subparagraph (A) with respect to any violation if—

''(I) such violation was due to reasonable cause, and

''(II) the amount of the transaction or the balance in the account at the time of the transaction was properly reported.

''(C) WILLFUL VIOLATIONS.—In the case of any person willfully violating, or willfully causing any violation of, any provision of section 5314, the amount of the civil penalty imposed under subparagraph (A) shall be—

''(i) not less than $5,000,

''(ii) not more than 50 percent of the amount determined under subparagraph (D), and

''(iii) subparagraph (B)(ii) shall not apply.

''(D) AMOUNT.—The amount determined under this subparagraph is—

''(i) in the case of a violation involving a transaction, the amount of the transaction, or

''(ii) in the case of a violation involving a failure to report the existence of an account or any identifying information required to be provided with respect to an account, the balance in the account at the time of the violation.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to violations occurring after the date of the enactment of this Act.

(c) PRIOR SECTION TO HAVE NO EFFECT.—Notwithstanding section 5622(b) of this Act, such section, and the amendments made by such section, shall not take effect.

SEC. 5683. CENSURE, CIVIL FINES, AND TAX OPINION STANDARDS FOR TAX PRACTITIONERS.

(a) CENSURE; IMPOSITION OF MONETARY PENALTY.—

(1) IN GENERAL.—Section 330(b) of title 31, United States Code, is amended—

(A) by inserting '', or censure,'' after ''Department'', and

(B) by adding at the end the following new flush sentence:

''The Secretary may impose a monetary penalty on any representative described in the preceding sentence. If the representative was acting on behalf of an employer or any firm or other entity in connection with the conduct giving rise to such penalty, the Secretary may impose a monetary penalty on such employer, firm, or entity if it knew, or reasonably should have known, of such conduct. Such penalty may be in addition to, or in lieu of, any suspension, disbarment, or censure of the representative.''.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to actions taken after the date of the enactment of this Act.

(b) TAX OPINION STANDARDS.—Section 330 of such title 31 is amended by adding at the end the following new subsection:

''(d) The Secretary of the Treasury shall impose standards applicable to the rendering of written advice with respect to any potentially abusive tax shelter or any entity, plan, arrangement, or transaction which has a potential for tax avoidance or evasion. Such standards shall address, but not be limited to, the following issues:

''(1) Independence of the practitioner issuing such written advice from persons promoting, marketing, or recommending the subject of the advice.

''(2) Collaboration among practitioners, or between a practitioner and other party, which could result in such collaborating parties having a joint financial interest in the subject of the advice.

''(3) Avoidance of conflicts of interest which would impair auditor independence.

''(4) For written advice issued by a firm, standards for reviewing the advice and ensuring the consensus support of the firm for positions taken.

''(5) Reliance on reasonable factual representations by the taxpayer and other parties.

''(6) Appropriateness of the fees charged by the practitioner for the written advice.''.

(c) PRIOR SECTION TO HAVE NO EFFECT.—Notwithstanding section 5624(a)(2) of this Act, such section, and the amendments made by such section, shall not take effect.

SEC. 5684. PREVENTING CORPORATE EXPATRIATION TO AVOID UNITED STATES INCOME TAX.

(a) IN GENERAL.—Paragraph (4) of section 7701(a) (defining domestic) is amended to read as follows:

''(4) DOMESTIC.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'domestic' when applied to a corporation or partnership means created or organized in the United States or under the law of the United States or of any State unless, in the case of a partnership, the Secretary provides otherwise by regulations.

''(B) CERTAIN CORPORATIONS TREATED AS DOMESTIC.—

''(i) IN GENERAL.—The acquiring corporation in a corporate expatriation transaction shall be treated as a domestic corporation.

''(ii) CORPORATE EXPATRIATION TRANSACTION.—For purposes of this subparagraph, the term 'corporate expatriation transaction' means any transaction if—

''(I) a nominally foreign corporation (referred to in this subparagraph as the 'acquiring corporation') acquires, as a result of such

transaction, directly or indirectly substantially all of the properties held directly or indirectly by a domestic corporation, and

''(II) immediately after the transaction, more than 80 percent of the stock (by vote or value) of the acquiring corporation is held by former shareholders of the domestic corporation by reason of holding stock in the domestic corporation.

''(iii) LOWER STOCK OWNERSHIP REQUIREMENT IN CERTAIN CASES.—Subclause (II) of clause (ii) shall be applied by substituting '50 percent' for '80 percent' with respect to any nominally foreign corporation if—

''(I) such corporation does not have substantial business activities (when compared to the total business activities of the expanded affiliated group) in the foreign country in which or under the law of which the corporation is created or organized, and

''(II) the stock of the corporation is publicly traded and the principal market for the public trading of such stock is in the United States.

''(iv) PARTNERSHIP TRANSACTIONS.—The term 'corporate expatriation transaction' includes any transaction if—

''(I) a nominally foreign corporation (referred to in this subparagraph as the 'acquiring corporation') acquires, as a result of such transaction, directly or indirectly properties constituting a trade or business of a domestic partnership,

''(II) immediately after the transaction, more than 80 percent of the stock (by vote or value) of the acquiring corporation is held by former partners of the domestic partnership or related foreign partnerships (determined without regard to stock of the acquiring corporation which is sold in a public offering related to the transaction), and

''(III) the acquiring corporation meets the requirements of subclauses (I) and (II) of clause (iii).

''(v) SPECIAL RULES.—For purposes of this subparagraph—

''(I) a series of related transactions shall be treated as 1 transaction, and

''(II) stock held by members of the expanded affiliated group which includes the acquiring corporation shall not be taken into account in determining ownership.

''(vi) OTHER DEFINITIONS.—For purposes of this subparagraph—

''(I) NOMINALLY FOREIGN CORPORATION.—The term 'nominally foreign corporation' means any corporation which would (but for this subparagraph) be treated as a foreign corporation.

''(II) EXPANDED AFFILIATED GROUP.—The term 'expanded affiliated group' means an affiliated group (as defined in section 1504(a) without regard to section 1504(b)).

''(III) RELATED FOREIGN PARTNERSHIP.—A foreign partnership is related to a domestic partnership if they are under common control (within the meaning of section 482), or they shared the same trademark or tradename.''

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendment made by this section shall apply to corporate expatriation transactions completed after September 11, 2001.

(2) SPECIAL RULE.—The amendment made by this section shall also apply to corporate expatriation transactions completed on or before September 11, 2001, but only with respect to taxable years of the acquiring corporation beginning after December 31, 2003.

(c) PRIOR SECTION TO HAVE NO EFFECT.—Section 5651(a)(2) of this Act, and the amendments made by such section, shall not take effect.

SA 2455. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 376, between the matter following line 6 and line 7, insert the following:

SEC. 1816. APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM COMPLETION PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(a)), is amended by adding at the end the following:

''§ 178. Appalachian development highway system completion program

''(a) IN GENERAL.—The Secretary shall carry out a program, to be known as the 'Appalachian development highway system completion program' (referred to in this section as the 'program'), to allocate capital funding to expedite the completion of 'ready-to-go' segments of the Appalachian development highway system.

''(b) ELIGIBLE ACTIVITIES.—A State that receives an allocation of funds under this section shall use the funds to construct highways and access roads in accordance with chapter 145 of title 40.

''(c) ALLOCATION OF FUNDS.—The Secretary shall allocate funds under the program to each State all counties of which are located, as of the date of enactment of this section, within the established 13-State Appalachian region, as determined by the Appalachian Regional Commission.

''(d) FEDERAL SHARE.—The Federal share of the cost of carrying out any project or activity using funds allocated under the program shall be 80 percent.

''(e) FUNDING.—

''(1) IN GENERAL.—There shall be available to the Secretary to carry out this section, from the Highway Trust Fund (other than the Mass Transit Account), $270,000,000 for the period of fiscal years 2004 through 2009, of which—

''(A) $45,000,000 shall be for fiscal year 2004;

''(B) $45,000,000 shall be for fiscal year 2005;

''(C) $45,000,000 shall be for fiscal year 2006;

''(D) $45,000,000 shall be for fiscal year 2007;

''(E) $45,000,000 shall be for fiscal year 2008; and

''(F) $45,000,000 shall be for fiscal year 2009.

''(2) OBLIGATION, ELIGIBILITY, AND AVAILABILITY.—Funds authorized to be appropriated under section 1101(16) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 and made available under paragraph (1) to carry out this section—

''(A) shall be available for obligation by the Secretary in the same manner as if the funds were apportioned under this chapter;

''(B) shall not be considered in determining the eligibility of any State to receive funds under section 105; and

''(C) shall remain available until expended.''.

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(b)), is amended by adding at the end the following:

''178. Appalachian development highway system completion program.''.

(c) TRANSPORTATION INFRASTRUCTURE FINANCE AND INNOVATION ACT.—Notwithstanding section 188(a) of title 23, United States Code, the amount authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) to carry out subchapter II of chapter I of that title shall be $85,000,000 for each of fiscal years 2004 through 2009.

SA 2456. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 376, between the matter following line 6 and line 7, insert the following:

SEC. 1816. APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM COMPLETION PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(a)), is amended by adding at the end the following:

''§ 178. Appalachian development highway system completion program

''(a) IN GENERAL.—The Secretary shall carry out a program, to be known as the 'Appalachian development highway system completion program' (referred to in this section as the 'program'), to allocate capital funding to expedite the completion of 'ready-to-go' segments of the Appalachian development highway system.

''(b) ELIGIBLE ACTIVITIES.—A State that receives an allocation of funds under this section shall use the funds to construct highways and access roads in accordance with chapter 145 of title 40.

''(c) ALLOCATION OF FUNDS.—The Secretary shall allocate funds under the program to each State all counties of which are located, as of the date of enactment of this section, within the established 13-State Appalachian region, as determined by the Appalachian Regional Commission.

''(d) FEDERAL SHARE.—The Federal share of the cost of carrying out any project or activity using funds allocated under the program shall be 80 percent.

''(e) FUNDING.—

''(1) IN GENERAL.—There shall be available to the Secretary to carry out this section, from the Highway Trust Fund (other than the Mass Transit Account), $270,000,000 for the period of fiscal year 2004.

''(2) OBLIGATION, ELIGIBILITY, AND AVAILABILITY.—Funds authorized to be appropriated under section 1101(16) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 and made available under paragraph (1) to carry out this section—

''(A) shall be available for obligation by the Secretary in the same manner as if the funds were apportioned under this chapter;

''(B) shall not be considered in determining the eligibility of any State to receive funds under section 105; and

''(C) shall remain available until expended.''.

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(b)), is amended by adding at the end the following:

''178. Appalachian development highway system completion program.''.

(c) INFRASTRUCTURE PERFORMANCE AND MAINTENANCE PROGRAM.—Notwithstanding section 1101(13), the amount authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for the infrastructure performance and maintenance program under section 139 of title 23, United States Code, shall be reduced by $270,000,000 for fiscal year 2004.

SA 2457. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr.

INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 376, between the matter following line 6 and line 7, insert the following:

SEC. 1816. APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM COMPLETION PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(a)), is amended by adding at the end the following:

"§ 178. Appalachian development highway system completion program

''(a) IN GENERAL.—The Secretary shall carry out a program, to be known as the 'Appalachian development highway system completion program' (referred to in this section as the 'program'), to allocate capital funding to expedite the completion of 'ready-to-go' segments of the Appalachian development highway system.

''(b) ELIGIBLE ACTIVITIES.—A State that receives an allocation of funds under this section shall use the funds to construct highways and access roads in accordance with chapter 145 of title 40.

''(c) ALLOCATION OF FUNDS.—The Secretary shall allocate funds under the program to each State all counties of which are located, as of the date of enactment of this section, within the established 13-State Appalachian region, as determined by the Appalachian Regional Commission.

''(d) FEDERAL SHARE.—The Federal share of the cost of carrying out any project or activity using funds allocated under the program shall be 80 percent.

''(e) FUNDING.—

''(1) IN GENERAL.—There shall be available to the Secretary to carry out this section, from the Highway Trust Fund (other than the Mass Transit Account), $270,000,000 for the period of fiscal years 2004 through 2009, of which—

''(A) $45,000,000 shall be for fiscal year 2004;

''(B) $45,000,000 shall be for fiscal year 2005;

''(C) $45,000,000 shall be for fiscal year 2006;

''(D) $45,000,000 shall be for fiscal year 2007;

''(E) $45,000,000 shall be for fiscal year 2008; and

''(F) $45,000,000 shall be for fiscal year 2009.

''(2) OBLIGATION, ELIGIBILITY, AND AVAILABILITY.—Funds authorized to be appropriated under section 1101(16) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 and made available under paragraph (1) to carry out this section—

''(A) shall be available for obligation by the Secretary in the same manner as if the funds were apportioned under this chapter;

''(B) shall not be considered in determining the eligibility of any State to receive funds under section 105; and

''(C) shall remain available until expended.''.

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(b)), is amended by adding at the end the following:

''178. Appalachian development highway system completion program.''.

(c) EMERGENCY RELIEF.—Notwithstanding an other provision of this Act, Section 125(c)(1) of title 23, United States Code (as amended by section 1822), is amended by striking ''$300,000,000'' and inserting ''$255,000,000''.

SA 2458. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 376, between the matter following line 6 and line 7, insert the following:

SEC. 1816. APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM COMPLETION PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(a)), is amended by adding at the end the following:

"§ 178. Appalachian development highway system completion program

''(a) IN GENERAL.—The Secretary shall carry out a program, to be known as the 'Appalachian development highway system completion program' (referred to in this section as the 'program'), to allocate capital funding to expedite the completion of 'ready-to-go' segments of the Appalachian development highway system.

''(b) ELIGIBLE ACTIVITIES.—A State that receives an allocation of funds under this section shall use the funds to construct highways and access roads in accordance with chapter 145 of title 40.

''(c) ALLOCATION OF FUNDS.—The Secretary shall allocate funds under the program to each State all counties of which are located, as of the date of enactment of this section, within the established 13-State Appalachian region, as determined by the Appalachian Regional Commission.

''(d) FEDERAL SHARE.—The Federal share of the cost of carrying out any project or activity using funds allocated under the program shall be 80 percent.

''(e) FUNDING.—

''(1) IN GENERAL.—There shall be available to the Secretary to carry out this section, from the Highway Trust Fund (other than the Mass Transit Account), $270,000,000 for the period of fiscal years 2004 through 2009, of which—

''(A) $45,000,000 shall be for fiscal year 2004;

''(B) $45,000,000 shall be for fiscal year 2005;

''(C) $45,000,000 shall be for fiscal year 2006;

''(D) $45,000,000 shall be for fiscal year 2007;

''(E) $45,000,000 shall be for fiscal year 2008; and

''(F) $45,000,000 shall be for fiscal year 2009.

''(2) OBLIGATION, ELIGIBILITY, AND AVAILABILITY.—Funds authorized to be appropriated under section 1101(16) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 and made available under paragraph (1) to carry out this section—

''(A) shall be available for obligation by the Secretary in the same manner as if the funds were apportioned under this chapter;

''(B) shall not be considered in determining the eligibility of any State to receive funds under section 105; and

''(C) shall remain available until expended.''.

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(b)), is amended by adding at the end the following:

''178. Appalachian development highway system completion program.''.

(c) TRANSPORTATION RESEARCH.—Notwithstanding any other provision of this Act, each of the amounts authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) under section 2001, and each of the amounts limiting obligations under section 2002, shall be reduced by 10.1 percent.

SA 2459. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 376, between the matter following line 6 and line 7, insert the following:

SEC. 1816. APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM COMPLETION PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(a)), is amended by adding at the end the following:

"§ 178. Appalachian development highway system completion program

''(a) IN GENERAL.—The Secretary shall carry out a program, to be known as the 'Appalachian development highway system completion program' (referred to in this section as the 'program'), to allocate capital funding to expedite the completion of 'ready-to-go' segments of the Appalachian development highway system.

''(b) ELIGIBLE ACTIVITIES.—A State that receives an allocation of funds under this section shall use the funds to construct highways and access roads in accordance with chapter 145 of title 40.

''(c) ALLOCATION OF FUNDS.—The Secretary shall allocate funds under the program to each State all counties of which are located, as of the date of enactment of this section, within the established 13-State Appalachian region, as determined by the Appalachian Regional Commission.

''(d) FEDERAL SHARE.—The Federal share of the cost of carrying out any project or activity using funds allocated under the program shall be 80 percent.

''(e) FUNDING.—

''(1) IN GENERAL.—There shall be available to the Secretary to carry out this section, from the Highway Trust Fund (other than the Mass Transit Account), $270,000,000 for the period of fiscal years 2004 through 2009, of which—

''(A) $45,000,000 shall be for fiscal year 2004;

''(B) $45,000,000 shall be for fiscal year 2005;

''(C) $45,000,000 shall be for fiscal year 2006;

''(D) $45,000,000 shall be for fiscal year 2007;

''(E) $45,000,000 shall be for fiscal year 2008; and

''(F) $45,000,000 shall be for fiscal year 2009.

''(2) OBLIGATION, ELIGIBILITY, AND AVAILABILITY.—Funds authorized to be appropriated under section 1101(16) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 and made available under paragraph (1) to carry out this section—

''(A) shall be available for obligation by the Secretary in the same manner as if the funds were apportioned under this chapter;

''(B) shall not be considered in determining the eligibility of any State to receive funds under section 105; and

''(C) shall remain available until expended.''.

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(b)), is amended by adding at the end the following:

''178. Appalachian development highway system completion program.''.

(c) EMERGENCY RELIEF.—Notwithstanding any other provision of this Act, Section 125(c)(1) of title 23, United States Code (as amended by section 1822), is amended by striking ''$300,000,000'' and inserting ''$277,000,000''.

(d) TRANSPORTATION RESEARCH.—Notwithstanding any other provision of this Act, each of the amounts authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) under section 2001, and each of the amounts limiting obligations under section 2002, shall be reduced by 5 percent.

SA 2460. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 376, between the matter following line 6 and line 7, insert the following:

SEC. 1816. APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM COMPLETION PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(a)), is amended by adding at the end the following:

"§ 178. Appalachian development highway system completion program

''(a) IN GENERAL.—The Secretary shall carry out a program, to be known as the 'Appalachian development highway system completion program' (referred to in this section as the 'program'), to allocate capital funding to expedite the completion of 'ready-to-go' segments of the Appalachian development highway system.

''(b) ELIGIBLE ACTIVITIES.—A State that receives an allocation of funds under this section shall use the funds to construct highways and access roads in accordance with chapter 145 of title 40.

''(c) ALLOCATION OF FUNDS.—The Secretary shall allocate funds under the program to each State based on the proportion that, under the most recent published report of the Appalachian Regional Commission under section 14501 of title 40—

''(1) the cost of construction of highways and access roads that are in 'final design status' for the Appalachian development highway system program in the State; bears to

''(2) the cost of construction of highways and access roads that are in 'final design status' for the Appalachian development highway system program in all States.

''(d) FEDERAL SHARE.—The Federal share of the cost of carrying out any project or activity using funds allocated under the program shall be 80 percent.

''(e) FUNDING.—

''(1) IN GENERAL.—There shall be available to the Secretary to carry out this section, from the Highway Trust Fund (other than the Mass Transit Account), $780,000,000 for the period of fiscal years 2004 through 2009, of which—

''(A) $130,000,000 shall be for fiscal year 2004;

''(B) $130,000,000 shall be for fiscal year 2005;

''(C) $130,000,000 shall be for fiscal year 2006;

''(D) $130,000,000 shall be for fiscal year 2007;

''(E) $130,000,000 shall be for fiscal year 2008; and

''(F) $130,000,000 shall be for fiscal year 2009.

''(2) OBLIGATION, ELIGIBILITY, AND AVAILABILITY.—Funds authorized to be appropriated under section 1101(16) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 and made available under paragraph (1) to carry out this section—

''(A) shall be available for obligation by the Secretary in the same manner as if the funds were apportioned under this chapter;

''(B) shall not be considered in determining the eligibility of any State to receive funds under section 105; and

''(C) shall remain available until expended.''.

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(b)), is amended by adding at the end the following:

''178. Appalachian development highway system completion program.''.

(c) EMERGENCY RELIEF.—Notwithstanding any other provision of this Act, Section 125(c)(1) of title 23, United States Code (as amended by section 1822), is amended by striking ''$300,000,000'' and inserting ''$170,000,000''.

SA 2461. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 376, between the matter following line 6 and line 7, insert the following:

SEC. 1816. APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM COMPLETION PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(a)), is amended by adding at the end the following:

"§ 178. Appalachian development highway system completion program

''(a) IN GENERAL.—The Secretary shall carry out a program, to be known as the 'Appalachian development highway system completion program' (referred to in this section as the 'program'), to allocate capital funding to expedite the completion of 'ready-to-go' segments of the Appalachian development highway system.

''(b) ELIGIBLE ACTIVITIES.—A State that receives an allocation of funds under this section shall use the funds to construct highways and access roads in accordance with chapter 145 of title 40.

''(c) ALLOCATION OF FUNDS.—The Secretary shall allocate funds under the program to each State based on the proportion that, under the most recent published report of the Appalachian Regional Commission under section 14501 of title 40—

''(1) the cost of construction of highways and access roads that are in 'final design status' for the Appalachian development highway system program in the State; bears to

''(2) the cost of construction of highways and access roads that are in 'final design status' for the Appalachian development highway system program in all States.

''(d) FEDERAL SHARE.—The Federal share of the cost of carrying out any project or activity using funds allocated under the program shall be 80 percent.

''(e) FUNDING.—

''(1) IN GENERAL.—There shall be available to the Secretary to carry out this section, from the Highway Trust Fund (other than the Mass Transit Account), $780,000,000 for the period of fiscal year 2004.

''(2) OBLIGATION, ELIGIBILITY, AND AVAILABILITY.—Funds authorized to be appropriated under section 1101(16) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 and made available under paragraph (1) to carry out this section—

''(A) shall be available for obligation by the Secretary in the same manner as if the funds were apportioned under this chapter;

''(B) shall not be considered in determining the eligibility of any State to receive funds under section 105; and

''(C) shall remain available until expended.''.

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(b)), is amended by adding at the end the following:

''178. Appalachian development highway system completion program.''.

(c) INFRASTRUCTURE PERFORMANCE AND MAINTENANCE PROGRAM.—Notwithstanding section 1101(13), the amount authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for the infrastructure performance and maintenance program under section 139 of title 23, United States Code, is hereby reduced by $780,000,000 for fiscal year 2004.

SA 2462. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 376, between the matter following line 6 and line 7, insert the following:

SEC. 1816. APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM COMPLETION PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(a)), is amended by adding at the end the following:

"§ 178. Appalachian development highway system completion program

''(a) IN GENERAL.—The Secretary shall carry out a program, to be known as the 'Appalachian development highway system completion program' (referred to in this section as the 'program'), to allocate capital funding to expedite the completion of 'ready-to-go' segments of the Appalachian development highway system.

''(b) ELIGIBLE ACTIVITIES.—A State that receives an allocation of funds under this section shall use the funds to construct highways and access roads in accordance with chapter 145 of title 40.

''(c) ALLOCATION OF FUNDS.—The Secretary shall allocate funds under the program to each State based on the proportion that, under the most recent published report of the Appalachian Regional Commission under section 14501 of title 40—

''(1) the cost of construction of highways and access roads that are in 'final design status' for the Appalachian development highway system program in the State; bears to

''(2) the cost of construction of highways and access roads that are in 'final design status' for the Appalachian development highway system program in all States.

''(d) FEDERAL SHARE.—The Federal share of the cost of carrying out any project or activity using funds allocated under the program shall be 80 percent.

''(e) FUNDING.—

''(1) IN GENERAL.—There shall be available to the Secretary to carry out this section, from the Highway Trust Fund (other than the Mass Transit Account), $780,000,000 for the period of fiscal years 2004 through 2009, of which—

''(A) $130,000,000 shall be for fiscal year 2004;

''(B) $130,000,000 shall be for fiscal year 2005;

''(C) $130,000,000 shall be for fiscal year 2006;

''(D) $130,000,000 shall be for fiscal year 2007;

''(E) $130,000,000 shall be for fiscal year 2008; and

''(F) $130,000,000 shall be for fiscal year 2009.

''(2) OBLIGATION, ELIGIBILITY, AND AVAILABILITY.—Funds authorized to be appropriated under section 1101(16) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 and made available under paragraph (1) to carry out this section—

''(A) shall be available for obligation by the Secretary in the same manner as if the funds were apportioned under this chapter;

''(B) shall not be considered in determining the eligibility of any State to receive funds under section 105; and

''(C) shall remain available until expended.''.

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(b)), is amended by adding at the end the following:

''178. Appalachian development highway system completion program.''.

(c) INFRASTRUCTURE PERFORMANCE AND MAINTENANCE PROGRAM.—Notwithstanding section 1101(13), the amount authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for the infrastructure performance and maintenance program under section 139 of title 23, United States Code, is hereby reduced by $330,000,000 for fiscal year 2004.

(d) EMERGENCY RELIEF.—Notwithstanding any other provision of this Act, Section 125(c)(1) of title 23, United States Code (as amended by section 1822), is amended by striking ''$300,000,000'' and inserting ''225,000,000''.

SA 2463. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 376, between the matter following line 6 and line 7, insert the following:

SEC. 1816. APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM COMPLETION PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(a)), is amended by adding at the end the following:

''§ 178. Appalachian development highway system completion program

''(a) IN GENERAL.—The Secretary shall carry out a program, to be known as the 'Appalachian development highway system completion program' (referred to in this section as the 'program'), to allocate capital funding to expedite the completion of 'ready-to-go' segments of the Appalachian development highway system.

''(b) ELIGIBLE ACTIVITIES.—A State that receives an allocation of funds under this section shall use the funds to construct highways and access roads in accordance with chapter 145 of title 40.

''(c) ALLOCATION OF FUNDS.—The Secretary shall allocate funds under the program to each State based on the proportion that, under the most recent published report of the Appalachian Regional Commission under section 14501 of title 40—

''(1) the cost of construction of highways and access roads that are in 'final design status' for the Appalachian development highway system program in the State; bears to

''(2) the cost of construction of highways and access roads that are in 'final design status' for the Appalachian development highway system program in all States.

''(d) FEDERAL SHARE.—The Federal share of the cost of carrying out any project or activity using funds allocated under the program shall be 80 percent.

''(e) FUNDING.—

''(1) IN GENERAL.—There shall be available to the Secretary to carry out this section, from the Highway Trust Fund (other than the Mass Transit Account), $780,000,000 for the period of fiscal years 2004 through 2009, of which—

''(A) $130,000,000 shall be for fiscal year 2004;

''(B) $130,000,000 shall be for fiscal year 2005;

''(C) $130,000,000 shall be for fiscal year 2006;

''(D) $130,000,000 shall be for fiscal year 2007;

''(E) $130,000,000 shall be for fiscal year 2008; and

''(F) $130,000,000 shall be for fiscal year 2009.

''(2) OBLIGATION, ELIGIBILITY, AND AVAILABILITY.—Funds authorized to be appropriated under section 1101(16) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 and made available under paragraph (1) to carry out this section—

''(A) shall be available for obligation by the Secretary in the same manner as if the funds were apportioned under this chapter;

''(B) shall not be considered in determining the eligibility of any State to receive funds under section 105; and

''(C) shall remain available until expended.''.

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(b)), is amended by adding at the end the following:

''178. Appalachian development highway system completion program.''.

(c) TRANSPORTATION INFRASTRUCTURE FINANCE AND INNOVATION ACT.—Notwithstanding section 188(a) of title 23, United States Code, the amount authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) to carry out subchapter II of chapter I of that title shall be $110,000,000 for each of fiscal years 2004 through 2009.

(d) EMERGENCY RELIEF.—Notwithstanding any other provision of this Act, Section 125(c)(1) of title 23, United States Code (as amended by section 1822), is amended by striking ''$300,000,000'' and inserting ''$210,000,000''.

(e) TRANSPORTATION RESEARCH.—Notwithstanding any other provision of this Act, each of the amounts authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) under section 2001, and each of the amounts limiting obligations under section 2002, shall be reduced by 4.5 percent.

SA 2464. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 376, between the matter following line 6 and line 7, insert the following:

SEC. 1816. APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM COMPLETION PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(a)), is amended by adding at the end the following:

''§ 178. Appalachian development highway system completion program

''(a) IN GENERAL.—The Secretary shall carry out a program, to be known as the 'Appalachian development highway system completion program' (referred to in this section as the 'program'), to allocate capital funding to expedite the completion of 'ready-to-go' segments of the Appalachian development highway system.

''(b) ELIGIBLE ACTIVITIES.—A State that receives an allocation of funds under this section shall use the funds to construct highways and access roads in accordance with chapter 145 of title 40.

''(c) ALLOCATION OF FUNDS.—The Secretary shall allocate funds under the program to each State based on the proportion that, under the most recent published report of the Appalachian Regional Commission under section 14501 of title 40—

''(1) the cost of construction of highways and access roads that are in 'final design status' for the Appalachian development highway system program in the State; bears to

''(2) the cost of construction of highways and access roads that are in 'final design status' for the Appalachian development highway system program in all States.

''(d) FEDERAL SHARE.—The Federal share of the cost of carrying out any project or activity using funds allocated under the program shall be 80 percent.

''(e) FUNDING.—

''(1) IN GENERAL.—There shall be available to the Secretary to carry out this section, from the Highway Trust Fund (other than the Mass Transit Account), $780,000,000 for the period of fiscal years 2004 through 2009, of which—

''(A) $130,000,000 shall be for fiscal year 2004;

''(B) $130,000,000 shall be for fiscal year 2005;

''(C) $130,000,000 shall be for fiscal year 2006;

''(D) $130,000,000 shall be for fiscal year 2007;

''(E) $130,000,000 shall be for fiscal year 2008; and

''(F) $130,000,000 shall be for fiscal year 2009.

''(2) OBLIGATION, ELIGIBILITY, AND AVAILABILITY.—Funds authorized to be appropriated under section 1101(16) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 and made available under paragraph (1) to carry out this section—

''(A) shall be available for obligation by the Secretary in the same manner as if the funds were apportioned under this chapter;

''(B) shall not be considered in determining the eligibility of any State to receive funds under section 105; and

''(C) shall remain available until expended.''.

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(b)), is amended by adding at the end the following:

''178. Appalachian development highway system completion program.''.

(c) EMERGENCY RELIEF.—Notwithstanding any other provisions of this Act, Section 125(c)(1) of title 23, United States Code (as amended by section 1822), is amended by striking ''$300,000,000'' and inserting ''$190,000,000''.

(d) TRANSPORTATION RESEARCH.—Notwithstanding any other provision of this Act, each of the amounts authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) under section 2001, and each of the amounts limiting obligations under section 2002, shall be reduced by 4.5 percent.

SA 2465. Mr. BYRD submitted an amendment intended to be proposed to

amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 376, between the matter following line 6 and line 7, insert the following:

SEC. 1816. APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM COMPLETION PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(a)), is amended by adding at the end the following:

"§ 178. Appalachian development highway system completion program

''(a) IN GENERAL.—The Secretary shall carry out a program, to be known as the 'Appalachian development highway system completion program' (referred to in this section as the 'program'), to allocate capital funding to expedite the completion of 'ready-to-go' segments of the Appalachian development highway system.

''(b) ELIGIBLE ACTIVITIES.—A State that receives an allocation of funds under this section shall use the funds to construct highways and access roads in accordance with chapter 145 of title 40.

''(c) ALLOCATION OF FUNDS.—The Secretary shall allocate funds under the program to each State based on the proportion that, under the most recent published report of the Appalachian Regional Commission under section 14501 of title 40—

''(1) the cost of construction of highways and access roads that are not in 'location status' for the Appalachian development highway system program in the State; bears to

''(2) the cost of construction of highways and access roads that are not in 'location status' for the Appalachian development highway system program in all States.

''(d) FEDERAL SHARE.—The Federal share of the cost of carrying out any project or activity using funds allocated under the program shall be 80 percent.

''(e) FUNDING.—

''(1) IN GENERAL.—There shall be available to the Secretary to carry out this section, from the Highway Trust Fund (other than the Mass Transit Account), $900,000,000 for the period of fiscal years 2004 through 2009, of which—

''(A) $150,000,000 shall be for fiscal year 2004;

''(B) $150,000,000 shall be for fiscal year 2005;

''(C) $150,000,000 shall be for fiscal year 2006;

''(D) $150,000,000 shall be for fiscal year 2007;

''(E) $150,000,000 shall be for fiscal year 2008; and

''(F) $150,000,000 shall be for fiscal year 2009.

''(2) OBLIGATION, ELIGIBILITY, AND AVAILABILITY.—Funds authorized to be appropriated under section 1101(16) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 and made available under paragraph (1) to carry out this section—

''(A) shall be available for obligation by the Secretary in the same manner as if the funds were apportioned under this chapter;

''(B) shall not be considered in determining the eligibility of any State to receive funds under section 105; and

''(C) shall remain available until expended.''.

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(b)), is amended by adding at the end the following:

''178. Appalachian development highway system completion program.''.

(c) EMERGENCY RELIEF.—Notwithstanding any other provision of this Act, Section 125(c)(1) of title 23, United States Code (as amended by section 1822), is amended by striking ''$300,000,000'' and inserting ''$150,000,000''.

SA 2466. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 376, between the matter following line 6 and line 7, insert the following:

SEC. 1816. APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM COMPLETION PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(a)), is amended by adding at the end the following:

"§ 178. Appalachian development highway system completion program

''(a) IN GENERAL.—The Secretary shall carry out a program, to be known as the 'Appalachian development highway system completion program' (referred to in this section as the 'program'), to allocate capital funding to expedite the completion of 'ready-to-go' segments of the Appalachian development highway system.

''(b) ELIGIBLE ACTIVITIES.—A State that receives an allocation of funds under this section shall use the funds to construct highways and access roads in accordance with chapter 145 of title 40.

''(c) ALLOCATION OF FUNDS.—The Secretary shall allocate funds under the program to each State based on the proportion that, under the most recent published report of the Appalachian Regional Commission under section 14501 of title 40—

''(1) the cost of construction of highways and access roads that are not in 'location status' for the Appalachian development highway system program in the State; bears to

''(2) the cost of construction of highways and access roads that are not in 'location status' for the Appalachian development highway system program in all States.

''(d) FEDERAL SHARE.—The Federal share of the cost of carrying out any project or activity using funds allocated under the program shall be 80 percent.

''(e) FUNDING.—

''(1) IN GENERAL.—There shall be available to the Secretary to carry out this section, from the Highway Trust Fund (other than the Mass Transit Account), $900,000,000 for the period of fiscal year 2004.

''(2) OBLIGATION, ELIGIBILITY, AND AVAILABILITY.—Funds authorized to be appropriated under section 1101(16) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 and made available under paragraph (1) to carry out this section—

''(A) shall be available for obligation by the Secretary in the same manner as if the funds were apportioned under this chapter;

''(B) shall not be considered in determining the eligibility of any State to receive funds under section 105; and

''(C) shall remain available until expended.''.

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(b)), is amended by adding at the end the following:

''178. Appalachian development highway system completion program.''.

(c) INFRASTRUCTURE PERFORMANCE AND MAINTENANCE PROGRAM.—Notwithstanding section 1101(13), the amount authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for the infrastructure performance and maintenance program under section 139 of title 23, United States Code, is hereby reduced by $900,000,000 for fiscal year 2004.

SA 2467. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 376, between the matter following line 6 and line 7, insert the following:

SEC. 1816. APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM COMPLETION PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(a)), is amended by adding at the end the following:

"§ 178. Appalachian development highway system completion program

''(a) IN GENERAL.—The Secretary shall carry out a program, to be known as the 'Appalachian development highway system completion program' (referred to in this section as the 'program'), to allocate capital funding to expedite the completion of 'ready-to-go' segments of the Appalachian development highway system.

''(b) ELIGIBLE ACTIVITIES.—A State that receives an allocation of funds under this section shall use the funds to construct highways and access roads in accordance with chapter 145 of title 40.

''(c) ALLOCATION OF FUNDS.—The Secretary shall allocate funds under the program to each State based on the proportion that, under the most recent published report of the Appalachian Regional Commission under section 14501 of title 40—

''(1) the cost of construction of highways and access roads that are not in 'location status' for the Appalachian development highway system program in the State; bears to

''(2) the cost of construction of highways and access roads that are not in 'location status' for the Appalachian development highway system program in all States.

''(d) FEDERAL SHARE.—The Federal share of the cost of carrying out any project or activity using funds allocated under the program shall be 80 percent.

''(e) FUNDING.—

''(1) IN GENERAL.—There shall be available to the Secretary to carry out this section, from the Highway Trust Fund (other than the Mass Transit Account), $900,000,000 for the period of fiscal years 2004 through 2009, of which—

''(A) $300,000,000 shall be for fiscal year 2004;

''(B) $150,000,000 shall be for fiscal year 2005;

''(C) $150,000,000 shall be for fiscal year 2006;

''(D) $150,000,000 shall be for fiscal year 2007;

''(E) $150,000,000 shall be for fiscal year 2008; and

''(F) $150,000,000 shall be for fiscal year 2009.

''(2) OBLIGATION, ELIGIBILITY, AND AVAILABILITY.—Funds authorized to be appropriated under section 1101(16) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 and made available under paragraph (1) to carry out this section—

''(A) shall be available for obligation by the Secretary in the same manner as if the funds were apportioned under this chapter;

''(B) shall not be considered in determining the eligibility of any State to receive funds under section 105; and

''(C) shall remain available until expended.''.

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(b)), is amended by adding at the end the following:

''178. Appalachian development highway system completion program.''.

(c) INFRASTRUCTURE PERFORMANCE AND MAINTENANCE PROGRAM.—Notwithstanding section 1101(13), the amount authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for the infrastructure performance and maintenance program under section 139 of title 23, United States Code, is hereby reduced by 300,000,000 for fiscal year 2004.

(d) EMERGENCY RELIEF.—Notwithstanding any other provision of this Act, Section 125(c)(1) of title 23, United States Code (as amended by section 1822), is amended by striking ''$300,000,000'' and inserting ''180,000,000'' for fiscal years 2005 through 2009.

SA 2468. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 376, between the matter following line 6 and line 7, insert the following:

SEC. 1816. APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM COMPLETION PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(a)), is amended by adding at the end the following:

''§ 178. Appalachian development highway system completion program

''(a) IN GENERAL.—The Secretary shall carry out a program, to be known as the 'Appalachian development highway system completion program' (referred to in this section as the 'program'), to allocate capital funding to expedite the completion of 'ready-to-go' segments of the Appalachian development highway system.

''(b) ELIGIBLE ACTIVITIES.—A State that receives an allocation of funds under this section shall use the funds to construct highways and access roads in accordance with chapter 145 of title 40.

''(c) ALLOCATION OF FUNDS.—The Secretary shall allocate funds under the program to each State based on the proportion that, under the most recent published report of the Appalachian Regional Commission under section 14501 of title 40—

''(1) the cost of construction of highways and access roads that are not in 'location status' for the Appalachian development highway system program in the State; bears to

''(2) the cost of construction of highways and access roads that are not in 'location status' for the Appalachian development highway system program in all States.

''(d) FEDERAL SHARE.—The Federal share of the cost of carrying out any project or activity using funds allocated under the program shall be 80 percent.

''(e) FUNDING.—

''(1) IN GENERAL.—There shall be available to the Secretary to carry out this section, from the Highway Trust Fund (other than the Mass Transit Account), $900,000,000 for the period of fiscal years 2004 through 2009, of which—

''(A) $150,000,000 shall be for fiscal year 2004;

''(B) $150,000,000 shall be for fiscal year 2005;

''(C) $150,000,000 shall be for fiscal year 2006;

''(D) $150,000,000 shall be for fiscal year 2007;

''(E) $150,000,000 shall be for fiscal year 2008; and

''(F) $150,000,000 shall be for fiscal year 2009.

''(2) OBLIGATION, ELIGIBILITY, AND AVAILABILITY.—Funds authorized to be appropriated under section 1101(16) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 and made available under paragraph (1) to carry out this section—

''(A) shall be available for obligation by the Secretary in the same manner as if the funds were apportioned under this chapter;

''(B) shall not be considered in determining the eligibility of any State to receive funds under section 105; and

''(C) shall remain available until expended.''.

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(b)), is amended by adding at the end the following:

''178. Appalachian development highway system completion program.''.

(c) TRANSPORTATION INFRASTRUCTURE FINANCE AND INNOVATION ACT.—Notwithstanding section 188(a) of title 23, United States Code, the amount authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) to carry out subchapter II of chapter I of that title shall be $100,000,000 for each of fiscal years 2004 through 2009.

(d) EMERGENCY RELIEF.—Notwithstanding any other provision of this Act, Section 125(c)(1) of title 23, United States Code (as amended by section 1822), is amended by striking ''$300,000,000'' and inserting ''$200,000,000''.

(e) TRANSPORTATION RESEARCH.—Notwithstanding any other provision of this Act, each of the amounts authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) under section 2001, and each of the amounts limiting obligations under section 2002, shall be reduced by 4.5 percent.

SA 2469. Mr. BOND submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 376, between the matter following line 6 and line 7, insert the following:

SEC. 1816. APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM COMPLETION PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(a)), is amended by adding at the end the following:

''§ 178. Appalachian development highway system completion program

''(a) IN GENERAL.—The Secretary shall carry out a program, to be known as the 'Appalachian development highway system completion program' (referred to in this section as the 'program'), to allocate capital funding to expedite the completion of 'ready-to-go' segments of the Appalachian development highway system.

''(b) ELIGIBLE ACTIVITIES.—A State that receives an allocation of funds under this section shall use the funds to construct highways and access roads in accordance with chapter 145 of title 40.

''(c) ALLOCATION OF FUNDS.—The Secretary shall allocate funds under the program to each State based on the proportion that, under the most recent published report of the Appalachian Regional Commission under section 14501 of title 40—

''(1) the cost of construction of highways and access roads that are not in 'location status' for the Appalachian development highway system program in the State; bears to

''(2) the cost of construction of highways and access roads that are not in 'location status' for the Appalachian development highway system program in all States.

''(d) FEDERAL SHARE.—The Federal share of the cost of carrying out any project or activity using funds allocated under the program shall be 80 percent.

''(e) FUNDING.—

''(1) IN GENERAL.—There shall be available to the Secretary to carry out this section, from the Highway Trust Fund (other than the Mass Transit Account), $900,000,000 for the period of fiscal years 2004 through 2009, of which—

''(A) $150,000,000 shall be for fiscal year 2004;

''(B) $150,000,000 shall be for fiscal year 2005;

''(C) $150,000,000 shall be for fiscal year 2006;

''(D) $150,000,000 shall be for fiscal year 2007;

''(E) $150,000,000 shall be for fiscal year 2008; and

''(F) $150,000,000 shall be for fiscal year 2009.

''(2) OBLIGATION, ELIGIBILITY, AND AVAILABILITY.—Funds authorized to be appropriated under section 1101(16) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 and made available under paragraph (1) to carry out this section—

''(A) shall be available for obligation by the Secretary in the same manner as if the funds were apportioned under this chapter;

''(B) shall not be considered in determining the eligibility of any State to receive funds under section 105; and

''(C) shall remain available until expended.''.

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(b)), is amended by adding at the end the following:

''178. Appalachian development highway system completion program.''.

(c) EMERGENCY RELIEF.—Notwithstanding any other provision of this Act, Section 125(c)(1) of title 23, United States Code (as amended by section 1822), is amended by striking ''$300,000,000'' and inserting ''$170,000,000''.

(d) TRANSPORTATION RESEARCH.—Notwithstanding any other provision of this Act, each of the amounts authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) under section 2001, and each of the amounts limiting obligations under section 2002, shall be reduced by 4.5 percent.

SA 2470. Mr. BYRD submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which

was ordered to lie on the table; as follows:

On page 677 of the Committee substitute, between the lines 12 and 13, insert the following:

''(ii) $4,821,335 shall be available to the personal rapid transit system in Morgantown, West Virginia for improvements to its passengers operations under section 5307;''

SA 2471. Mr. BYRD submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the bill, add the following:

TITLE ____—SOLID WASTE DISPOSAL

SEC. ____01. INCREASED USE OF RECOVERED MINERAL COMPONENT IN FEDERALLY FUNDED PROJECTS INVOLVING PROCUREMENT OF CEMENT OR CONCRETE.

(a) AMENDMENT.—Subtitle F of the Solid Waste Disposal Act (42 U.S.C. 6961 et seq.) is amended by adding at the end the following new section:

''INCREASED USE OF RECOVERED MINERAL COMPONENT IN FEDERALLY FUNDED PROJECTS INVOLVING PROCUREMENT OF CEMENT OR CONCRETE

''SEC. 6005. (a) DEFINITIONS.—In this section:

''(1) AGENCY HEAD.—The term 'agency head' means—

''(A) the Secretary of Transportation; and

''(B) the head of each other Federal agency that on a regular basis procures, or provides Federal funds to pay or assist in paying the cost of procuring, material for cement or concrete projects.

''(2) CEMENT OR CONCRETE PROJECT.—The term 'cement or concrete project' means a project for the construction or maintenance of a highway or other transportation facility or a Federal, State, or local government building or other public facility that—

''(A) involves the procurement of cement or concrete; and

''(B) is carried out in whole or in part using Federal funds.

''(3) RECOVERED MINERAL COMPONENT.—The term 'recovered mineral component' means—

''(A) ground granulated blast furnace slag;

''(B) coal combustion fly ash; and

''(C) any other waste material or byproduct recovered or diverted from solid waste that the Administrator, in consultation with an agency head, determines should be treated as recovered mineral component under this section for use in cement or concrete projects paid for, in whole or in part, by the agency head.

''(b) IMPLEMENTATION OF REQUIREMENTS.—

''(1) IN GENERAL.—Not later than 1 year after the date of enactment of this section, the Administrator and each agency head shall take such actions as are necessary to implement fully all procurement requirements and incentives in effect as of the date of enactment of this section (including guidelines under section 6002) that provide for the use of cement and concrete incorporating recovered mineral component in cement or concrete projects.

''(2) PRIORITY.—In carrying out paragraph (1) an agency head shall give priority to achieving greater use of recovered mineral component in cement or concrete projects for which recovered mineral components historically have not been used or have been used only minimally.

''(3) CONFORMANCE.—The Administrator and each agency head shall carry out this subsection in accordance with section 6002.

''(c) FULL IMPLEMENTATION STUDY.—

''(1) IN GENERAL.—The Administrator, in cooperation with the Secretary of Transportation and the Secretary of Energy, shall conduct a study to determine the extent to which current procurement requirements, when fully implemented in accordance with subsection (b), may realize energy savings and environmental benefits attainable with substitution of recovered mineral component in cement used in cement or concrete projects.

''(2) MATTERS TO BE ADDRESSED.—The study shall—

''(A) quantify the extent to which recovered mineral components are being substituted for Portland cement, particularly as a result of current procurement requirements, and the energy savings and environmental benefits associated with that substitution;

''(B) identify all barriers in procurement requirements to greater realization of energy savings and environmental benefits, including barriers resulting from exceptions from current law; and

''(C)(i) identify potential mechanisms to achieve greater substitution of recovered mineral component in types of cement or concrete projects for which recovered mineral components historically have not been used or have been used only minimally;

''(ii) evaluate the feasibility of establishing guidelines or standards for optimized substitution rates of recovered mineral component in those cement or concrete projects; and

''(iii) identify any potential environmental or economic effects that may result from greater substitution of recovered mineral component in those cement or concrete projects.

''(3) REPORT.—Not later than 30 months after the date of enactment of this section, the Administrator shall submit to Congress a report on the study.

''(d) ADDITIONAL PROCUREMENT REQUIREMENTS.—Unless the study conducted under subsection (c) identifies any effects or other problems described in subsection (c)(2)(C)(iii) that warrant further review or delay, the Administrator and each agency head shall, not later than 1 year after the release of the report in accordance with subsection (c)(3), take additional actions authorized under this Act to establish procurement requirements and incentives that provide for the use of cement and concrete with increased substitution of recovered mineral component in the construction and maintenance of cement or concrete projects, so as to—

''(1) realize more fully the energy savings and environmental benefits associated with increased substitution; and

''(2) eliminate barriers identified under subsection (c).

''(e) EFFECT OF SECTION.—Nothing in this section affects the requirements of section 6002 (including the guidelines and specifications for implementing those requirements).''.

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents of the Solid Waste Disposal Act is amended by adding after the item relating to section 6004 the following new item:

''Sec. 6005. Increased use of recovered mineral component in federally funded projects involving procurement of cement or concrete.''.

SEC. ____02. USE OF GRANULAR MINE TAILINGS.

(a) AMENDMENT.—Subtitle F of the Solid Waste Disposal Act (42 U.S.C. 6961 et seq.) (as amended by section ____01(a)) is amended by adding at the end the following:

''SEC. 6006. USE OF GRANULAR MINE TAILINGS.

''(a) MINE TAILINGS.—

''(1) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Administrator, in consultation with the Secretary of Transportation and heads of other Federal agencies, shall establish criteria (including an evaluation of whether to establish a numerical standard for concentration of lead and other hazardous substances) for the safe and environmentally protective use of granular mine tailings from the Tar Creek, Oklahoma Mining District, known as 'chat', for—

''(A) cement or concrete projects; and

''(B) transportation construction projects (including transportation construction projects involving the use of asphalt) that are carried out, in whole or in part, using Federal funds.

''(2) REQUIREMENTS.—In establishing criteria under paragraph (1), the Administrator shall consider—

''(A) the current and previous uses of granular mine tailings as an aggregate for asphalt; and

''(B) any environmental and public health risks and benefits derived from the removal, transportation, and use in transportation projects of granular mine tailings.

''(3) PUBLIC PARTICIPATION.—In establishing the criteria under paragraph (1), the Administrator shall solicit and consider comments from the public.

''(4) APPLICABILITY OF CRITERIA.—On the establishment of the criteria under paragraph (1), any use of the granular mine tailings described in paragraph (1) in a transportation project that is carried out, in whole or in part, using Federal funds, shall meet the criteria established under paragraph (1).

''(b) EFFECT OF SECTIONS.—Nothing in this section or section 6005 affects any requirement of any law (including a regulation) in effect on the date of enactment of this section.''.

(b) CONFORMING AMENDMENT.—The table of contents of the Solid Waste Disposal Act (42 U.S.C. prec. 6901) (as amended by section ____01(b)) is amended by adding at the end of the items relating to subtitle F the following:

''Sec. 6006. Use of granular mine tailings.''.

SA 2472. Mr. CHAFEE submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 715, strike line 1, and insert the following:

SEC. 3044. HUMAN RESOURCE PROGRAMS.

Section 5322 is amended—

(1) by striking ''The Secretary of Transportation'' and inserting the following:

''(a) IN GENERAL.—The Secretary''; and

(2) by adding at the end the following:

''(b) NATIONWIDE TRANSIT EMPLOYEE JOB TRAINING PARTNERSHIP PROGRAM.—

''(1) ESTABLISHMENT.—The Secretary shall contract with a national non-profit organization to establish a nationwide transit employee job training partnership program to respond to technological changes in the industry, with emphasis given to maintenance.

''(2) REQUIREMENT.—The non-profit organization referred to in paragraph (1) shall have demonstrated the capacity to develop and provide career ladder training programs.

''(3) ALLOCATION.—From the amounts made available under section 5314(a), the Secretary shall make available not less than $2,000,000 to carry out the provisions in this subsection.''.

SEC. 3045. INTERMODAL PASSENGER FACILITIES.

SA 2473. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Strike title V and insert the following:

TITLE V—HIGHWAY REAUTHORIZATION AND EXCISE TAX SIMPLIFICATION

SEC. 5000. SHORT TITLE; AMENDMENT OF 1986 CODE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the ''Highway Reauthorization and Excise Tax Simplification Act of 2004''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—The table of contents for this title is as follows:

TITLE V—HIGHWAY REAUTHORIZATION AND EXCISE TAX SIMPLIFICATION

Sec. 5000. Short title; amendment of 1986 code; table of contents.

Subtitle A—Trust Fund Reauthorization

Sec. 5001. Extension of Highway Trust Fund and Aquatic Resources Trust Fund expenditure authority and related taxes.
Sec. 5002. Full accounting of funds received by the Highway Trust Fund.
Sec. 5003. Modification of adjustments of apportionments.

Subtitle B—Biodiesel Income Tax Credit

Sec. 5101. Biodiesel income tax credit.

Subtitle C—Fuel Fraud Prevention

Sec. 5200. Short title.

PART I—AVIATION JET FUEL

Sec. 5211. Taxation of aviation-grade kerosene.
Sec. 5212. Transfer of certain amounts from the Airport and Airway Trust Fund to the Highway Trust Fund to reflect highway use of jet fuel.

PART II—DYED FUEL

Sec. 5221. Dye injection equipment.
Sec. 5222. Elimination of administrative review for taxable use of dyed fuel.
Sec. 5223. Penalty on untaxed chemically altered dyed fuel mixtures.
Sec. 5224. Termination of dyed diesel use by intercity buses.

PART III—MODIFICATION OF INSPECTION OF RECORDS PROVISIONS

Sec. 5231. Authority to inspect on-site records.
Sec. 5232. Assessable penalty for refusal of entry.

PART IV—REGISTRATION AND REPORTING REQUIREMENTS

Sec. 5241. Registration of pipeline or vessel operators required for exemption of bulk transfers to registered terminals or refineries.
Sec. 5242. Display of registration.
Sec. 5243. Registration of persons within foreign trade zones.
Sec. 5244. Penalties for failure to register and failure to report.
Sec. 5245. Information reporting for persons claiming certain tax benefits.

PART V—IMPORTS

Sec. 5251. Tax at point of entry where importer not registered.
Sec. 5252. Reconciliation of on-loaded cargo to entered cargo.

PART VI—MISCELLANEOUS PROVISIONS

Sec. 5261. Tax on sale of diesel fuel whether suitable for use or not in a diesel-powered vehicle or train.
Sec. 5262. Modification of ultimate vendor refund claims with respect to farming.
Sec. 5263. Taxable fuel refunds for certain ultimate vendors.
Sec. 5264. Two-party exchanges.
Sec. 5265. Modifications of tax on use of certain vehicles.
Sec. 5266. Dedication of revenues from certain penalties to the Highway Trust Fund.
Sec. 5267. Nonapplication of export exemption to delivery of fuel to motor vehicles removed from United States.

PART VII—TOTAL ACCOUNTABILITY

Sec. 5271. Total accountability.
Sec. 5272. Excise tax reporting.
Sec. 5273. Information reporting.

Subtitle D—Definition of Highway Vehicle

Sec. 5301. Exemption from certain excise taxes for mobile machinery.
Sec. 5302. Modification of definition of off-highway vehicle.

Subtitle E—Excise Tax Reform and Simplification

PART I—HIGHWAY EXCISE TAXES

Sec. 5401. Dedication of gas guzzler tax to Highway Trust Fund.
Sec. 5402. Repeal certain excise taxes on rail diesel fuel and inland waterway barge fuels.

PART II—AQUATIC EXCISE TAXES

Sec. 5411. Elimination of Aquatic Resources Trust Fund and transformation of Sport Fish Restoration Account.
Sec. 5412. Exemption of LED devices from sonar devices suitable for finding fish.
Sec. 5413. Repeal of harbor maintenance tax on exports.
Sec. 5414. Cap on excise tax on certain fishing equipment.
Sec. 5415. Reduction in rate of tax on portable aerated bait containers.

PART III—AERIAL EXCISE TAXES

Sec. 5421. Clarification of excise tax exemptions for agricultural aerial applicators and exemption for fixed-wing aircraft engaged in forestry operations.
Sec. 5422. Modification of rural airport definition.
Sec. 5423. Exemption from ticket taxes for transportation provided by seaplanes.
Sec. 5424. Certain sightseeing flights exempt from taxes on air transportation.

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Subtitle G—Revenue Offsets

PART I—LIMITATION ON EXPENSING CERTAIN PASSENGERS AUTOMOBILES

Sec. 5601. Expansion of limitation on depreciation of certain passenger automobiles.

PART II—PROVISION TO REPLENISH THE GENERAL FUND

Sec. 5611. Modification to corporate estimated tax requirements.

Subtitle A—Trust Fund Reauthorization

SEC. 5001. EXTENSION OF HIGHWAY TRUST FUND AND AQUATIC RESOURCES TRUST FUND EXPENDITURE AUTHORITY AND RELATED TAXES.

(a) HIGHWAY TRUST FUND EXPENDITURE AUTHORITY.—

(1) HIGHWAY ACCOUNT.—Paragraph (1) of section 9503(c) (relating to transfers from Highway Trust Fund for certain repayments and credits) is amended—

(A) in the matter before subparagraph (A), by striking ''March 1, 2004'' and inserting ''October 1, 2009'',

(B) by striking ''or'' at the end of subparagraph (E),

(C) by striking the period at the end of subparagraph (F) and inserting '', or'',

(D) by inserting after subparagraph (F), the following new subparagraph:

''(G) authorized to be paid out of the Highway Trust Fund under the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004.'', and

(E) in the matter after subparagraph (G), as added by subparagraph (D), by striking ''Surface Transportation Extension Act of 2003'' and inserting ''Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004''.

(2) MASS TRANSIT ACCOUNT.—Paragraph (3) of section 9503(e) (relating to establishment of Mass Transit Account) is amended—

(A) in the matter before subparagraph (A), by striking ''March 1, 2004'' and inserting ''October 1, 2009'',

(B) by striking ''or'' at the end of subparagraph (C),

(C) by striking the period at the end of subparagraph (D) and inserting ''; or'',

(D) by inserting after subparagraph (D), the following new subparagraph:

''(E) the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004,'', and

(E) in the matter after subparagraph (E), as added by subparagraph (D), by striking ''Surface Transportation Extension Act of 2003'' and inserting ''Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004''.

(3) EXCEPTION TO LIMITATION ON TRANSFERS.—Subparagraph (B) of section 9503(b)(5) (relating to limitation on transfers to Highway Trust Fund) is amended by striking ''March 1, 2004'' and inserting ''October 1, 2009''.

(b) AQUATIC RESOURCES TRUST FUND EXPENDITURE AUTHORITY.—

(1) SPORT FISH RESTORATION ACCOUNT.—Paragraph (2) of section 9504(b) (relating to Sport Fish Restoration Account) is amended by striking ''Surface Transportation Extension Act of 2003'' each place it appears and inserting ''Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004''.

(2) BOAT SAFETY ACCOUNT.—Section 9504(c) (relating to expenditures from Boat Safety Account) is amended—

(A) by striking ''March 1, 2004'' and inserting ''October 1, 2009'', and

(B) by striking ''Surface Transportation Extension Act of 2003'' and inserting ''Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004''.

(3) EXCEPTION TO LIMITATION ON TRANSFERS.—Paragraph (2) of section 9504(d) (relating to limitation on transfers to Aquatic Resources Trust Fund) is amended by striking ''March 1, 2004'' and inserting ''October 1, 2009''.

(4) TECHNICAL CORRECTION.—The last sentence of paragraph (2) of section 9504(b) is amended by striking ''subparagraph (B)'', and inserting ''subparagraph (C)''.

(c) EXTENSION OF TAXES.—

(1) IN GENERAL.—The following provisions are each amended by striking ''2005'' each place it appears and inserting ''2009'':

(A) Section 4041(a)(1)(C)(iii)(I) (relating to rate of tax on certain buses).

(B) Section 4041(a)(2)(B) (relating to rate of tax on special motor fuels).

(C) Section 4041(m)(1)(A) (relating to certain alcohol fuels produced from natural gas).

(D) Section 4051(c) (relating to termination of tax on heavy trucks and trailers).

(E) Section 4071(d) (relating to termination of tax on tires).

(F) Section 4081(d)(1) (relating to termination of tax on gasoline, diesel fuel, and kerosene).

(G) Section 4481(e) (relating to period tax in effect).

(H) Section 4482(c)(4) (relating to taxable period).

(I) Section 4482(d) (relating to special rule for taxable period in which termination date occurs).

(2) FLOOR STOCKS REFUNDS.—Section 6412(a)(1) (relating to floor stocks refunds) is amended—

(A) by striking ''2005'' each place it appears and inserting ''2009'', and

(B) by striking ''2006'' each place it appears and inserting ''2010''.

(d) EXTENSION OF CERTAIN EXEMPTIONS.—The following provisions are each amended by striking ''2005'' and inserting ''2009'':

(1) Section 4221(a) (relating to certain tax-free sales).

(2) Section 4483(g) (relating to termination of exemptions for highway use tax).

(e) EXTENSION OF DEPOSITS INTO, AND CERTAIN TRANSFERS FROM, TRUST FUND.—

(1) IN GENERAL.—Subsections (b), (c)(2), (c)(3), (c)(4)(A)(i), and (c)(5)(A) of section 9503 (relating to the Highway Trust Fund) are amended—

(A) by striking ''2005'' each place it appears and inserting ''2009'', and

(B) by striking ''2006'' each place it appears and inserting ''2010''.

(2) CONFORMING AMENDMENTS TO LAND AND WATER CONSERVATION FUND.—Section 201(b) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–11(b)) is amended—

(A) by striking ''2003'' and inserting ''2007'', and

(B) by striking ''2004'' each place it appears and inserting ''2008''.

(f) EXTENSION OF TAX BENEFITS FOR QUALIFIED METHANOL AND ETHANOL FUEL PRODUCED FROM COAL.—Section 4041(b)(2) (relating to qualified methanol and ethanol fuel) is amended—

(1) by striking ''2007'' in subparagraph (C)(ii) and inserting ''2010'', and

(2) by striking ''October 1, 2007'' in subparagraph (D) and inserting ''January 1, 2011''.

(g) PROHIBITION ON USE OF HIGHWAY ACCOUNT FOR RAIL PROJECTS.—Section 9503(c) (relating to transfers from Highway Trust Fund for certain repayments and credits) is amended by adding at the end the following new paragraph:

''(6) PROHIBITION ON USE OF HIGHWAY ACCOUNT FOR RAIL PROJECTS.—With respect to projects beginning after the date of the enactment of this paragraph, no amount shall be available from the Highway Account (as defined in subsection (e)(5)(B)) for any rail project.''.

(h) HIGHWAY TRUST FUND EXPENDITURES FOR HIGHWAY USE TAX EVASION PROJECTS.—From amounts available in the Highway Trust Fund, there is authorized to be expended such sums as are necessary for highway use tax evasion projects.

(i) EFFECTIVE DATE.—The amendments made by and provisions of this section shall take effect on the date of the enactment of this Act.

SEC. 5002. FULL ACCOUNTING OF FUNDS RECEIVED BY THE HIGHWAY TRUST FUND.

(a) IN GENERAL.—Section 9503(c) (relating to transfers from Highway Trust Fund for certain repayments and credits), as amended by section 5001 of this Act, is amended by striking paragraph (2) and redesignating paragraphs (3), (4), (5), and (6) as paragraphs (2), (3), (4), and (5), respectively.

(b) INTEREST ON UNEXPENDED BALANCES CREDITED TO TRUST FUND.—Section 9503 (relating to the Highway Trust Fund) is amended by striking subsection (f).

(c) CONFORMING AMENDMENTS.—

(1) Section 9503(b)(4)(D) is amended by striking ''paragraph (4)(D) or (5)(B)'' and inserting ''paragraph (3)(D) or (4)(B)''.

(2) Paragraph (2) of section 9503(c) (as redesignated by subsection (a)) is amended by adding at the end the following new sentence: ''The amounts payable from the Highway Trust Fund under this paragraph shall be determined by taking into account only the portion of the taxes which are deposited into the Highway Trust Fund.''.

(3) Section 9504(a)(2) is amended by striking ''section 9503(c)(4), section 9503(c)(5)'' and inserting ''section 9503(c)(3), section 9503(c)(4)''.

(4) Paragraph (2) of section 9504(b), as amended by section 5001 of this Act, is amended by striking ''section 9503(c)(5)'' and inserting ''section 9503(c)(4)''.

(5) Section 9504(e) is amended by striking ''section 9503(c)(4)'' and inserting ''section 9503(c)(3)''.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to amounts paid for which no transfer from the Highway Trust Fund has been made before April 1, 2004.

(2) INTEREST CREDITED.—The amendment made by subsection (b) shall take effect on the date of the enactment of this Act.

SEC. 5003. MODIFICATION OF ADJUSTMENTS OF APPORTIONMENTS.

(a) IN GENERAL.—Section 9503(d) (relating to adjustments for apportionments) is amended—

(1) by striking ''24-month'' in paragraph (1)(B) and inserting ''48-month'', and

(2) by striking ''2 YEARS''' in the heading for paragraph (3) and inserting ''4 YEARS'''.

(b) MEASUREMENT OF NET HIGHWAY RECEIPTS.—Section 9503(d) is amended by redesignating paragraph (6) as paragraph (7) and by inserting after paragraph (5) the following new paragraph:

''(6) MEASUREMENT OF NET HIGHWAY RECEIPTS.—For purposes of making any estimate under paragraph (1) of net highway receipts for periods ending after the date specified in subsection (b)(1), the Secretary shall treat—

''(A) each expiring provision of subsection (b) which is related to appropriations or transfers to the Highway Trust Fund to have been extended through the end of the 48-month period referred to in paragraph (1)(B), and

''(B) with respect to each tax imposed under the sections referred to in subsection (b)(1), the rate of such tax during the 48-month period referred to in paragraph (1)(B) to be the same as the rate of such tax as in effect on the date of such estimate.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

Subtitle B—Biodiesel Income Tax Credit

SEC. 5101. BIODIESEL INCOME TAX CREDIT.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by inserting after section 40 the following new section:

''SEC. 40A. BIODIESEL USED AS FUEL.

''(a) GENERAL RULE.—For purposes of section 38, the biodiesel fuels credit determined under this section for the taxable year is an amount equal to the sum of—

''(1) the biodiesel mixture credit, plus

''(2) the biodiesel credit.

''(b) DEFINITION OF BIODIESEL MIXTURE CREDIT AND BIODIESEL CREDIT.—For purposes of this section—

''(1) BIODIESEL MIXTURE CREDIT.—

''(A) IN GENERAL.—The biodiesel mixture credit of any taxpayer for any taxable year is 50 cents for each gallon of biodiesel used by the taxpayer in the production of a qualified biodiesel mixture.

''(B) QUALIFIED BIODIESEL MIXTURE.—The term 'qualified biodiesel mixture' means a mixture of biodiesel and diesel fuel (as defined in section 4083(a)(3)), determined without regard to any use of kerosene, which—

''(i) is sold by the taxpayer producing such mixture to any person for use as a fuel, or

''(ii) is used as a fuel by the taxpayer producing such mixture.

''(C) SALE OR USE MUST BE IN TRADE OR BUSINESS, ETC.—Biodiesel used in the production of a qualified biodiesel mixture shall be taken into account—

''(i) only if the sale or use described in subparagraph (B) is in a trade or business of the taxpayer, and

''(ii) for the taxable year in which such sale or use occurs.

''(D) CASUAL OFF-FARM PRODUCTION NOT ELIGIBLE.—No credit shall be allowed under this section with respect to any casual off-farm production of a qualified biodiesel mixture.

''(2) BIODIESEL CREDIT.—

''(A) IN GENERAL.—The biodiesel credit of any taxpayer for any taxable year is 50 cents

for each gallon of biodiesel which is not in a mixture with diesel fuel and which during the taxable year—

''(i) is used by the taxpayer as a fuel in a trade or business, or

''(ii) is sold by the taxpayer at retail to a person and placed in the fuel tank of such person's vehicle.

''(B) USER CREDIT NOT TO APPLY TO BIODIESEL SOLD AT RETAIL.—No credit shall be allowed under subparagraph (A)(i) with respect to any biodiesel which was sold in a retail sale described in subparagraph (A)(ii).

''(3) CREDIT FOR AGRI-BIODIESEL.—In the case of any biodiesel which is agri-biodiesel, paragraphs (1)(A) and (2)(A) shall be applied by substituting '$1.00' for '50 cents'.

''(4) CERTIFICATION FOR BIODIESEL.—No credit shall be allowed under this section unless the taxpayer obtains a certification (in such form and manner as prescribed by the Secretary) from the producer or importer of the biodiesel which identifies the product produced and the percentage of biodiesel and agri-biodiesel in the product.

''(c) COORDINATION WITH CREDIT AGAINST EXCISE TAX.—The amount of the credit determined under this section with respect to any biodiesel shall be properly reduced to take into account any benefit provided with respect to such biodiesel solely by reason of the application of section 6426 or 6427(e).

''(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) BIODIESEL.—The term 'biodiesel' means the monoalkyl esters of long chain fatty acids derived from plant or animal matter which meet—

''(A) the registration requirements for fuels and fuel additives established by the Environmental Protection Agency under section 211 of the Clean Air Act (42 U.S.C. 7545), and

''(B) the requirements of the American Society of Testing and Materials D6751.

''(2) AGRI-BIODIESEL.—The term 'agri-biodiesel' means biodiesel derived solely from virgin oils, including esters derived from virgin vegetable oils from corn, soybeans, sunflower seeds, cottonseeds, canola, crambe, rapeseeds, safflowers, flaxseeds, rice bran, and mustard seeds, and from animal fats.

''(3) MIXTURE OR BIODIESEL NOT USED AS A FUEL, ETC.—

''(A) MIXTURES.—If—

''(i) any credit was determined under this section with respect to biodiesel used in the production of any qualified biodiesel mixture, and

''(ii) any person—

''(I) separates the biodiesel from the mixture, or

''(II) without separation, uses the mixture other than as a fuel,

then there is hereby imposed on such person a tax equal to the product of the rate applicable under subsection (b)(1)(A) and the number of gallons of such biodiesel in such mixture.

''(B) BIODIESEL.—If—

''(i) any credit was determined under this section with respect to the retail sale of any biodiesel, and

''(ii) any person mixes such biodiesel or uses such biodiesel other than as a fuel,

then there is hereby imposed on such person a tax equal to the product of the rate applicable under subsection (b)(2)(A) and the number of gallons of such biodiesel.

''(C) APPLICABLE LAWS.—All provisions of law, including penalties, shall, insofar as applicable and not inconsistent with this section, apply in respect of any tax imposed under subparagraph (A) or (B) as if such tax were imposed by section 4081 and not by this chapter.

''(4) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

''(e) TERMINATION.—This section shall not apply to any sale or use after December 31, 2006.''.

(b) CREDIT TREATED AS PART OF GENERAL BUSINESS CREDIT.—Section 38(b) (relating to current year business credit) is amended by striking ''plus'' at the end of paragraph (14), by striking the period at the end of paragraph (15) and inserting '', plus'', and by adding at the end the following new paragraph:

''(16) the biodiesel fuels credit determined under section 40A(a).''.

(c) CONFORMING AMENDMENTS.—

(1) Section 39(d) is amended by adding at the end the following new paragraph:

''(11) NO CARRYBACK OF BIODIESEL FUELS CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the biodiesel fuels credit determined under section 40A may be carried back to a taxable year ending on or before September 30, 2004.''.

(2)(A) Section 87 is amended to read as follows:

''SEC. 87. ALCOHOL AND BIODIESEL FUELS CREDITS.

''Gross income includes—

''(1) the amount of the alcohol fuels credit determined with respect to the taxpayer for the taxable year under section 40(a), and

''(2) the biodiesel fuels credit determined with respect to the taxpayer for the taxable year under section 40A(a).''.

(B) The item relating to section 87 in the table of sections for part II of subchapter B of chapter 1 is amended by striking ''fuel credit'' and inserting ''and biodiesel fuels credits''.

(3) Section 196(c) is amended by striking ''and'' at the end of paragraph (9), by striking the period at the end of paragraph (10) and inserting '', and'', and by adding at the end the following new paragraph:

''(11) the biodiesel fuels credit determined under section 40A(a).''.

(4) The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding after the item relating to section 40 the following new item:

''Sec. 40A. Biodiesel used as fuel.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel produced, and sold or used, after September 30, 2004, in taxable years ending after such date.

Subtitle C—Fuel Fraud Prevention

SEC. 5200. SHORT TITLE.

This subtitle may be cited as the ''Fuel Fraud Prevention Act of 2004''.

PART I—AVIATION JET FUEL

SEC. 5211. TAXATION OF AVIATION-GRADE KEROSENE.

(a) RATE OF TAX.—

(1) IN GENERAL.—Subparagraph (A) of section 4081(a)(2) is amended by striking ''and'' at the end of clause (ii), by striking the period at the end of clause (iii) and inserting '', and'', and by adding at the end the following new clause:

''(iv) in the case of aviation-grade kerosene, 21.8 cents per gallon.''.

(2) COMMERCIAL AVIATION.—Paragraph (2) of section 4081(a) is amended by adding at the end the following new subparagraph:

''(C) TAXES IMPOSED ON FUEL USED IN COMMERCIAL AVIATION.—In the case of aviation-grade kerosene which is removed from any refinery or terminal directly into the fuel tank of an aircraft for use in commercial aviation, the rate of tax under subparagraph (A)(iv) shall be 4.3 cents per gallon.''.

(3) NONTAXABLE USES.—

(A) IN GENERAL.—Section 4082 is amended by redesignating subsections (e) and (f) as subsections (f) and (g), respectively, and by inserting after subsection (d) the following new subsection:

''(e) AVIATION-GRADE KEROSENE.—In the case of aviation-grade kerosene which is exempt from the tax imposed by section 4041(c) (other than by reason of a prior imposition of tax) and which is removed from any refinery or terminal directly into the fuel tank of an aircraft, the rate of tax under section 4081(a)(2)(A)(iv) shall be zero.''.

(B) CONFORMING AMENDMENTS.—

(i) Subsection (b) of section 4082 is amended by adding at the end the following new flush sentence: ''The term 'nontaxable use' does not include the use of aviation-grade kerosene in an aircraft.''.

(ii) Section 4082(d) is amended by striking paragraph (1) and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(4) NONAIRCRAFT USE OF AVIATION-GRADE KEROSENE.—

(A) IN GENERAL.—Subparagraph (B) of section 4041(a)(1) is amended by adding at the end the following new sentence: ''This subparagraph shall not apply to aviation-grade kerosene.''.

(B) CONFORMING AMENDMENT.—The heading for paragraph (1) of section 4041(a) is amended by inserting ''AND KEROSENE'' after ''DIESEL FUEL''.

(b) COMMERCIAL AVIATION.—Section 4083 is amended redesignating subsections (b) and (c) as subsections (c) and (d), respectively, and by inserting after subsection (a) the following new subsection:

''(b) COMMERCIAL AVIATION.—For purposes of this subpart, the term 'commercial aviation' means any use of an aircraft in a business of transporting persons or property for compensation or hire by air, unless properly allocable to any transportation exempt from the taxes imposed by section 4261 and 4271 by reason of section 4281 or 4282 or by reason of section 4261(h).''.

(c) REFUNDS.—

(1) IN GENERAL.—Paragraph (4) of section 6427(l) is amended to read as follows:

''(4) REFUNDS FOR AVIATION-GRADE KEROSENE.—

''(A) NO REFUND OF CERTAIN TAXES ON FUEL USED IN COMMERCIAL AVIATION.—In the case of aviation-grade kerosene used in commercial aviation (as defined in section 4083(b)) (other than supplies for vessels or aircraft within the meaning of section 4221(d)(3)), paragraph (1) shall not apply to so much of the tax imposed by section 4081 as is attributable to—

''(i) the Leaking Underground Storage Tank Trust Fund financing rate imposed by such section, and

''(ii) so much of the rate of tax specified in section 4081(a)(2)(A)(iv) as does not exceed 4.3 cents per gallon.

''(B) PAYMENT TO ULTIMATE, REGISTERED VENDOR.—With respect to aviation-grade kerosene, if the ultimate purchaser of such kerosene waives (at such time and in such form and manner as the Secretary shall prescribe) the right to payment under paragraph (1) and assigns such right to the ultimate vendor, then the Secretary shall pay the amount which would be paid under paragraph (1) to such ultimate vendor, but only if such ultimate vendor—

''(i) is registered under section 4101, and

''(ii) meets the requirements of subparagraph (A), (B), or (D) of section 6416(a)(1).''.

(2) TIME FOR FILING CLAIMS.—Paragraph (4) of section 6427(i) is amended by striking ''subsection (l)(5)'' and inserting ''paragraph (4)(B) or (5) of subsection (l)''.

(3) CONFORMING AMENDMENT.—Subparagraph (B) of section 6427(l)(2) is amended to read as follows:

''(B) in the case of aviation-grade kerosene—

''(i) any use which is exempt from the tax imposed by section 4041(c) other than by reason of a prior imposition of tax, or

''(ii) any use in commercial aviation (within the meaning of section 4083(b)).''.

(d) REPEAL OF PRIOR TAXATION OF AVIATION FUEL.—

(1) IN GENERAL.—Part III of subchapter A of chapter 32 is amended by striking subpart B and by redesignating subpart C as subpart B.

(2) CONFORMING AMENDMENTS.—

(A) Section 4041(c) is amended to read as follows:

''(c) AVIATION-GRADE KEROSENE.—

''(1) IN GENERAL.—There is hereby imposed a tax upon aviation-grade kerosene—

''(A) sold by any person to an owner, lessee, or other operator of an aircraft for use in such aircraft, or

''(B) used by any person in an aircraft unless there was a taxable sale of such fuel under subparagraph (A).

''(2) EXEMPTION FOR PREVIOUSLY TAXED FUEL.—No tax shall be imposed by this subsection on the sale or use of any aviation-grade kerosene if tax was imposed on such liquid under section 4081 and the tax thereon was not credited or refunded.

''(3) RATE OF TAX.—The rate of tax imposed by this subsection shall be the rate of tax specified in section 4081(a)(2)(A)(iv) which is in effect at the time of such sale or use.''.

(B) Section 4041(d)(2) is amended by striking ''section 4091'' and inserting ''section 4081''.

(C) Section 4041 is amended by striking subsection (e).

(D) Section 4041 is amended by striking subsection (i).

(E) Section 4041(m)(1) is amended to read as follows:

''(1) IN GENERAL.—In the case of the sale or use of any partially exempt methanol or ethanol fuel, the rate of the tax imposed by subsection (a)(2) shall be—

''(A) after September 30, 1997, and before September 30, 2009—

''(i) in the case of fuel none of the alcohol in which consists of ethanol, 9.15 cents per gallon, and

''(ii) in any other case, 11.3 cents per gallon, and

''(B) after September 30, 2009—

''(i) in the case of fuel none of the alcohol in which consists of ethanol, 2.15 cents per gallon, and

''(ii) in any other case, 4.3 cents per gallon.''.

(F) Sections 4101(a), 4103, 4221(a), and 6206 are each amended by striking '', 4081, or 4091'' and inserting ''or 4081''.

(G) Section 6416(b)(2) is amended by striking ''4091 or''.

(H) Section 6416(b)(3) is amended by striking ''or 4091'' each place it appears.

(I) Section 6416(d) is amended by striking ''or to the tax imposed by section 4091 in the case of refunds described in section 4091(d)''.

(J) Section 6427(j)(1) is amended by striking '', 4081, and 4091'' and inserting ''and 4081''.

(K)(i) Section 6427(l)(1) is amended to read as follows:

''(1) IN GENERAL.—Except as otherwise provided in this subsection and in subsection (k), if any diesel fuel or kerosene on which tax has been imposed by section 4041 or 4081 is used by any person in a nontaxable use, the Secretary shall pay (without interest) to the ultimate purchaser of such fuel an amount equal to the aggregate amount of tax imposed on such fuel under section 4041 or 4081, as the case may be, reduced by any refund paid to the ultimate vendor under paragraph (4)(B).''.

(ii) Paragraph (5)(B) of section 6427(l) is amended by striking ''Paragraph (1)(A) shall not apply to kerosene'' and inserting ''Paragraph (1) shall not apply to kerosene (other than aviation-grade kerosene)''.

(L) Subparagraph (B) of section 6724(d)(1) is amended by striking clause (xv) and by redesignating the succeeding clauses accordingly.

(M) Paragraph (2) of section 6724(d) is amended by striking subparagraph (W) and by redesignating the succeeding subparagraphs accordingly.

(N) Paragraph (1) of section 9502(b) is amended by adding ''and'' at the end of subparagraph (B) and by striking subparagraphs (C) and (D) and inserting the following new subparagraph:

''(C) section 4081 with respect to aviation gasoline and aviation-grade kerosene, and''.

(O) The last sentence of section 9502(b) is amended to read as follows:

''There shall not be taken into account under paragraph (1) so much of the taxes imposed by section 4081 as are determined at the rate specified in section 4081(a)(2)(B).''.

(P) Subsection (b) of section 9508 is amended by striking paragraph (3) and by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

(Q) Section 9508(c)(2)(A) is amended by striking ''sections 4081 and 4091'' and inserting ''section 4081''.

(R) The table of subparts for part III of subchapter A of chapter 32 is amended to read as follows:

''Subpart A. Motor and aviation fuels.

''Subpart B. Special provisions applicable to fuels tax.''.

(S) The heading for subpart A of part III of subchapter A of chapter 32 is amended to read as follows:

''Subpart A—Motor and Aviation Fuels''.

(T) The heading for subpart B of part III of subchapter A of chapter 32 is amended to read as follows:

''Subpart B—Special Provisions Applicable to Fuels Tax''.

(g) OTHER AMENDMENTS.—

(1) Section 4081(c) is amended by adding at the end the following new flush sentence:

''In the case of any taxable fuel which is aviation-grade keorsene, this subsection shall not apply and the rules of section 4091(c) (as in effect on the day before the date of the enactment of the Fuel Fraud Prevention Act of 2004) shall apply.''.

(2) For purposes of the Internal Revenue Code of 1986, any reference to section 4091(c) shall be treated as a reference to the rules of such section as in effect on the date before the date of the enactment of this Act.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to aviation-grade kerosene removed, entered, or sold after September 30, 2004.

(g) FLOOR STOCKS TAX.—

(1) IN GENERAL.—There is hereby imposed on aviation-grade kerosene held on October 1, 2004, by any person a tax equal to—

(A) the tax which would have been imposed before such date on such kerosene had the amendments made by this section been in effect at all times before such date, reduced by

(B) the tax imposed before such date under section 4091 of the Internal Revenue Code of 1986, as in effect on the day before the date of the enactment of this Act.

(2) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—The person holding the kerosene on October 1, 2004, to which the tax imposed by paragraph (1) applies shall be liable for such tax.

(B) METHOD AND TIME FOR PAYMENT.—The tax imposed by paragraph (1) shall be paid at such time and in such manner as the Secretary of the Treasury shall prescribe, including the nonapplication of such tax on de minimis amounts of kerosene.

(3) TRANSFER OF FLOOR STOCK TAX REVENUES TO TRUST FUNDS.—For purposes of determining the amount transferred to any trust fund, the tax imposed by this subsection shall be treated as imposed by section 4081 of the Internal Revenue Code of 1986—

(A) at the Leaking Underground Storage Tank Trust Fund financing rate under such section to the extent of 0.1 cents per gallon, and

(B) at the rate under section 4081(a)(2)(A)(iv) to the extent of the remainder.

(4) HELD BY A PERSON.—For purposes of this section, kerosene shall be considered as held by a person if title thereto has passed to such person (whether or not delivery to the person has been made).

(5) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the tax imposed by section 4081 of such Code shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply with respect to the floor stock tax imposed by paragraph (1) to the same extent as if such tax were imposed by such section.

SEC. 5212. TRANSFER OF CERTAIN AMOUNTS FROM THE AIRPORT AND AIRWAY TRUST FUND TO THE HIGHWAY TRUST FUND TO REFLECT HIGHWAY USE OF JET FUEL.

(a) IN GENERAL.—Section 9502(d) is amended by adding at the end the following new paragraph:

''(7) TRANSFERS FROM THE TRUST FUND TO THE HIGHWAY TRUST FUND TO REFLECT HIGHWAY USE OF JET FUEL.—

''(A) IN GENERAL.—The Secretary shall pay from the Airport and Airway Trust Fund into the Highway Trust Fund—

''(i) $395,000,000 in fiscal year 2005,

''(ii) $425,000,000 in fiscal year 2006,

''(iii) $429,000,000 in fiscal year 2007,

''(iv) $432,000,000 in fiscal year 2008, and

''(v) $435,000,000 in fiscal year 2009.

''(B) AMOUNTS TRANSFERRED TO MASS TRANSIT ACCOUNT.—The Secretary shall transfer 11 percent of the amounts paid into the Highway Trust Fund under subparagraph (A) to the Mass Transit Account established under section 9503(e).''.

(b) CONFORMING AMENDMENTS.—

(1) Subsection (a) of section 9503 is amended—

(A) by striking ''appropriated or credited'' and inserting ''paid, appropriated, or credited'', and

(B) by striking ''or section 9602(b)'' and inserting '', section 9502(d)(7), or section 9602(b)''.

(2) Subsection (e)(1) of section 9503 is amended by striking ''or section 9602(b)'' and inserting '', section 9502(d)(7), or section 9602(b)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

PART II—DYED FUEL

SEC. 5221. DYE INJECTION EQUIPMENT.

(a) IN GENERAL.—Section 4082(a)(2) (relating to exemptions for diesel fuel and kerosene) is amended by inserting ''by mechanical injection'' after ''indelibly dyed''.

(b) DYE INJECTOR SECURITY.—Not later than June 30, 2004, the Secretary of the Treasury shall issue regulations regarding mechanical dye injection systems described in the amendment made by subsection (a), and such regulations shall include standards for making such systems tamper resistant.

(c) PENALTY FOR TAMPERING WITH OR FAILING TO MAINTAIN SECURITY REQUIREMENTS FOR MECHANICAL DYE INJECTION SYSTEMS.—

(1) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by adding after section 6715 the following new section:

"SEC. 6715A. TAMPERING WITH OR FAILING TO MAINTAIN SECURITY REQUIREMENTS FOR MECHANICAL DYE INJECTION SYSTEMS.

''(a) IMPOSITION OF PENALTY—

''(1) TAMPERING.—If any person tampers with a mechanical dye injection system used to indelibly dye fuel for purposes of section 4082, then such person shall pay a penalty in addition to the tax (if any).

''(2) FAILURE TO MAINTAIN SECURITY REQUIREMENTS.—If any operator of a mechanical dye injection system used to indelibly dye fuel for purposes of section 4082 fails to maintain the security standards for such system as established by the Secretary, then such operator shall pay a penalty.

''(b) AMOUNT OF PENALTY.—The amount of the penalty under subsection (a) shall be—

''(1) for each violation described in paragraph (1), the greater of—

''(A) $25,000, or

''(B) $10 for each gallon of fuel involved, and

''(2) for each—

''(A) failure to maintain security standards described in paragraph (2), $1,000, and

''(B) failure to correct a violation described in paragraph (2), $1,000 per day for each day after which such violation was discovered or such person should have reasonably known of such violation.

''(c) JOINT AND SEVERAL LIABILITY.—

''(1) IN GENERAL.—If a penalty is imposed under this section on any business entity, each officer, employee, or agent of such entity or other contracting party who willfully participated in any act giving rise to such penalty shall be jointly and severally liable with such entity for such penalty.

''(2) AFFILIATED GROUPS.—If a business entity described in paragraph (1) is part of an affiliated group (as defined in section 1504(a)), the parent corporation of such entity shall be jointly and severally liable with such entity for the penalty imposed under this section.''.

(2) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by adding after the item related to section 6715 the following new item:

''Sec. 6715A. Tampering with or failing to maintain security requirements for mechanical dye injection systems.''.

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (c) shall take effect 180 days after the date on which the Secretary issues the regulations described in subsection (b).

SEC. 5222. ELIMINATION OF ADMINISTRATIVE REVIEW FOR TAXABLE USE OF DYED FUEL.

(a) IN GENERAL.—Section 6715 is amended by inserting at the end the following new subsection:

''(e) NO ADMINISTRATIVE APPEAL FOR THIRD AND SUBSEQUENT VIOLATIONS.—In the case of any person who is found to be subject to the penalty under this section after a chemical analysis of such fuel and who has been penalized under this section at least twice after the date of the enactment of this subsection, no administrative appeal or review shall be allowed with respect to such finding except in the case of a claim regarding—

''(1) fraud or mistake in the chemical analysis, or

''(2) mathematical calculation of the amount of the penalty.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to penalties assessed after the date of the enactment of this Act.

SEC. 5223. PENALTY ON UNTAXED CHEMICALLY ALTERED DYED FUEL MIXTURES.

(a) IN GENERAL.—Section 6715(a) (relating to dyed fuel sold for use or used in taxable use, etc.) is amended by striking ''or'' in paragraph (2), by inserting ''or'' at the end of paragraph (3), and by inserting after paragraph (3) the following new paragraph:

''(4) any person who has knowledge that a dyed fuel which has been altered as described in paragraph (3) sells or holds for sale such fuel for any use which the person knows or has reason to know is not a nontaxable use of such fuel,''.

(b) CONFORMING AMENDMENT.—Section 6715(a)(3) is amended by striking ''alters, or attempts to alter,'' and inserting ''alters, chemically or otherwise, or attempts to so alter,''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 5224. TERMINATION OF DYED DIESEL USE BY INTERCITY BUSES.

(a) IN GENERAL.—Paragraph (3) of section 4082(b) (relating to nontaxable use) is amended to read as follows:

''(3) any use described in section 4041(a)(1)(C)(iii)(II).''.

(b) ULTIMATE VENDOR REFUND.—Subsection (b) of section 6427 is amended by adding at the end the following new paragraph:

''(4) REFUNDS FOR USE OF DIESEL FUEL IN CERTAIN INTERCITY BUSES.—

''(A) IN GENERAL.—With respect to any fuel to which paragraph (2)(A) applies, if the ultimate purchaser of such fuel waives (at such time and in such form and manner as the Secretary shall prescribe) the right to payment under paragraph (1) and assigns such right to the ultimate vendor, then the Secretary shall pay the amount which would be paid under paragraph (1) to such ultimate vendor, but only if such ultimate vendor—

''(i) is registered under section 4101, and

''(ii) meets the requirements of subparagraph (A), (B), or (D) of section 6416(a)(1).

''(B) CREDIT CARDS.—For purposes of this paragraph, if the sale of such fuel is made by means of a credit card, the person extending credit to the ultimate purchaser shall be deemed to be the ultimate vendor.''.

(c) PAYMENT OF REFUNDS.—Subparagraph (A) of section 6427(i)(4), as amended by section 5211 of this Act, is amended by inserting ''subsections (b)(4) and'' after ''filed under''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel sold after September 30, 2004.

PART III—MODIFICATION OF INSPECTION OF RECORDS PROVISIONS

SEC. 5231. AUTHORITY TO INSPECT ON-SITE RECORDS.

(a) IN GENERAL.—Section 4083(d)(1)(A) (relating to administrative authority), as amended by section 5211 of this Act, is amended by striking ''and'' at the end of clause (i) and by inserting after clause (ii) the following new clause:

''(iii) inspecting any books and records and any shipping papers pertaining to such fuel, and''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 5232. ASSESSABLE PENALTY FOR REFUSAL OF ENTRY.

(a) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties), as amended by section 5221 of this Act, is amended by adding at the end the following new section:

"SEC. 6717. REFUSAL OF ENTRY.

''(a) IN GENERAL.—In addition to any other penalty provided by law, any person who refuses to admit entry or refuses to permit any other action by the Secretary authorized by section 4083(d)(1) shall pay a penalty of $1,000 for such refusal.

''(b) JOINT AND SEVERAL LIABILITY.—

''(1) IN GENERAL.—If a penalty is imposed under this section on any business entity, each officer, employee, or agent of such entity or other contracting party who willfully participated in any act giving rise to such penalty shall be jointly and severally liable with such entity for such penalty.

''(2) AFFILIATED GROUPS.—If a business entity described in paragraph (1) is part of an affiliated group (as defined in section 1504(a)), the parent corporation of such entity shall be jointly and severally liable with such entity for the penalty imposed under this section.

''(c) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 4083(d)(3), as amended by section 5211 of this Act, is amended—

(A) by striking ''ENTRY.—The penalty'' and inserting: ''ENTRY.—

''(A) FORFEITURE.—The penalty'', and

(B) by adding at the end the following new subparagraph:

''(B) ASSESSABLE PENALTY.—For additional assessable penalty for the refusal to admit entry or other refusal to permit an action by the Secretary authorized by paragraph (1), see section 6717.''.

(2) The table of sections for part I of subchapter B of chapter 68, as amended by section 5221 of this Act, is amended by adding at the end the following new item:

''Sec. 6717. Refusal of entry.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

PART IV—REGISTRATION AND REPORTING REQUIREMENTS

SEC. 5241. REGISTRATION OF PIPELINE OR VESSEL OPERATORS REQUIRED FOR EXEMPTION OF BULK TRANSFERS TO REGISTERED TERMINALS OR REFINERIES.

(a) IN GENERAL.—Section 4081(a)(1)(B) (relating to exemption for bulk transfers to registered terminals or refineries) is amended—

(1) by inserting ''by pipeline or vessel'' after ''transferred in bulk'', and

(2) by inserting '', the operator of such pipeline or vessel,'' after ''the taxable fuel''.

(b) CIVIL PENALTY FOR CARRYING TAXABLE FUELS BY NONREGISTERED PIPELINES OR VESSELS.—

(1) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties), as amended by section 5232 of this Act, is amended by adding at the end the following new section:

"SEC. 6718. CARRYING TAXABLE FUELS BY NONREGISTERED PIPELINES OR VESSELS.

''(a) IMPOSITION OF PENALTY.—If any person knowingly transfers any taxable fuel (as defined in section 4083(a)(1)) in bulk pursuant to section 4081(a)(1)(B) to an unregistered, such person shall pay a penalty in addition to the tax (if any).

''(b) AMOUNT OF PENALTY.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the amount of the penalty under subsection (a) on each act shall be an amount equal to the greater of—

''(A) $10,000, or

''(B) $1 per gallon.

''(2) MULTIPLE VIOLATIONS.—In determining the penalty under subsection (a) on any person, paragraph (1) shall be applied by increasing the amount in paragraph (1) by the product of such amount and the number of prior penalties (if any) imposed by this section on such person (or a related person or

any predecessor of such person or related person).

''(c) JOINT AND SEVERAL LIABILITY.—

''(1) IN GENERAL.—If a penalty is imposed under this section on any business entity, each officer, employee, or agent of such entity or other contracting party who willfully participated in any act giving rise to such penalty shall be jointly and severally liable with such entity for such penalty.

''(2) AFFILIATED GROUPS.—If a business entity described in paragraph (1) is part of an affiliated group (as defined in section 1504(a)), the parent corporation of such entity shall be jointly and severally liable with such entity for the penalty imposed under this section.

''(d) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.''.

(2) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68, as amended by section 5232 of this Act, is amended by adding at the end the following new item:

''Sec. 6718. Carrying taxable fuels by nonregistered pipelines or vessels.''.

(c) PUBLICATION OF REGISTERED PERSONS.—Not later than June 30, 2004, the Secretary of the Treasury shall publish a list of persons required to be registered under section 4101 of the Internal Revenue Code of 1986.

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on October 1, 2004.

SEC. 5242. DISPLAY OF REGISTRATION.

(a) IN GENERAL.—Subsection (a) of section 4101 (relating to registration) is amended—

(1) by striking ''Every'' and inserting the following:

''(1) IN GENERAL.—Every'', and

(2) by adding at the end the following new paragraph:

''(2) DISPLAY OF REGISTRATION.—Every operator of a vessel required by the Secretary to register under this section shall display proof of registration through an electronic identification device prescribed by the Secretary on each vessel used by such operator to transport any taxable fuel.''.

(b) CIVIL PENALTY FOR FAILURE TO DISPLAY REGISTRATION.—

(1) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties), as amended by section 5241 of this Act, is amended by adding at the end the following new section:

''SEC. 6719. FAILURE TO DISPLAY REGISTRATION OF VESSEL.

''(a) FAILURE TO DISPLAY REGISTRATION.—Every operator of a vessel who fails to display proof of registration pursuant to section 4101(a)(2) shall pay a penalty of $500 for each such failure. With respect to any vessel, only one penalty shall be imposed by this section during any calendar month.

''(b) MULTIPLE VIOLATIONS.—In determining the penalty under subsection (a) on any person, subsection (a) shall be applied by increasing the amount in subsection (a) by the product of such amount and the number of prior penalties (if any) imposed by this section on such person (or a related person or any predecessor of such person or related person).

''(c) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.''.

(2) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68, as amended by section 5241 of this Act, is amended by adding at the end the following new item:

''Sec. 6719. Failure to display registration of vessel.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

SEC. 5243. REGISTRATION OF PERSONS WITHIN FOREIGN TRADE ZONES, ETC..

(a) IN GENERAL.—Section 4101(a), as amended by section 5242 of this Act, is amended by redesignating paragraph (2) as paragraph (3), and by inserting after paragraph (1) the following new paragraph:

''(2) REGISTRATION OF PERSONS WITHIN FOREIGN TRADE ZONES, ETC..—The Secretary shall require registration by any person which—

''(A) operates a terminal or refinery within a foreign trade zone or within a customs bonded storage facility, or

''(B) holds an inventory position with respect to a taxable fuel in such a terminal.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

SEC. 5244. PENALTIES FOR FAILURE TO REGISTER AND FAILURE TO REPORT.

(a) INCREASED PENALTY.—Subsection (a) of section 7272 (relating to penalty for failure to register) is amended by inserting ''($10,000 in the case of a failure to register under section 4101)'' after ''$50''.

(b) INCREASED CRIMINAL PENALTY.—Section 7232 (relating to failure to register under section 4101, false representations of registration status, etc.) is amended by striking ''$5,000'' and inserting ''$10,000''.

(c) ASSESSABLE PENALTY FOR FAILURE TO REGISTER.—

(1) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties), as amended by section 5242 of this Act, is amended by adding at the end the following new section:

''SEC. 6720. FAILURE TO REGISTER.

''(a) FAILURE TO REGISTER.—Every person who is required to register under section 4101 and fails to do so shall pay a penalty in addition to the tax (if any).

''(b) AMOUNT OF PENALTY.—The amount of the penalty under subsection (a) shall be—

''(1) $10,000 for each initial failure to register, and

''(2) $1,000 for each day thereafter such person fails to register.

''(c) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.''.

(2) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68, as amended by section 5242 of this Act, is amended by adding at the end the following new item:

''Sec. 6720. Failure to register.''.

(d) ASSESSABLE PENALTY FOR FAILURE TO REPORT.—

(1) IN GENERAL.—Part II of subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end the following new section:

''SEC. 6725. FAILURE TO REPORT INFORMATION UNDER SECTION 4101.

''(a) IN GENERAL.—In the case of each failure described in subsection (b) by any person with respect to a vessel or facility, such person shall pay a penalty of $10,000 in addition to the tax (if any).

''(b) FAILURES SUBJECT TO PENALTY.—For purposes of subsection (a), the failures described in this subsection are—

''(1) any failure to make a report under section 4101(d) on or before the date prescribed therefor, and

''(2) any failure to include all of the information required to be shown on such report or the inclusion of incorrect information.

''(c) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.''.

(2) CLERICAL AMENDMENT.—The table of sections for part II of subchapter B of chapter 68 is amended by adding at the end the following new item:

''Sec. 6725. Failure to report information under section 4101.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to failures pending or occurring after September 30, 2004.

SEC. 5245. INFORMATION REPORTING FOR PERSONS CLAIMING CERTAIN TAX BENEFITS.

(a) IN GENERAL.—Subpart C of part III of subchapter A of chapter 32 is amended by adding at the end the following new section:

''SEC. 4104. INFORMATION REPORTING FOR PERSONS CLAIMING CERTAIN TAX BENEFITS.

''(a) IN GENERAL.—The Secretary shall require any person claiming tax benefits—

''(1) under the provisions of section 34, 40, and 40A to file a return at the time such person claims such benefits (in such manner as the Secretary may prescribe), and

''(2) under the provisions of section 4041(b)(2), 6426, or 6427(e) to file a monthly return (in such manner as the Secretary may prescribe).

''(b) CONTENTS OF RETURN.—Any return filed under this section shall provide such information relating to such benefits and the coordination of such benefits as the Secretary may require to ensure the proper administration and use of such benefits.

''(c) ENFORCEMENT.—With respect to any person described in subsection (a) and subject to registration requirements under this title, rules similar to rules of section 4222(c) shall apply with respect to any requirement under this section.''.

(b) CONFORMING AMENDMENT.—The table of sections for subpart C of part III of subchapter A of chapter 32 is amended by adding at the end the following new item:

''Sec. 4104. Information reporting for persons claiming certain tax benefits.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

PART V—IMPORTS

SEC. 5251. TAX AT POINT OF ENTRY WHERE IMPORTER NOT REGISTERED.

(a) TAX AT POINT OF ENTRY WHERE IMPORTER NOT REGISTERED.—

(1) IN GENERAL.—Subpart C of part III of subchapter A of chapter 31, as amended by section 5245 of this Act, is amended by adding at the end the following new section:

''SEC. 4105. TAX AT ENTRY WHERE IMPORTER NOT REGISTERED.

''(a) IN GENERAL.—Any tax imposed under this part on any person not registered under section 4101 for the entry of a fuel into the United States shall be imposed at the time and point of entry.

''(b) ENFORCEMENT OF ASSESSMENT.—If any person liable for any tax described under subsection (a) has not paid the tax or posted a bond, the Secretary may—

''(1) seize the fuel on which the tax is due, or

''(2) detain any vehicle transporting such fuel,

until such tax is paid or such bond is filed.

''(c) LEVY OF FUEL.—If no tax has been paid or no bond has been filed within 5 days from the date the Secretary seized fuel pursuant to subsection (b), the Secretary may sell such fuel as provided under section 6336.''.

(2) CONFORMING AMENDMENT.—The table of sections for subpart C of part III of subchapter A of chapter 31 of the Internal Revenue Code of 1986, as amended by section 5245 of this Act, is amended by adding after the last item the following new item:

''Sec. 4105. Tax at entry where importer not registered.''.

(b) DENIAL OF ENTRY WHERE TAX NOT PAID.—The Secretary of Homeland Security is authorized to deny entry into the United States of any shipment of a fuel which is taxable under section 4081 of the Internal Revenue Code of 1986 if the person entering such shipment fails to pay the tax imposed under such section or post a bond in accordance with the provisions of section 4105 of such Code.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 5252. RECONCILIATION OF ON-LOADED CARGO TO ENTERED CARGO.

(a) IN GENERAL.—Subsection (a) of section 343 of the Trade Act of 2002 is amended by inserting at the end the following new paragraph:

''(4) IN GENERAL.—Subject to paragraphs (2) and (3), not later than 1 year after the enactment of this paragraph, the Secretary of Homeland Security, together with the Secretary of the Treasury, shall promulgate regulations providing for the transmission to the Internal Revenue Service, through an electronic data interchange system, of information pertaining to cargo of taxable fuels (as defined in section 4083 of the Internal Revenue Code of 1986) destined for importation into the United States prior to such importation.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

PART VI—MISCELLANEOUS PROVISIONS

SEC. 5261. TAX ON SALE OF DIESEL FUEL WHETHER SUITABLE FOR USE OR NOT IN A DIESEL-POWERED VEHICLE OR TRAIN.

(a) IN GENERAL.—Section 4083(a)(3) is amended—

(1) by striking ''The term'' and inserting the following:

''(A) IN GENERAL.—The term'', and

(2) by inserting at the end the following new subparagraph:

''(B) LIQUID SOLD AS DIESEL FUEL.—The term 'diesel fuel' includes any liquid which is sold as or offered for sale as a fuel in a diesel-powered highway vehicle or a diesel-powered train.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 5262. MODIFICATION OF ULTIMATE VENDOR REFUND CLAIMS WITH RESPECT TO FARMING.

(a) IN GENERAL.—

(1) REFUNDS.—Section 6427(l) is amended by adding at the end the following new paragraph:

''(6) REGISTERED VENDORS PERMITTED TO ADMINISTER CERTAIN CLAIMS FOR REFUND OF DIESEL FUEL AND KEROSENE SOLD TO FARMERS.—

''(A) IN GENERAL.—In the case of diesel fuel or kerosene used on a farm for farming purposes (within the meaning of section 6420(c)), paragraph (1) shall not apply to the aggregate amount of such diesel fuel or kerosene if such amount does not exceed 500 gallons (as determined under subsection (i)(5)(A)(iii)).

''(B) PAYMENT TO ULTIMATE VENDOR.—The amount which would (but for subparagraph (A)) have been paid under paragraph (1) with respect to any fuel shall be paid to the ultimate vendor of such fuel, if such vendor—

''(i) is registered under section 4101, and

''(ii) meets the requirements of subparagraph (A), (B), or (D) of section 6416(a)(1).''.

(2) FILING OF CLAIMS.—Section 6427(i) is amended by inserting at the end the following new paragraph:

''(5) SPECIAL RULE FOR VENDOR REFUNDS WITH RESPECT TO FARMERS.—

''(A) IN GENERAL.—A claim may be filed under subsection (l)(6) by any person with respect to fuel sold by such person for any period—

''(i) for which $200 or more ($100 or more in the case of kerosene) is payable under subsection (l)(6),

''(ii) which is not less than 1 week, and

''(iii) which is for not more than 500 gallons for each farmer for which there is a claim.

Notwithstanding subsection (l)(1), paragraph (3)(B) shall apply to claims filed under the preceding sentence.

''(B) TIME FOR FILING CLAIM.—No claim filed under this paragraph shall be allowed unless filed on or before the last day of the first quarter following the earliest quarter included in the claim.''.

(3) CONFORMING AMENDMENTS.—

(A) Section 6427(l)(5)(A) is amended to read as follows:

''(A) IN GENERAL.—Paragraph (1) shall not apply to diesel fuel or kerosene used by a State or local government.''.

(B) The heading for section 6427(l)(5) is amended by striking ''FARMERS AND''.

(b) Section 6427(i)(3) is amended—

(1) by adding at the end of subparagraph (A) the following new flush sentence:

''In the case of an electronic claim, this subparagraph shall be applied without regard to clause (i).'', and

(2) by striking ''20 days of the date of the filing of such claim'' in subparagraph (B) and inserting ''45 days of the date of the filing of such claim (20 days in the case of an electronic claim)'', and

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to fuels sold for nontaxable use after the date of the enactment of this Act.

SEC. 5263. TAXABLE FUEL REFUNDS FOR CERTAIN ULTIMATE VENDORS.

(a) IN GENERAL.—Paragraph (4) of section 6416(a) (relating to abatements, credits, and refunds) is amended to read as follows:

''(4) REGISTERED ULTIMATE VENDOR TO ADMINISTER CREDITS AND REFUNDS OF GASOLINE TAX.—

''(A) IN GENERAL.—For purposes of this subsection, if an ultimate vendor purchases any gasoline on which tax imposed by section 4081 has been paid and sells such gasoline to an ultimate purchaser described in subparagraph (C) or (D) of subsection (b)(2) (and such gasoline is for a use described in such subparagraph), such ultimate vendor shall be treated as the person (and the only person) who paid such tax, but only if such ultimate vendor is registered under section 4101. For purposes of this subparagraph, if the sale of gasoline is made by means of a credit card, the person extending the credit to the ultimate purchaser shall be deemed to be the ultimate vendor.

''(B) TIMING OF CLAIMS.—The procedure and timing of any claim under subparagraph (A) shall be the same as for claims under section 6427(i)(4), except that the rules of section 6427(i)(3)(B) regarding electronic claims shall not apply unless the ultimate vendor has certified to the Secretary for the most recent quarter of the taxable year that all ultimate purchasers of the vendor are certified and entitled to a refund under subparagraph (C) or (D) of subsection (b)(2).''.

(b) CREDIT CARD PURCHASES OF DIESEL FUEL OR KEROSENE BY STATE AND LOCAL GOVERNMENTS.—Section 6427(l)(5)(C) (relating to nontaxable uses of diesel fuel, kerosene, and aviation fuel), as amended by section 5252 of this Act, is amended by adding at the end the following new sentence: ''For purposes of this subparagraph, if the sale of diesel fuel or kerosene is made by means of a credit card, the person extending the credit to the ultimate purchaser shall be deemed to be the ultimate vendor.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

SEC. 5264. TWO-PARTY EXCHANGES.

(a) IN GENERAL.—Subpart C of part III of subchapter A of chapter 32, as amended by section 5251 of this Act, is amended by adding at the end the following new section:

''SEC. 4106. TWO-PARTY EXCHANGES.

''(a) IN GENERAL.—In a two-party exchange, the delivering person shall not be liable for the tax imposed under of section 4081(a)(1)(A)(ii).

''(b) TWO-PARTY EXCHANGE.—The term 'two-party exchange' means a transaction, other than a sale, in which taxable fuel is transferred from a delivering person registered under section 4101 as a taxable fuel registrant to a receiving person who is so registered where all of the following occur:

''(1) The transaction includes a transfer from the delivering person, who holds the inventory position for taxable fuel in the terminal as reflected in the records of the terminal operator.

''(2) The exchange transaction occurs before or contemporaneous with completion of removal across the rack from the terminal by the receiving person.

''(3) The terminal operator in its books and records treats the receiving person as the person that removes the product across the terminal rack for purposes of reporting the transaction to the Secretary.

''(4) The transaction is the subject of a written contract.''.

(b) CONFORMING AMENDMENT.—The table of sections for subpart C of part III of subchapter A of chapter 32, as amended by section 5251 of this Act, is amended by adding after the last item the following new item:

''Sec. 4106. Two-party exchanges.''.

(c) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 5265. MODIFICATIONS OF TAX ON USE OF CERTAIN VEHICLES.

(a) NO PRORATION OF TAX UNLESS VEHICLE IS DESTROYED OR STOLEN.—

(1) IN GENERAL.—Section 4481(c) (relating to proration of tax) is amended to read as follows:

''(c) PRORATION OF TAX WHERE VEHICLE SOLD, DESTROYED, OR STOLEN.—

''(1) IN GENERAL.—If in any taxable period a highway motor vehicle is sold, destroyed, or stolen before the first day of the last month in such period and not subsequently used during such taxable period, the tax shall be reckoned proportionately from the first day of the month in such period in which the first use of such highway motor vehicle occurs to and including the last day of the month in which such highway motor vehicle was sold, destroyed, or stolen.

''(2) DESTROYED.—For purposes of paragraph (1), a highway motor vehicle is destroyed if such vehicle is damaged by reason of an accident or other casualty to such an extent that it is not economic to rebuild.''.

(2) CONFORMING AMENDMENTS.—

(A) Section 6156 (relating to installment payment of tax on use of highway motor vehicles) is repealed.

(B) The table of sections for subchapter A of chapter 62 is amended by striking the item relating to section 6156.

(b) DISPLAY OF TAX CERTIFICATE.—Paragraph (2) of section 4481(d) (relating to one tax liability for period) is amended to read as follows:

''(2) DISPLAY OF TAX CERTIFICATE.—Every taxpayer which pays the tax imposed under this section with respect to a highway motor

vehicle shall, not later than 1 month after the due date of the return of tax with respect to each taxable period, receive and display on such vehicle an electronic identification device prescribed by the Secretary.''.

(c) ELECTRONIC FILING.—Section 4481, as amended by section 5001 of this Act, is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

''(e) ELECTRONIC FILING.—Any taxpayer who files a return under this section with respect to 25 or more vehicles for any taxable period shall file such return electronically.''.

(d) REPEAL OF REDUCTION IN TAX FOR CERTAIN TRUCKS.—Section 4483 of the Internal Revenue Code of 1986 is amended by striking subsection (f).

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable periods beginning after the date of the enactment of this Act.

(2) SUBSECTION (b).—The amendment made by subsection (b) shall take effect on October 1, 2005.

SEC. 5266. DEDICATION OF REVENUES FROM CERTAIN PENALTIES TO THE HIGHWAY TRUST FUND.

(a) IN GENERAL.—Subsection (b) of section 9503 (relating to transfer to Highway Trust Fund of amounts equivalent to certain taxes), as amended by section 5001 of this Act, is amended by redesignating paragraph (5) as paragraph (6) and inserting after paragraph (4) the following new paragraph:

''(5) CERTAIN PENALTIES.—There are hereby appropriated to the Highway Trust Fund amounts equivalent to the penalties assessed under sections 6715, 6715A, 6717, 6718, 6719, 6720, 6725, 7232, and 7272 (but only with regard to penalties under such section related to failure to register under section 4101).''.

(b) CONFORMING AMENDMENTS.—

(1) The heading of subsection (b) of section 9503 is amended by inserting ''AND PENALTIES'' after ''TAXES''.

(2) The heading of paragraph (1) of section 9503(b) is amended by striking ''IN GENERAL'' and inserting ''CERTAIN TAXES''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to penalties assessed after October 1, 2004.

SEC. 5267. NONAPPLICATION OF EXPORT EXEMPTION TO DELIVERY OF FUEL TO MOTOR VEHICLES REMOVED FROM UNITED STATES.

(a) IN GENERAL.—Section 4221(d)(2) (defining export) is amended by adding at the end the following new sentence: ''Such term does not include the delivery of a taxable fuel (as defined in section 4083(a)(1)) into a fuel tank of a motor vehicle which is shipped or driven out of the United States.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 4041(g) (relating to other exemptions) is amended by adding at the end the following new sentence: ''Paragraph (3) shall not apply to the sale for delivery of a liquid into a fuel tank of a motor vehicle which is shipped or driven out of the United States.''.

(2) Clause (iv) of section 4081(a)(1)(A) (relating to tax on removal, entry, or sale) is amended by inserting ''or at a duty-free sales enterprise (as defined in section 555(b)(8) of the Tariff Act of 1930)'' after ''section 4101''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales or deliveries made after the date of the enactment of this Act.

PART VII—TOTAL ACCOUNTABILITY

SEC. 5271. TOTAL ACCOUNTABILITY.

(a) TAXATION OF REPORTABLE LIQUIDS.—

(1) IN GENERAL.—Section 4081(a), as amended by this Act, is amended—

(A) by inserting ''or reportable liquid'' after ''taxable fuel'' each place it appears, and

(B) by inserting ''such liquid'' after ''such fuel'' in paragraph (1)(A)(iv).

(2) RATE OF TAX.—Subparagraph (A) of section 4081(a)(2), as amended by section 5211 of this Act, is amended by striking ''and'' at the end of clause (iii), by striking the period at the end of clause (iv) and inserting '', and'', and by adding at the end the following new clause:

''(v) in the case of reportable liquids, the rate determined under section 4083(c)(2).''.

(3) EXEMPTION.—Section 4081(a)(1) is amended by adding at the end the following new subparagraph:

''(C) EXEMPTION FOR REGISTERED TRANSFERS OF REPORTABLE LIQUIDS.—The tax imposed by this paragraph shall not apply to any removal, entry, or sale of a reportable liquid if—

''(i) such removal, entry, or sale is to a registered person who certifies that such liquid will not be used as a fuel or in the production of a fuel, or

''(ii) the sale is to the ultimate purchaser of such liquid.''.

(4) REPORTABLE LIQUIDS.—Section 4083, as amended by this Act, is amended by redesignating subsections (c) and (d) (as redesignated by section 5211 of this Act) as subsections (d) and (e), respectively, and by inserting after subsection (b) the following new section:

''(c) REPORTABLE LIQUID.—For purposes of this subpart—

''(1) IN GENERAL.—The term 'reportable liquid' means any petroleum-based liquid other than a taxable fuel.

''(2) TAXATION.—

''(A) GASOLINE BLEND STOCKS AND ADDITIVES.—Gasoline blend stocks and additives which are reportable liquids (as defined in paragraph (1)) shall be subject to the rate of tax under clause (i) of section 4081(a)(2)(A).

''(B) OTHER REPORTABLE LIQUIDS.—Any reportable liquid (as defined in paragraph (1)) not described in subparagraph (A) shall be subject to the rate of tax under clause (iii) of section 4081(a)(2)(A).''.

(5) CONFORMING AMENDMENTS.—

(A) Section 4081(e) is amended by inserting ''or reportable liquid'' after ''taxable fuel''.

(B) Section 4083(d) (relating to certain use defined as removal), as redesignated by paragraph (4), is amended by inserting ''or reportable liquid'' after ''taxable fuel''.

(C) Section 4083(e)(1) (relating to administrative authority), as redesignated by paragraph (4), is amended—

(i) in subparagraph (A)—

(I) by inserting ''or reportable liquid'' after ''taxable fuel'', and

(II) by inserting ''or such liquid'' after ''such fuel'' each place it appears, and

(ii) in subparagraph (B), by inserting ''or any reportable liquid'' after ''any taxable fuel''.

(D) Section 4101(a)(2), as added by section 5243 of this Act, is amended by inserting ''or a reportable liquid'' after ''taxable fuel''.

(E) Section 4101(a)(3), as added by section 5242 of this Act and redesignated by section 5243 of this Act, is amended by inserting ''or any reportable liquid'' before the period at the end.

(F) Section 4102 is amended by inserting ''or any reportable liquid'' before the period at the end.

(G)(i) Section 6718, as added by section 5241 of this Act, is amended—

(I) in subsection (a), by inserting ''or any reportable liquid (as defined in section 4083(c)(1))'' after '' section 4083(a)(1))'', and

(II) in the heading, by inserting ''or reportable liquids'' after ''taxable fuel''.

(ii) The item relating to section 6718 in table of sections for part I of subchapter B of chapter 68, as added by section 5241 of this Act, is amended by inserting ''or reportable liquids'' after ''taxable fuels''.

(H) Section 6427(h) is amended to read as follows:

''(h) GASOLINE BLEND STOCKS OR ADDITIVES AND REPORTABLE LIQUIDS.—Except as provided in subsection (k)—

''(1) if any gasoline blend stock or additive (within the meaning of section 4083(a)(2)) is not used by any person to produce gasoline and such person establishes that the ultimate use of such gasoline blend stock or additive is not to produce gasoline, or

''(2) if any reportable liquid (within the meaning of section 4083(c)(1)) is not used by any person to produce a taxable fuel and such person establishes that the ultimate use of such reportable liquid is not to produce a taxable fuel,

then the Secretary shall pay (without interest) to such person an amount equal to the aggregate amount of the tax imposed on such person with respect to such gasoline blend stock or additive or such reportable fuel.''.

(I) Section 7232, as amended by this Act, is amended by inserting ''or reportable liquid (within the meaning of section 4083(c)(1))'' after ''section 4083)''.

(J) Section 343 of the Trade Act of 2002, as amended by section 5252 of this Act, is amended by inserting ''and reportable liquids (as defined in section 4083(c)(1) of such Code)'' after ''Internal Revenue Code of 1986)''.

(b) DYED DIESEL.—Section 4082(a) is amended by striking ''and'' at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting ''and'', and by inserting after paragraph (3) the following new paragraph:

''(4) which is removed, entered, or sold by a person registered under section 4101.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to reportable liquids (as defined in section 4083(c) of the Internal Revenue Code) and fuel sold or used after September 30, 2004.

SEC. 5272. EXCISE TAX REPORTING.

(a) IN GENERAL.—Part II of subchapter A of chapter 61 is amended by adding at the end the following new subpart:

''SUBPART E—EXCISE TAX REPORTING

''SEC. 6025. RETURNS RELATING TO FUEL TAXES.

''(a) IN GENERAL.—The Secretary shall require any person liable for the tax imposed under Part III of subchapter A of chapter 32 to file a return of such tax on a monthly basis.

''(b) INFORMATION INCLUDED WITH RETURN.—The Secretary shall require any person filing a return under subsection (a) to provide information regarding any refined product (whether or not such product is taxable under this title) removed from a terminal during the period for which such return applies.''.

(b) CONFORMING AMENDMENT.—The table of parts for subchapter A of chapter 61 is amended by adding at the end the following new item:

''Subpart E—Excise Tax Reporting''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel sold or used after September 30, 2004.

SEC. 5273. INFORMATION REPORTING.

(a) IN GENERAL.—Section 4101(d) is amended by adding at the end the following new flush sentence:

''The Secretary shall require reporting under the previous sentence with respect to taxable fuels removed, entered, or transferred from

any refinery, pipeline, or vessel which is registered under this section.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply on October 1, 2004.

Subtitle D—Definition of Highway Vehicle

SEC. 5301. EXEMPTION FROM CERTAIN EXCISE TAXES FOR MOBILE MACHINERY.

(a) EXEMPTION FROM TAX ON HEAVY TRUCKS AND TRAILERS SOLD AT RETAIL.—

(1) IN GENERAL.—Section 4053 (relating to exemptions) is amended by adding at the end the following new paragraph:

''(8) MOBILE MACHINERY.—Any vehicle which consists of a chassis—

''(A) to which there has been permanently mounted (by welding, bolting, riveting, or other means) machinery or equipment to perform a construction, manufacturing, processing, farming, mining, drilling, timbering, or similar operation if the operation of the machinery or equipment is unrelated to transportation on or off the public highways,

''(B) which has been specially designed to serve only as a mobile carriage and mount (and a power source, where applicable) for the particular machinery or equipment involved, whether or not such machinery or equipment is in operation, and

''(C) which, by reason of such special design, could not, without substantial structural modification, be used as a component of a vehicle designed to perform a function of transporting any load other than that particular machinery or equipment or similar machinery or equipment requiring such a specially designed chassis.''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall take effect on the day after the date of the enactment of this Act.

(b) EXEMPTION FROM TAX ON USE OF CERTAIN VEHICLES.—

(1) IN GENERAL.—Section 4483 (relating to exemptions) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

''(g) EXEMPTION FOR MOBILE MACHINERY.—No tax shall be imposed by section 4481 on the use of any vehicle described in section 4053(8).''.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the day after the date of the enactment of this Act.

(d) EXEMPTION FROM FUEL TAXES.—

(1) IN GENERAL.—Section 6421(e)(2) (defining off-highway business use) is amended by adding at the end the following new subparagraph:

''(C) USES IN MOBILE MACHINERY.—

''(i) IN GENERAL.—The term 'off-highway business use' shall include any use in a vehicle which meets the requirements described in clause (ii).

''(ii) REQUIREMENTS FOR MOBILE MACHINERY.—The requirements described in this clause are—

''(I) the design-based test, and

''(II) the use-based test.

''(iii) DESIGN-BASED TEST.—For purposes of clause (ii)(I), the design-based test is met if the vehicle consists of a chassis—

''(I) to which there has been permanently mounted (by welding, bolting, riveting, or other means) machinery or equipment to perform a construction, manufacturing, processing, farming, mining, drilling, timbering, or similar operation if the operation of the machinery or equipment is unrelated to transportation on or off the public highways,

''(II) which has been specially designed to serve only as a mobile carriage and mount (and a power source, where applicable) for the particular machinery or equipment involved, whether or not such machinery or equipment is in operation, and

''(III) which, by reason of such special design, could not, without substantial structural modification, be used as a component of a vehicle designed to perform a function of transporting any load other than that particular machinery or equipment or similar machinery or equipment requiring such a specially designed chassis.

''(iv) USE-BASED TEST.—For purposes of clause (ii)(II), the use-based test is met if the use of the vehicle on public highways was less than 5,000 miles during the taxpayer's taxable year.

''(v) SPECIAL RULE FOR USE BY CERTAIN TAX-EXEMPT ORGANIZATIONS.—In the case of any use in a vehicle by an organization which is described in section 501(c) and exempt from tax under section 501(a), clause (ii) shall be applied without regard to subclause (II) thereof.''.

(2) ANNUAL REFUND OF TAX PAID.—Section 6427(i)(2) (relating to exceptions) is amended by adding at the end the following new subparagraph:

''(C) NONAPPLICATION OF PARAGRAPH.—This paragraph shall not apply to any fuel used in any off-highway business use described in section 6421(e)(2)(C).''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 5302. MODIFICATION OF DEFINITION OF OFF-HIGHWAY VEHICLE.

(a) IN GENERAL.—Section 7701(a) (relating to definitions) is amended by adding at the end the following new paragraph:

''(48) OFF-HIGHWAY VEHICLES.—

''(A) OFF-HIGHWAY TRANSPORTATION VEHICLES.—

''(i) IN GENERAL.—A vehicle shall not be treated as a highway vehicle if such vehicle is specially designed for the primary function of transporting a particular type of load other than over the public highway and because of this special design such vehicle's capability to transport a load over the public highway is substantially limited or impaired.

''(ii) DETERMINATION OF VEHICLE'S DESIGN.—For purposes of clause (i), a vehicle's design is determined solely on the basis of its physical characteristics.

''(iii) DETERMINATION OF SUBSTANTIAL LIMITATION OR IMPAIRMENT.—For purposes of clause (i), in determining whether substantial limitation or impairment exists, account may be taken of factors such as the size of the vehicle, whether such vehicle is subject to the licensing, safety, and other requirements applicable to highway vehicles, and whether such vehicle can transport a load at a sustained speed of at least 25 miles per hour. It is immaterial that a vehicle can transport a greater load off the public highway than such vehicle is permitted to transport over the public highway.

''(B) NONTRANSPORTATION TRAILERS AND SEMITRAILERS.—A trailer or semitrailer shall not be treated as a highway vehicle if it is specially designed to function only as an enclosed stationary shelter for the carrying on of an off-highway function at an off-highway site.''.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by this section shall take effect on the date of the enactment of this Act.

(2) FUEL TAXES.—With respect to taxes imposed under subchapter B of chapter 31 and part III of subchapter A of chapter 32, the amendment made by this section shall apply to taxable periods beginning after the date of the enactment of this Act.

Subtitle E—Excise Tax Reform and Simplification

PART I—HIGHWAY EXCISE TAXES

SEC. 5401. DEDICATION OF GAS GUZZLER TAX TO HIGHWAY TRUST FUND.

(a) IN GENERAL.—Section 9503(b)(1) (relating to transfer to Highway Trust Fund of amounts equivalent to certain taxes) is amended by redesignating subparagraphs (C), (D), and (E) as subparagraphs (D), (E), and (F), respectively, and by inserting after subparagraph (B) the following new subparagraph:

''(C) section 4064 (relating to gas guzzler tax),''.

(b) UNIFORM APPLICATION OF TAX.—Subparagraph (A) of section 4064(b)(1) (defining automobile) is amended by striking the second sentence.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 5402. REPEAL CERTAIN EXCISE TAXES ON RAIL DIESEL FUEL AND INLAND WATERWAY BARGE FUELS.

(a) TAXES ON TRAINS.—

(1) IN GENERAL.—Subparagraph (A) of section 4041(a)(1) is amended by striking ''or a diesel-powered train'' each place it appears and by striking ''or train''.

(2) CONFORMING AMENDMENTS.—

(A) Subparagraph (C) of section 4041(a)(1), as amended by section 5001 of this Act, is amended by striking clause (ii) and by redesignating clause (iii) as clause (ii).

(B) Subparagraph (C) of section 4041(b)(1) is amended by striking all that follows ''section 6421(e)(2)'' and inserting a period.

(C) Subsection (d) of section 4041 is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

''(3) DIESEL FUEL USED IN TRAINS.—There is hereby imposed a tax of 0.1 cent per gallon on any liquid other than gasoline (as defined in section 4083)—

''(A) sold by any person to an owner, lessee, or other operator of a diesel-powered train for use as a fuel in such train, or

''(B) used by any person as a fuel in a diesel-powered train unless there was a taxable sale of such fuel under subparagraph (A).

No tax shall be imposed by this paragraph on the sale or use of any liquid if tax was imposed on such liquid under section 4081.''.

(D) Subsection (f) of section 4082 is amended by striking ''section 4041(a)(1)'' and inserting ''subsections (d)(3) and (a)(1) of section 4041, respectively''.

(E) Subparagraphs (A) and (B) of section 4083(a)(3), as amended by section 5261 of this Act, are amended by striking ''or a diesel-powered train''.

(F) Paragraph (3) of section 6421(f) is amended to read as follows:

''(3) GASOLINE USED IN TRAINS.—In the case of gasoline used as a fuel in a train, this section shall not apply with respect to the Leaking Underground Storage Tank Trust Fund financing rate under section 4081.''.

(G) Paragraph (3) of section 6427(l) is amended to read as follows:

''(3) REFUND OF CERTAIN TAXES ON FUEL USED IN DIESEL-POWERED TRAINS.—For purposes of this subsection, the term 'nontaxable use' includes fuel used in a diesel-powered train. The preceding sentence shall not apply to the tax imposed by section 4041(d) and the Leaking Underground Storage Tank Trust Fund financing rate under section 4081 except with respect to fuel sold for exclusive use by a State or any political subdivision thereof.''.

(b) FUEL USED ON INLAND WATERWAYS.—

(1) IN GENERAL.—Paragraph (1) of section 4042(b) is amended by adding ''and'' at the end of subparagraph (A), by striking '', and''

at the end of subparagraph (B) and inserting a period, and by striking subparagraph (C).

(2) CONFORMING AMENDMENT.—Paragraph (2) of section 4042(b) is amended by striking subparagraph (C).

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

PART II—AQUATIC EXCISE TAXES

SEC. 5411. ELIMINATION OF AQUATIC RESOURCES TRUST FUND AND TRANSFORMATION OF SPORT FISH RESTORATION ACCOUNT.

(a) SIMPLIFICATION OF FUNDING FOR BOAT SAFETY ACCOUNT.—

(1) IN GENERAL.—Section 9503(c)(3) (relating to transfers from Trust Fund for motorboat fuel taxes), as redesignated by section 5002 of this Act, is amended—

(A) by striking ''Fund—'' and all that follows through ''shall be transferred'' in subparagraph (B) and inserting ''Fund which is attributable to motorboat fuel taxes shall be transferred'', and

(B) by striking subparagraph (A), and

(C) by redesignating subparagraphs (B) through (E) as subparagraphs (A) through (D), respectively.

(2) CONFORMING AMENDMENTS.—

(A) Section 9503(b)(4) is amended by striking subparagraph (D).

(B) Subparagraph (B) of section 9503(c)(3), as redesignated by section 5002 of this Act and subsection (a)(3), is amended—

(i) by striking ''ACCOUNT'' in the heading and inserting ''TRUST FUND'',

(ii) by striking ''or (B)'' in clause (ii), and

(iii) by striking ''Account in the Aquatic Resources''.

(C) Subparagraph (C) of section 9503(c)(3), as redesignated by section 5002 of this Act and subsection (a)(3), is amended by striking '', but only to the extent such taxes are deposited into the Highway Trust Fund''.

(D) Paragraph (4) of section 9503(c), as redesignated by section 5002 of this Act, is amended—

(i) by striking ''Account in the Aquatic Resources'' in subparagraph (A), and

(ii) by striking '', but only to the extent such taxes are deposited into the Highway Trust Fund'' in subparagraph (B).

(b) MERGING OF ACCOUNTS.—

(1) IN GENERAL.—Subsection (a) of section 9504 is amended to read as follows:

''(a) CREATION OF TRUST FUND.—There is hereby established in the Treasury of the United States a trust fund to be known as the 'Sport Fish Restoration Trust Fund'. Such Trust Fund shall consist of such amounts as may be appropriated, credited, or paid to it as provided in this section, section 9503(c)(3), section 9503(c)(4), or section 9602(b).''.

(2) CONFORMING AMENDMENTS.—

(A) Subsection (b) of section 9504 is amended—

(i) by striking ''ACCOUNT'' in the heading and inserting ''TRUST FUND'',

(ii) by striking ''Account'' both places it appears in paragraphs (1) and (2) and inserting ''Trust Fund'', and

(iii) by striking ''ACCOUNT'' both places it appears in the headings for paragraphs (1) and (2) and inserting ''TRUST FUND''.

(B) Subsection (d) of section 9504, as amended by section 5001 of this Act, is amended—

(i) by striking ''AQUATIC RESOURCES'' in the heading,

(ii) by striking ''any Account in the Aquatic Resources'' in paragraph (1) and inserting ''the Sports Fish Restoration'', and

(iii) by striking ''any such Account'' in paragraph (1) and inserting ''such Trust Fund''.

(C) Subsection (e) of section 9504, as amended by section 5002 of this Act, is amended by striking ''Boat Safety Account and Sport Fish Restoration Account'' and inserting ''Sport Fish Restoration Trust Fund''.

(D) Section 9504 is amended by striking ''**AQUATIC RESOURCES**'' in the heading and inserting ''**SPORT FISH RESTORATION**''.

(E) The item relating to section 9504 in the table of sections for subchapter A of chapter 98 is amended by striking ''aquatic resources'' and inserting ''sport fish restoration''.

(c) PHASEOUT OF BOAT SAFETY ACCOUNT.—Subsection (c) of section 9504 is amended to read as follows:

''(c) EXPENDITURES FROM BOAT SAFETY ACCOUNT.—Amounts remaining in the Boat Safety Account on October 1, 2004, and amounts thereafter credited to the Account under section 9602(b), shall be available, as provided by appropriation Acts, for making expenditures before October 1, 2009, to carry out the purposes of section 13106 of title 46, United States Code (as in effect on the date of the enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004).''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

SEC. 5412. EXEMPTION OF LED DEVICES FROM SONAR DEVICES SUITABLE FOR FINDING FISH.

(a) IN GENERAL.—Section 4162(b) (defining sonar device suitable for finding fish) is amended by striking ''or'' at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting '', or'', and by adding at the end the following new paragraph:

''(5) an LED display.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to articles sold by the manufacturer, producer, or importer after September 30, 2004.

SEC. 5413. REPEAL OF HARBOR MAINTENANCE TAX ON EXPORTS.

(a) IN GENERAL.—Subsection (d) of section 4462 (relating to definitions and special rules) is amended to read as follows:

''(d) NONAPPLICABILITY OF TAX TO EXPORTS.—The tax imposed by section 4461(a) shall not apply to any port use with respect to any commercial cargo to be exported from the United States.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 4461(c)(1) is amended by adding ''or'' at the end of subparagraph (A), by striking subparagraph (B), and by redesignating subparagraph (C) as subparagraph (B).

(2) Section 4461(c)(2) is amended by striking ''imposed—'' and all that follows through ''in any other case,'' and inserting ''imposed''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect before, on, and after the date of the enactment of this Act.

SEC. 5414. CAP ON EXCISE TAX ON CERTAIN FISHING EQUIPMENT.

(a) IN GENERAL.—Paragraph (1) of section 4161(a) (relating to sport fishing equipment) is amended to read as follows:

''(1) IMPOSITION OF TAX.—

''(A) IN GENERAL.—There is hereby imposed on the sale of any article of sport fishing equipment by the manufacturer, producer, or importer a tax equal to 10 percent of the price for which so sold.

''(B) LIMITATION ON TAX IMPOSED ON FISHING RODS AND POLES.—The tax imposed by subparagraph (A) on any fishing rod or pole shall not exceed $10.''.

(b) CONFORMING AMENDMENTS.—Section 4161(a)(2) is amended by striking ''paragraph (1)'' both places it appears and inserting ''paragraph (1)(A)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to articles sold by the manufacturer, producer, or importer after September 30, 2004.

SEC. 5415. REDUCTION IN RATE OF TAX ON PORTABLE AERATED BAIT CONTAINERS.

(a) IN GENERAL.—Section 4161(a)(2)(A) (relating to 3 percent rate of tax for electric outboard motors and sonar devices suitable for finding fish) is amended by inserting ''or a portable aerated bait container'' after ''fish''.

(b) CONFORMING AMENDMENT.—The heading of section 4161(a)(2) is amended by striking ''ELECTRIC OUTBOARD MOTORS AND SONAR DEVICES SUITABLE FOR FINDING FISH'' and inserting ''CERTAIN SPORT FISHING EQUIPMENT''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to articles sold by the manufacturer, producer, or importer after September 30, 2004.

PART III—AERIAL EXCISE TAXES

SEC. 5421. CLARIFICATION OF EXCISE TAX EXEMPTIONS FOR AGRICULTURAL AERIAL APPLICATORS AND EXEMPTION FOR FIXED-WING AIRCRAFT ENGAGED IN FORESTRY OPERATIONS.

(a) NO WAIVER BY FARM OWNER, TENANT, OR OPERATOR NECESSARY.—Subparagraph (B) of section 6420(c)(4) (relating to certain farming use other than by owner, etc.) is amended to read as follows:

''(B) if the person so using the gasoline is an aerial or other applicator of fertilizers or other substances and is the ultimate purchaser of the gasoline, then subparagraph (A) of this paragraph shall not apply and the aerial or other applicator shall be treated as having used such gasoline on a farm for farming purposes.''.

(b) EXEMPTION INCLUDES FUEL USED BETWEEN AIRFIELD AND FARM.—Section 6420(c)(4), as amended by subsection (a), is amended by adding at the end the following new flush sentence:

''For purposes of this paragraph, in the case of an aerial applicator, gasoline shall be treated as used on a farm for farming purposes if the gasoline is used for the direct flight between the airfield and 1 or more farms.''.

(c) EXEMPTION FROM TAX ON AIR TRANSPORTATION OF PERSONS FOR FORESTRY PURPOSES EXTENDED TO FIXED-WING AIRCRAFT.—Subsection (f) of section 4261 (relating to tax on air transportation of persons) is amended to read as follows:

''(f) EXEMPTION FOR CERTAIN USES.—No tax shall be imposed under subsection (a) or (b) on air transportation—

''(1) by helicopter for the purpose of transporting individuals, equipment, or supplies in the exploration for, or the development or removal of, hard minerals, oil, or gas, or

''(2) by helicopter or by fixed-wing aircraft for the purpose of the planting, cultivation, cutting, or transportation of, or caring for, trees (including logging operations),

but only if the helicopter or fixed-wing aircraft does not take off from, or land at, a facility eligible for assistance under the Airport and Airway Development Act of 1970, or otherwise use services provided pursuant to section 44509 or 44913(b) or subchapter I of chapter 471 of title 49, United States Code, during such use. In the case of helicopter transportation described in paragraph (1), this subsection shall be applied by treating each flight segment as a distinct flight.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel use or air transportation after the date of the enactment of this Act.

SEC. 5422. MODIFICATION OF RURAL AIRPORT DEFINITION.

(a) IN GENERAL.—Section 4261(e)(1)(B) (defining rural airport) is amended—

(1) by inserting ''(in the case of any airport described in clause (ii)(III), on flight segments of at least 100 miles)'' after ''by air'' in clause (i), and

(2) by striking the period at the end of subclause (II) of clause (ii) and inserting '', or'', and by adding at the end of clause (ii) the following new subclause:

''(III) is not connected by paved roads to another airport.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on April 1, 2004.

SEC. 5423. EXEMPTION FROM TICKET TAXES FOR TRANSPORTATION PROVIDED BY SEAPLANES.

(a) IN GENERAL.—Section 4261 (relating to imposition of tax) is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

''(i) EXEMPTION FOR SEAPLANES.—No tax shall be imposed by this section or section 4271 on any air transportation by a seaplane with respect to any segment consisting of a takeoff from, and a landing on, water, but only if the places at which such takeoff and landing occur have not received and are not receiving financial assistance from the Airport and Airways Trust Fund.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to transportation beginning after March 31, 2004.

SEC. 5424. CERTAIN SIGHTSEEING FLIGHTS EXEMPT FROM TAXES ON AIR TRANSPORTATION.

(a) IN GENERAL.—Section 4281 (relating to small aircraft on nonestablished lines) is amended by adding at the end the following new sentence: ''For purposes of this section, an aircraft shall not be considered as operated on an established line if such aircraft is operated on a flight the sole purpose of which is sightseeing.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to transportation beginning on or after the date of the enactment of this Act, but shall not apply to any amount paid before such date for such transportation.

PART IV—ALCOHOLIC BEVERAGE EXCISE TAXES

SEC. 5431. REPEAL OF SPECIAL OCCUPATIONAL TAXES ON PRODUCERS AND MARKETERS OF ALCOHOLIC BEVERAGES.

(a) REPEAL OF OCCUPATIONAL TAXES.—

(1) IN GENERAL.—The following provisions of part II of subchapter A of chapter 51 (relating to occupational taxes) are hereby repealed:

(A) Subpart A (relating to proprietors of distilled spirits plants, bonded wine cellars, etc.).

(B) Subpart B (relating to brewer).

(C) Subpart D (relating to wholesale dealers) (other than sections 5114 and 5116).

(D) Subpart E (relating to retail dealers) (other than section 5124).

(E) Subpart G (relating to general provisions) (other than sections 5142, 5143, 5145, and 5146).

(2) NONBEVERAGE DOMESTIC DRAWBACK.—Section 5131 is amended by striking '', on payment of a special tax per annum,''.

(3) INDUSTRIAL USE OF DISTILLED SPIRITS.—Section 5276 is hereby repealed.

(b) CONFORMING AMENDMENTS.—

(1)(A) The heading for part II of subchapter A of chapter 51 and the table of subparts for such part are amended to read as follows:

''PART II—MISCELLANEOUS PROVISIONS

''Subpart A. Manufacturers of stills.

''Subpart B. Nonbeverage domestic drawback claimants.

''Subpart C. Recordkeeping by dealers.

''Subpart D. Other provisions.''.

(B) The table of parts for such subchapter A is amended by striking the item relating to part II and inserting the following new item:

''Part II. Miscellaneous provisions.''.

(2) Subpart C of part II of such subchapter (relating to manufacturers of stills) is redesignated as subpart A.

(3)(A) Subpart F of such part II (relating to nonbeverage domestic drawback claimants) is redesignated as subpart B and sections 5131 through 5134 are redesignated as sections 5111 through 5114, respectively.

(B) The table of sections for such subpart B, as so redesignated, is amended—

(i) by redesignating the items relating to sections 5131 through 5134 as relating to sections 5111 through 5114, respectively, and

(ii) by striking ''AND RATE OF TAX'' in the item relating to section 5111, as so redesignated.

(C) Section 5111, as redesignated by subparagraph (A), is amended—

(i) by striking ''AND RATE OF TAX'' in the section heading,

(ii) by striking the subsection heading for subsection (a), and

(iii) by striking subsection (b).

(4) Part II of subchapter A of chapter 51 is amended by adding after subpart B, as redesignated by paragraph (3), the following new subpart:

''Subpart C—Recordkeeping by Dealers

''Sec. 5121. Recordkeeping by wholesale dealers.

''Sec. 5122. Recordkeeping by retail dealers.

''Sec. 5123. Preservation and inspection of records, and entry of premises for inspection.''.

(5)(A) Section 5114 (relating to records) is moved to subpart C of such part II and inserted after the table of sections for such subpart.

(B) Section 5114 is amended—

(i) by striking the section heading and inserting the following new heading:

''SEC. 5121. RECORDKEEPING BY WHOLESALE DEALERS.'',

and

(ii) by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

''(c) WHOLESALE DEALERS.—For purposes of this part—

''(1) WHOLESALE DEALER IN LIQUORS.—The term 'wholesale dealer in liquors' means any dealer (other than a wholesale dealer in beer) who sells, or offers for sale, distilled spirits, wines, or beer, to another dealer.

''(2) WHOLESALE DEALER IN BEER.—The term 'wholesale dealer in beer' means any dealer who sells, or offers for sale, beer, but not distilled spirits or wines, to another dealer.

''(3) DEALER.—The term 'dealer' means any person who sells, or offers for sale, any distilled spirits, wines, or beer.

''(4) PRESUMPTION IN CASE OF SALE OF 20 WINE GALLONS OR MORE.—The sale, or offer for sale, of distilled spirits, wines, or beer, in quantities of 20 wine gallons or more to the same person at the same time, shall be presumptive evidence that the person making such sale, or offer for sale, is engaged in or carrying on the business of a wholesale dealer in liquors or a wholesale dealer in beer, as the case may be. Such presumption may be overcome by evidence satisfactorily showing that such sale, or offer for sale, was made to a person other than a dealer.''.

(C) Paragraph (3) of section 5121(d), as so redesignated, is amended by striking ''section 5146'' and inserting ''section 5123''.

(6)(A) Section 5124 (relating to records) is moved to subpart C of part II of subchapter A of chapter 51 and inserted after section 5121.

(B) Section 5124 is amended—

(i) by striking the section heading and inserting the following new heading:

''SEC. 5122. RECORDKEEPING BY RETAIL DEALERS.'',

(ii) by striking ''section 5146'' in subsection (c) and inserting ''section 5123'', and

(iii) by redesignating subsection (c) as subsection (d) and inserting after subsection (b) the following new subsection:

''(c) RETAIL DEALERS.—For purposes of this section—

''(1) RETAIL DEALER IN LIQUORS.—The term 'retail dealer in liquors' means any dealer (other than a retail dealer in beer or a limited retail dealer) who sells, or offers for sale, distilled spirits, wines, or beer, to any person other than a dealer.

''(2) RETAIL DEALER IN BEER.—The term 'retail dealer in beer' means any dealer (other than a limited retail dealer) who sells, or offers for sale, beer, but not distilled spirits or wines, to any person other than a dealer.

''(3) LIMITED RETAIL DEALER.—The term 'limited retail dealer' means any fraternal, civic, church, labor, charitable, benevolent, or ex-servicemen's organization making sales of distilled spirits, wine or beer on the occasion of any kind of entertainment, dance, picnic, bazaar, or festival held by it, or any person making sales of distilled spirits, wine or beer to the members, guests, or patrons of bona fide fairs, reunions, picnics, carnivals, or other similar outings, if such organization or person is not otherwise engaged in business as a dealer.

''(4) DEALER.—The term 'dealer' has the meaning given such term by section 5121(c)(3).''.

(7) Section 5146 is moved to subpart C of part II of subchapter A of chapter 51, inserted after section 5122, and redesignated as section 5123.

(8) Part II of subchapter A of chapter 51 is amended by inserting after subpart C the following new subpart:

''Subpart D—Other Provisions

''Sec. 5131. Packaging distilled spirits for industrial uses.

''Sec. 5132. Prohibited purchases by dealers.''.

(9) Section 5116 is moved to subpart D of part II of subchapter A of chapter 51, inserted after the table of sections, redesignated as section 5131, and amended by inserting ''(as defined in section 5121(c))'' after ''dealer'' in subsection (a).

(10) Subpart D of part II of subchapter A of chapter 51 is amended by adding at the end thereof the following new section:

''SEC. 5132. PROHIBITED PURCHASES BY DEALERS.

''(a) IN GENERAL.—Except as provided in regulations prescribed by the Secretary, it shall be unlawful for a dealer to purchase distilled spirits for resale from any person other than a wholesale dealer in liquors who is required to keep the records prescribed by section 5121.

''(b) LIMITED RETAIL DEALERS.—A limited retail dealer may lawfully purchase distilled spirits for resale from a retail dealer in liquors.

''(c) PENALTY AND FORFEITURE.—

''For penalty and forfeiture provisions applicable to violations of subsection (a), see sections 5687 and 7302.''.

(11) Subsection (b) of section 5002 is amended—

(A) by striking ''section 5112(a)'' and inserting ''section 5121(c)(3)'',

(B) by striking ''section 5112'' and inserting ''section 5121(c)'',

(C) by striking ''section 5122'' and inserting ''section 5122(c)''.

(12) Subparagraph (A) of section 5010(c)(2) is amended by striking ''section 5134'' and inserting ''section 5114''.

(13) Subsection (d) of section 5052 is amended to read as follows:

''(d) BREWER.—For purposes of this chapter, the term 'brewer' means any person who brews beer or produces beer for sale. Such term shall not include any person who produces only beer exempt from tax under section 5053(e).''.

(14) The text of section 5182 is amended to read as follows:

''For provisions requiring recordkeeping by wholesale liquor dealers, see section 5121, and by retail liquor dealers, see section 5122.''.

(15) Subsection (b) of section 5402 is amended by striking ''section 5092'' and inserting ''section 5052(d)''.

(16) Section 5671 is amended by striking ''or 5091''.

(17)(A) Part V of subchapter J of chapter 51 is hereby repealed.

(B) The table of parts for such subchapter J is amended by striking the item relating to part V.

(18)(A) Sections 5142, 5143, and 5145 are moved to subchapter D of chapter 52, inserted after section 5731, redesignated as sections 5732, 5733, and 5734, respectively, and amended by striking ''this part'' each place it appears and inserting ''this subchapter''.

(B) Section 5732, as redesignated by subparagraph (A), is amended by striking ''(except the tax imposed by section 5131)'' each place it appears.

(C) Paragraph (2) of section 5733(c), as redesignated by subparagraph (A), is amended by striking ''liquors'' both places it appears and inserting ''tobacco products and cigarette papers and tubes''.

(D) The table of sections for subchapter D of chapter 52 is amended by adding at the end thereof the following:

''Sec. 5732. Payment of tax.

''Sec. 5733. Provisions relating to liability for occupational taxes.

''Sec. 5734. Application of State laws.''.

(E) Section 5731 is amended by striking subsection (c) and by redesignating subsection (d) as subsection (c).

(19) Subsection (c) of section 6071 is amended by striking ''section 5142'' and inserting ''section 5732''.

(20) Paragraph (1) of section 7652(g) is amended—

(A) by striking ''subpart F'' and inserting ''subpart B'', and

(B) by striking ''section 5131(a)'' and inserting ''section 5111''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on July 1, 2004, but shall not apply to taxes imposed for periods before such date.

SEC. 5432. SUSPENSION OF LIMITATION ON RATE OF RUM EXCISE TAX COVER OVER TO PUERTO RICO AND VIRGIN ISLANDS.

(a) IN GENERAL.—Section 7652(f)(1) (relating to limitation on cover over of tax on distilled spirits) is amended by striking ''January 1, 2004'' and inserting ''October 1, 2004, and $13.50 in the case of distilled spirits brought into the United States after September 30, 2004, and before January 1, 2006''.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to articles containing distilled spirits brought into the United States after December 31, 2003.

(2) SPECIAL RULE.—

(A) IN GENERAL.—After September 30, 2004, the treasury of Puerto Rico shall make a Conservation Trust Fund transfer within 30 days from the date of each cover over payment to such treasury under section 7652(e) of the Internal Revenue Code of 1986.

(B) CONSERVATION TRUST FUND TRANSFER.—

(i) IN GENERAL.—For purposes of this paragraph, the term ''Conservation Trust Fund transfer'' means a transfer to the Puerto Rico Conservation Trust Fund of an amount equal to 50 cents per proof gallon of the taxes imposed under section 5001 or section 7652 of such Code on distilled spirits that are covered over to the treasury of Puerto Rico under section 7652(e) of such Code.

(ii) TREATMENT OF TRANSFER.—Each Conservation Trust Fund transfer shall be treated as principal for an endowment, the income from which to be available for use by the Puerto Rico Conservation Trust Fund for the purposes for which the Trust Fund was established.

(iii) RESULT OF NONTRANSFER.—

(I) IN GENERAL.—Upon notification by the Secretary of the Interior that a Conservation Trust Fund transfer has not been made by the treasury of Puerto Rico, the Secretary of the Treasury shall, except as provided in subclause (II), deduct and withhold from the next cover over payment to be made to the treasury of Puerto Rico under section 7652(e) of such Code an amount equal to the appropriate Conservation Trust Fund transfer and interest thereon at the underpayment rate established under section 6621 of such Code as of the due date of such transfer. The Secretary of the Treasury shall transfer such amount deducted and withheld, and the interest thereon, directly to the Puerto Rico Conservation Trust Fund.

(II) GOOD CAUSE EXCEPTION.—If the Secretary of the Interior finds, after consultation with the Governor of Puerto Rico, that the failure by the treasury of Puerto Rico to make a required transfer was for good cause, and notifies the Secretary of the Treasury of the finding of such good cause before the due date of the next cover over payment following the notification of nontransfer, then the Secretary of the Treasury shall not deduct the amount of such nontransfer from any cover over payment.

(C) PUERTO RICO CONSERVATION TRUST FUND.—For purposes of this paragraph, the term ''Puerto Rico Conservation Trust Fund'' means the fund established pursuant to a Memorandum of Understanding between the United States Department of the Interior and the Commonwealth of Puerto Rico, dated December 24, 1968.

PART V—SPORT EXCISE TAXES

SEC. 5441. CUSTOM GUNSMITHS.

(a) SMALL MANUFACTURERS EXEMPT FROM FIREARMS EXCISE TAX.—Section 4182 (relating to exemptions) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

''(c) SMALL MANUFACTURERS, ETC.—

''(1) IN GENERAL.—The tax imposed by section 4181 shall not apply to any article described in such section if manufactured, produced, or imported by a person who manufactures, produces, and imports less than 50 of such articles during the calendar year.

''(2) CONTROLLED GROUPS.—All persons treated as a single employer for purposes of subsection (a) or (b) of section 52 shall be treated as one person for purposes of paragraph (1).''.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to articles sold by the manufacturer, producer, or importer on or after the date which is the first day of the month beginning at least 2 weeks after the date of the enactment of this Act.

(2) NO INFERENCE.—Nothing in the amendments made by this section shall be construed to create any inference with respect to the proper tax treatment of any sales before the effective date of such amendments.

SEC. 5442. MODIFIED TAXATION OF IMPORTED ARCHERY PRODUCTS.

(a) BOWS.—Paragraph (1) of section 4161(b) (relating to bows) is amended to read as follows:

''(1) BOWS.—

''(A) IN GENERAL.—There is hereby imposed on the sale by the manufacturer, producer, or importer of any bow which has a peak draw weight of 30 pounds or more, a tax equal to 11 percent of the price for which so sold.

''(B) ARCHERY EQUIPMENT.—There is hereby imposed on the sale by the manufacturer, producer, or importer—

''(i) of any part or accessory suitable for inclusion in or attachment to a bow described in subparagraph (A), and

''(ii) of any quiver or broadhead suitable for use with an arrow described in paragraph (2),

a tax equal to 11 percent of the price for which so sold.''.

(b) ARROWS.—Subsection (b) of section 4161 (relating to bows and arrows, etc.) is amended by redesignating paragraph (3) as paragraph (4) and inserting after paragraph (2) the following:

''(3) ARROWS.—

''(A) IN GENERAL.—There is hereby imposed on the sale by the manufacturer, producer, or importer of any arrow, a tax equal to 12 percent of the price for which so sold.

''(B) EXCEPTION.—In the case of any arrow of which the shaft or any other component has been previously taxed under paragraph (1) or (2)—

''(i) section 6416(b)(3) shall not apply, and

''(ii) the tax imposed by subparagraph (A) shall be an amount equal to the excess (if any) of—

''(I) the amount of tax imposed by this paragraph (determined without regard to this subparagraph), over

''(II) the amount of tax paid with respect to the tax imposed under paragraph (1) or (2) on such shaft or component.

''(C) ARROW.—For purposes of this paragraph, the term 'arrow' means any shaft described in paragraph (2) to which additional components are attached.''.

(c) CONFORMING AMENDMENTS.—Section 4161(b)(2) is amended—

(1) by inserting ''(other than broadheads)'' after ''point'', and

(2) by striking ''ARROWS.—'' in the heading and inserting ''ARROW COMPONENTS.—''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to articles sold by the manufacturer, producer, or importer after the date of the enactment of this Act.

SEC. 5443. TREATMENT OF TRIBAL GOVERNMENTS FOR PURPOSES OF FEDERAL WAGERING EXCISE AND OCCUPATIONAL TAXES.

(a) IN GENERAL.—Subsection (a) of section 7871 (relating to Indian tribal governments treated as States for certain purposes) is amended by striking ''and'' at the end of paragraph (6), by striking the period at the end of paragraph (7) and inserting ''; and'', and by adding at the end the following new paragraph:

''(8) for purposes of chapter 35 (relating to taxes on wagering).''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on July 1, 2004, but shall not apply to taxes imposed for periods before such date.

PART VI—OTHER PROVISIONS

SEC. 5451. INCOME TAX CREDIT FOR DISTILLED SPIRITS WHOLESALERS AND FOR DISTILLED SPIRITS IN CONTROL STATE BAILMENT WAREHOUSES FOR COSTS OF CARRYING FEDERAL EXCISE TAXES ON BOTTLED DISTILLED SPIRITS.

(a) IN GENERAL.—Subpart A of part I of subchapter A of chapter 51 (relating to gallonage and occupational taxes) is amended by adding at the end the following new section:

"SEC. 5011. INCOME TAX CREDIT FOR AVERAGE COST OF CARRYING EXCISE TAX.

''(a) IN GENERAL.—For purposes of section 38, the amount of the distilled spirits credit for any taxable year is the amount equal to the product of—

''(1) in the case of—

''(A) any eligible wholesaler—

''(i) the number of cases of bottled distilled spirits—

''(I) which were bottled in the United States, and

''(II) which are purchased by such wholesaler during the taxable year directly from the bottler of such spirits, or

''(B) any person which is subject to section 5005 and which is not an eligible wholesaler, the number of cases of bottled distilled spirits which are stored in a warehouse operated by, or on behalf of, a State, or agency or political subdivision thereof, on which title has not passed on an unconditional sale basis, and

''(2) the average tax-financing cost per case for the most recent calendar year ending before the beginning of such taxable year.

''(b) ELIGIBLE WHOLESALER.—For purposes of this section, the term 'eligible wholesaler' means any person which holds a permit under the Federal Alcohol Administration Act as a wholesaler of distilled spirits which is not a State, or agency or political subdivision thereof.

''(c) AVERAGE TAX-FINANCING COST.—

''(1) IN GENERAL.—For purposes of this section, the average tax-financing cost per case for any calendar year is the amount of interest which would accrue at the deemed financing rate during a 60-day period on an amount equal to the deemed Federal excise tax per case.

''(2) DEEMED FINANCING RATE.—For purposes of paragraph (1), the deemed financing rate for any calendar year is the average of the corporate overpayment rates under paragraph (1) of section 6621(a) (determined without regard to the last sentence of such paragraph) for calendar quarters of such year.

''(3) DEEMED FEDERAL EXCISE TAX PER CASE.—For purposes of paragraph (1), the deemed Federal excise tax per case is $25.68.

''(d) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) CASE.—The term 'case' means 12 80-proof 750 milliliter bottles.

''(2) NUMBER OF CASES IN LOT.—The number of cases in any lot of distilled spirits shall be determined by dividing the number of liters in such lot by 9.''.

(b) CREDIT TREATED AS PART OF GENERAL BUSINESS CREDIT.—Section 38(b) (relating to current year business credit), as amended by section 5101 of this Act, is amended by striking ''plus'' at the end of paragraph (15), by striking the period at the end of paragraph (16) and inserting '', plus'', and by adding at the end the following new paragraph:

''(17) the distilled spirits credit determined under section 5011(a).''.

(c) CONFORMING AMENDMENTS.—

(1) Section 39(d), as amended by section 5101 of this Act, is amended by adding at the end the following new paragraph:

''(12) NO CARRYBACK OF SECTION 5011 CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the credit determined under section 5011(a) may be carried back to a taxable year beginning before the date of the enactment of section 5011.''.

(2) The table of sections for subpart A of part I of subchapter A of chapter 51 is amended by adding at the end the following new item:

''Sec. 5011. Income tax credit for average cost of carrying excise tax.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 5452. CREDIT FOR TAXPAYERS OWNING COMMERCIAL POWER TAKEOFF VEHICLES.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits) is amended by adding at the end the following new section:

"SEC. 45G. COMMERCIAL POWER TAKEOFF VEHICLES CREDIT.

''(a) GENERAL RULE.—For purposes of section 38, the amount of the commercial power takeoff vehicles credit determined under this section for the taxable year is $250 for each qualified commercial power takeoff vehicle owned by the taxpayer as of the close of the calendar year in which or with which the taxable year of the taxpayer ends.

''(b) DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED COMMERCIAL POWER TAKEOFF VEHICLE.—The term 'qualified commercial power takeoff vehicle' means any highway vehicle described in paragraph (2) which is propelled by any fuel subject to tax under section 4041 or 4081 if such vehicle is used in a trade or business or for the production of income (and is licensed and insured for such use).

''(2) HIGHWAY VEHICLE DESCRIBED.—A highway vehicle is described in this paragraph if such vehicle is—

''(A) designed to engage in the daily collection of refuse or recyclables from homes or businesses and is equipped with a mechanism under which the vehicle's propulsion engine provides the power to operate a load compactor, or

''(B) designed to deliver ready mixed concrete on a daily basis and is equipped with a mechanism under which the vehicle's propulsion engine provides the power to operate a mixer drum to agitate and mix the product en route to the delivery site.

''(c) EXCEPTION FOR VEHICLES USED BY GOVERNMENTS, ETC.—No credit shall be allowed under this section for any vehicle owned by any person at the close of a calendar year if such vehicle is used at any time during such year by—

''(1) the United States or an agency or instrumentality thereof, a State, a political subdivision of a State, or an agency or instrumentality of one or more States or political subdivisions, or

''(2) an organization exempt from tax under section 501(a).

''(d) TERMINATION.—This section shall not apply with respect to any calendar year after 2006.''.

(b) CREDIT TREATED AS PART OF GENERAL BUSINESS CREDIT.—Section 38(b) (relating to current year business credit), as amended by section 5451 of this Act, is amended by striking ''plus'' at the end of paragraph (16), by striking the period at the end of paragraph (17) and inserting '', plus'', and by adding at the end the following new paragraph:

''(18) the commercial power takeoff vehicles credit under section 45G(a).''.

(c) CONFORMING AMENDMENTS.—

(1) Section 39(d), as amended by section 5451 of this Act, is amended by adding at the end the following new paragraph:

''(13) NO CARRYBACK OF SECTION 45G CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the credit determined under section 45G(a) may be carried back to a taxable year beginning on or before the date of the enactment of section 45G.''.

(2) The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

''Sec. 45G. Commercial power takeoff vehicles credit.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 5453. CREDIT FOR AUXILIARY POWER UNITS INSTALLED ON DIESEL-POWERED TRUCKS.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits), as amended by section 5452 of this Act, is amended by adding at the end the following new section:

"SEC. 45H. AUXILIARY POWER UNIT CREDIT.

''(a) GENERAL RULE.—For purposes of section 38, the amount of the auxiliary power unit credit determined under this section for the taxable year is $250 for each qualified auxiliary power unit—

''(1) purchased by the taxpayer, and

''(2) installed or caused to be installed by the taxpayer on a qualified heavy-duty highway vehicle during such taxable year.

''(b) DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED AUXILIARY POWER UNIT.—The term 'qualified auxiliary power unit' means any integrated system which—

''(A) provides heat, air conditioning, engine warming, and electricity to the factory installed components on a qualified heavy-duty highway vehicle as if the main drive engine of such vehicle was in operation,

''(B) is employed to reduce long-term idling of the diesel engine on such a vehicle, and

''(C) is certified by the Environmental Protection Agency as meeting emission standards in regulations in effect on the date of the enactment of this section.

''(2) QUALIFIED HEAVY-DUTY HIGHWAY VEHICLE.—The term 'qualified heavy-duty highway vehicle' means any highway vehicle weighing more than 12,500 pounds and powered by a diesel engine.

''(c) TERMINATION.—This section shall not apply with respect to any installation occurring after December 31, 2006.''.

(b) CREDIT TREATED AS PART OF GENERAL BUSINESS CREDIT.—Section 38(b) (relating to current year business credit), as amended by section 5452 of this Act, is amended by striking ''plus'' at the end of paragraph (17), by striking the period at the end of paragraph (18) and inserting '', plus'', and by adding at the end the following new paragraph:

''(19) the auxiliary power unit credit under section 45H(a).''.

(c) CONFORMING AMENDMENTS.—

(1) Section 39(d), as amended by section 5452 of this Act, is amended by adding at the end the following new paragraph:

''(14) NO CARRYBACK OF SECTION 45H CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the credit determined under section 45H(a) may be carried back to a taxable year beginning on or before the date of the enactment of section 45H.''.

(2) The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by section 5452 of this Act, is amended by adding at the end the following new item:

''Sec. 45H. Auxiliary power unit credit.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to auxiliary power units purchased and installed for taxable years beginning after the date of the enactment of this Act.

Subtitle F—Miscellaneous Provisions

SEC. 5501. MOTOR FUEL TAX ENFORCEMENT ADVISORY COMMISSION.

(a) ESTABLISHMENT.—There is established a Motor Fuel Tax Enforcement Advisory Commission (in this section referred to as the ''Commission'').

(b) FUNCTION.—The Commission shall—

(1) review motor fuel revenue collections, historical and current;

(2) review the progress of investigations;

(3) develop and review legislative proposals with respect to motor fuel taxes;

(4) monitor the progress of administrative regulation projects relating to motor fuel taxes;

(5) review the results of Federal and State agency cooperative efforts regarding motor fuel taxes;

(6) review the results of Federal interagency cooperative efforts regarding motor fuel taxes; and

(7) evaluate and make recommendations regarding—

(A) the effectiveness of existing Federal enforcement programs regarding motor fuel taxes,

(B) enforcement personnel allocation, and

(C) proposals for regulatory projects, legislation, and funding.

(c) MEMBERSHIP.—

(1) APPOINTMENT.—The Commission shall be composed of the following representatives appointed by the Chairmen and the Ranking Members of the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives:

(A) At least 1 representative from each of the following Federal entities: the Department of Homeland Security, the Department of Transportation - Office of Inspector General, the Federal Highway Administration, the Department of Defense, and the Department of Justice.

(B) At least 1 representative from the Federation of State Tax Administrators.

(C) At least 1 representative from any State department of transportation.

(D) 2 representatives from the highway construction industry.

(E) 5 representatives from industries relating to fuel distribution — refiners (2 representatives), distributors (1 representative), pipelines (1 representative), and terminal operators (2 representatives).

(F) 1 representative from the retail fuel industry.

(G) 2 representatives from the staff of the Committee on Finance of the Senate and 2 representatives from the staff of the Committee on Ways and Means of the House of Representatives.

(2) TERMS.—Members shall be appointed for the life of the Commission.

(3) VACANCIES.—A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(4) TRAVEL EXPENSES.—Members shall serve without pay but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(5) CHAIRMAN.—The Chairman of the Commission shall be elected by the members.

(d) FUNDING.—Such sums as are necessary shall be available from the Highway Trust fund for the expenses of the Commission.

(e) CONSULTATION.—Upon request of the Commission, representatives of the Department of the Treasury and the Internal Revenue Service shall be available for consultation to assist the Commission in carrying out its duties under this section.

(f) OBTAINING DATA.—The Commission may secure directly from any department or agency of the United States, information (other than information required by any law to be kept confidential by such department or agency) necessary for the Commission to carry out its duties under this section. Upon request of the Commission, the head of that department or agency shall furnish such nonconfidential information to the Commission. The Commission shall also gather evidence through such means as it may deem appropriate, including through holding hearings and soliciting comments by means of Federal Register notices.

(g) TERMINATION.—The Commission shall terminate after September 30, 2009.

SEC. 5502. NATIONAL SURFACE TRANSPORTATION INFRASTRUCTURE FINANCING COMMISSION.

(a) ESTABLISHMENT.—There is established a National Surface Transportation Infrastructure Financing Commission (in this section referred to as the ''Commission''). The Commission shall hold its first meeting within 90 days of the appointment of the eighth individual to be named to the Commission.

(b) FUNCTION.—

(1) IN GENERAL.—The Commission shall—

(A) make a thorough investigation and study of revenues flowing into the Highway Trust Fund under current law, including the individual components of the overall flow of such revenues;

(B) consider whether the amount of such revenues is likely to increase, decline, or remain unchanged, absent changes in the law, particularly by taking into account the impact of possible changes in public vehicular choice, fuel use, or travel alternatives that could be expected to reduce or increase revenues into the Highway Trust Fund;

(C) consider alternative approaches to generating revenues for the Highway Trust Fund, and the level of revenues that such alternatives would yield;

(D) consider highway and transit needs and whether additional revenues into the Highway Trust Fund, or other Federal revenues dedicated to highway and transit infrastructure, would be required in order to meet such needs; and

(E) study such other matters closely related to the subjects described in the preceding subparagraphs as it may deem appropriate.

(2) TIME FRAME OF INVESTIGATION AND STUDY.—The time frame to be considered by the Commission shall extend through the year 2015.

(3) PREPARATION OF REPORT.—Based on such investigation and study, the Commission shall develop a final report, with recommendations and the bases for those recommendations, indicating policies that should be adopted, or not adopted, to achieve various levels of annual revenue for the Highway Trust Fund and to enable the Highway Trust Fund to receive revenues sufficient to meet highway and transit needs. Such recommendations shall address, among other matters as the Commission may deem appropriate—

(A) what levels of revenue are required by the Federal Highway Trust Fund in order for it to meet needs to—

(i) maintain, and

(ii) improve the condition and performance of the Nation's highway and transit systems;

(B) what levels of revenue are required by the Federal Highway Trust Fund in order to ensure that Federal levels of investment in highways and transit do not decline in real terms; and

(C) the extent, if any, to which the Highway Trust Fund should be augmented by other mechanisms or funds as a Federal means of financing highway and transit infrastructure investments.

(c) MEMBERSHIP.—

(1) APPOINTMENT.—The Commission shall be composed of 15 members, appointed as follows:

(A) 7 members appointed by the Secretary of Transportation, in consultation with the Secretary of the Treasury.

(B) 2 members appointed by the Chairman of the Committee on Ways and Means of the House of Representatives.

(C) 2 members appointed by the Ranking Minority Member of the Committee on Ways and Means of the House of Representatives.

(D) 2 members appointed by the Chairman of the Committee on Finance of the Senate.

(E) 2 members appointed by the Ranking Minority Member of the Committee on Finance of the Senate.

(2) QUALIFICATIONS.—Members appointed pursuant to paragraph (1) shall be appointed from among individuals knowledgeable in the fields of public transportation finance or highway and transit programs, policy, and needs, and may include representatives of interested parties, such as State and local governments or other public transportation authorities or agencies, representatives of the transportation construction industry (including suppliers of technology, machinery and materials), transportation labor (including construction and providers), transportation providers, the financial community, and users of highway and transit systems.

(3) TERMS.—Members shall be appointed for the life of the Commission.

(4) VACANCIES.—A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(5) TRAVEL EXPENSES.—Members shall serve without pay but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(6) CHAIRMAN.—The Chairman of the Commission shall be elected by the members.

(d) STAFF.—The Commission may appoint and fix the pay of such personnel as it considers appropriate.

(e) FUNDING.—Funding for the Commission shall be provided by the Secretary of the Treasury and by the Secretary of Transportation, out of funds available to those agencies for administrative and policy functions.

(f) STAFF OF FEDERAL AGENCIES.—Upon request of the Commission, the head of any department or agency of the United States may detail any of the personnel of that department or agency to the Commission to assist in carrying out its duties under this section.

(g) OBTAINING DATA.—The Commission may secure directly from any department or agency of the United States, information (other than information required by any law to be kept confidential by such department or agency) necessary for the Commission to carry out its duties under this section. Upon request of the Commission, the head of that department or agency shall furnish such nonconfidential information to the Commission. The Commission shall also gather evidence through such means as it may deem appropriate, including through holding hearings and soliciting comments by means of Federal Register notices.

(h) REPORT.—Not later than 2 years after the date of its first meeting, the Commission shall transmit its final report, including recommendations, to the Secretary of Transportation, the Secretary of the Treasury, and the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, the Committee on Transportation and Infrastructure of the House of Representatives, the Committee on

Environment and Public Works of the Senate, and the Committee on Banking, Housing, and Urban Affairs of the Senate.

(i) TERMINATION.—The Commission shall terminate on the 180th day following the date of transmittal of the report under subsection (h). All records and papers of the Commission shall thereupon be delivered to the Administrator of General Services for deposit in the National Archives.

SEC. 5503. TREASURY STUDY OF FUEL TAX COMPLIANCE AND INTERAGENCY COOPERATION.

(a) IN GENERAL.—Not later than January 31, 2006, the Secretary of the Treasury shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report regarding fuel tax enforcement which shall include the information and analysis specified in subsections (b) and (c) and any other information and recommendations the Secretary of the Treasury may deem appropriate.

(b) AUDITS.—With respect to audits conducted by the Internal Revenue Service, the report required under subsection (a) shall include—

(1) the number and geographic distribution of audits conducted annually, by fiscal year, between October 1, 2001, and September 30, 2005;

(2) the total volume involved for each of the taxable fuels covered by such audits and a comparison to the annual production of such fuels;

(3) the staff hours and number of personnel devoted to the audits per year; and

(4) the results of such audits by year, including total tax collected, total penalties collected, and number of referrals for criminal prosecution.

(c) ENFORCEMENT ACTIVITIES.—With respect to enforcement activities, the report required under subsection (a) shall include—

(1) the number and geographic distribution of criminal investigations and prosecutions annually, by fiscal year, between October 1, 2001, and September 30, 2005, and the results of such investigations and prosecutions;

(2) to the extent such investigations and prosecutions involved other agencies, State or Federal, a breakdown by agency of the number of joint investigations involved;

(3) an assessment of the effectiveness of joint action and cooperation between the Department of the Treasury and other Federal and State agencies, including a discussion of the ability and need to share information across agencies for both civil and criminal Federal tax enforcement and enforcement of State or Federal laws relating to fuels;

(4) the staff hours and number of personnel devoted to criminal investigations and prosecutions per year;

(5) the staff hours and number of personnel devoted to administrative collection of fuel taxes; and

(6) the results of administrative collection efforts annually, by fiscal year, between October 1, 2001, and September 30, 2005.

SEC. 5504. EXPANSION OF HIGHWAY TRUST FUND EXPENDITURE PURPOSES TO INCLUDE FUNDING FOR STUDIES OF SUPPLEMENTAL OR ALTERNATIVE FINANCING FOR THE HIGHWAY TRUST FUND.

(a) IN GENERAL.—From amounts available in the Highway Trust Fund, there is authorized to be expended for 2 comprehensive studies of supplemental or alternative funding sources for the Highway Trust Fund—

(1) $1,000,000 to the Western Transportation Institute of the College of Engineering at Montana State University for the study and report described in subsection (b), and

(2) $16,500,000 to the Public Policy Center of the University of Iowa for the study and report described in subsection (c).

(b) STUDY OF FUNDING MECHANISMS.—Not later than December 31, 2006, the Western Transportation Institute of the College of Engineering at Montana State University shall report to the Secretary of the Treasury and the Secretary of Transportation on a study of highway funding mechanisms of other industrialized nations, an examination of the viability of alternative funding proposals, including congestion pricing, greater reliance on tolls, privatization of facilities, and bonding for construction of added capacity, and an examination of increasing the rates of motor fuels taxes in effect on the date of the enactment of this Act, including the indexation of such rates.

(c) STUDY ON FIELD TEST OF ON-BOARD COMPUTER ASSESSMENT OF HIGHWAY USE TAXES.—Not later than December 31, 2011, the Public Policy Center of the University of Iowa shall direct, analyze, and report to the Secretary of the Treasury and the Secretary of Transportation on a long-term field test of an approach to assessing highway use taxes based upon actual mileage driven by a specific vehicle on specific types of highways by use of an on-board computer—

(1) which is linked to satellites to calculate highway mileage traversed,

(2) which computes the appropriate highway use tax for each of the Federal, State, and local governments as the vehicle makes use of the highways, and

(3) the data from which is periodically downloaded by the vehicle owner to a collection center for an assessment of highway use taxes due in each jurisdiction traversed.The components of the field test shall include 2 years for preparation, including selection of vendors and test participants, and 3-year testing period.

SEC. 5505. TREASURY STUDY OF HIGHWAY FUELS USED BY TRUCKS FOR NON-TRANSPORTATION PURPOSES.

(a) STUDY.—The Secretary of the Treasury shall conduct a study regarding the use of highway motor fuel by trucks that is not used for the propulsion of the vehicle. As part of such study—

(1) in the case of vehicles carrying equipment that is unrelated to the transportation function of the vehicle—

(A) the Secretary of the Treasury, in consultation with the Secretary of Transportation, and with public notice and comment, shall determine the average annual amount of tax paid fuel consumed per vehicle, by type of vehicle, used by the propulsion engine to provide the power to operate the equipment attached to the highway vehicle, and

(B) the Secretary of the Treasury shall review the technical and administrative feasibility of exempting such nonpropulsive use of highway fuels for the highway motor fuels excise taxes,

(2) in the case where non-transportation equipment is run by a separate motor—

(A) the Secretary of the Treasury shall determine the annual average amount of fuel exempted from tax in the use of such equipment by equipment type, and

(B) the Secretary of the Treasury shall review issues of administration and compliance related to the present-law exemption provided for such fuel use, and

(3) the Secretary of the Treasury shall—

(A) estimate the amount of taxable fuel consumed by trucks and the emissions of various pollutants due to the long-term idling of diesel engines, and

(B) determine the cost of reducing such long-term idling through the use of plug-ins at truck stops, auxiliary power units, or other technologies.

(b) REPORT.—Not later than January 1, 2006, the Secretary of the Treasury shall report the findings of the study required under subsection (a) to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

SEC. 5506. DELTA REGIONAL TRANSPORTATION PLAN.

(a) STUDY.—The Delta Regional Authority shall conduct a study of the transportation assets and needs in the States of Alabama, Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri, and Tennessee which comprise the Delta region.

(b) REGIONAL STRATEGIC TRANSPORTATION PLAN.—Upon completion of the study required under subsection (a), the Delta Regional Authority shall establish a regional strategic transportation plan to achieve efficient transportation systems in the Delta region. In developing the regional strategic transportation plan, the Delta Regional Authority shall consult with local planning and development districts, local and regional governments, metropolitan planning organizations, State transportation entities, and Federal transportation agencies.

(c) ELEMENTS OF STUDY AND PLAN.—The study and plan under this section shall include the following transportation modes and systems: transit, rail, highway, interstate, bridges, air, airports, waterways and ports.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Delta Regional Authority $1,000,000 to carry out the purposes of this section, to remain available until expended.

SEC. 5507. TREATMENT OF EMPLOYER-PROVIDED TRANSIT AND VAN POOLING BENEFITS.

(a) IN GENERAL.—Subparagraph (A) of section 132(f)(2) (relating to limitation on exclusion) is amended by striking ''$100'' and inserting ''$120''.

(b) INFLATION ADJUSTMENT CONFORMING AMENDMENTS.—The last sentence of section 132(f)(6)(A) (relating to inflation adjustment) is amended—

(1) by striking ''2002'' and inserting ''2005'', and

(2) by striking ''2001'' and inserting ''2004''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

SEC. 5508. STUDY OF INCENTIVES FOR PRODUCTION OF BIODIESEL.

(a) STUDY.—The General Comptroller of the United States shall conduct a study related to biodiesel fuels and the tax credit for biodiesel fuels established under this Act. Such study shall include—

(1) an assessment on whether such credit provides sufficient assistance to the producers of biodiesel fuel to establish the fuel as a viable energy alternative in the current market place,

(2) an assessment on how long such credit or similar subsidy would have to remain in effect before biodiesel fuel can compete in the market place without such assistance,

(3) a cost-benefit analysis of such credit, comparing the cost of the credit in forgone revenue to the benefits of lower fuel costs for consumers, increased profitability for the biodiesel industry, increased farm income, reduced program outlays from the Department of Agriculture, and the improved environmental conditions through the use of biodiesel fuel, and

(4) an assessment on whether such credit results in any unintended consequences for unrelated industries, including the impact, if any, on the glycerin market.

(b) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Comptroller General of the United States shall report the findings of the study required under subsection (a) to the Committee on Finance of the Senate and the

Committee on Ways and Means of the House of Representatives.

SEC. 5509. REDUCTION OF EXPENDITURES FROM THE HIGHWAY TRUST FUND.

The amount made available under titles I, II, III, and IV of this Act shall be reduced on a pro rata basis, so that the total of such reductions equals $214,000,000,000.

Subtitle G—Revenue Offsets

PART I—LIMITATION ON EXPENSING CERTAIN PASSENGER AUTOMOBILES

SEC. 5601. EXPANSION OF LIMITATION ON DEPRECIATION OF CERTAIN PASSENGER AUTOMOBILES.

(a) IN GENERAL.—Section 179(b) (relating to limitations) is amended by adding at the end the following new paragraph:

''(6) LIMITATION ON COST TAKEN INTO ACCOUNT FOR CERTAIN PASSENGER VEHICLES.—

''(A) IN GENERAL.—The cost of any sport utility vehicle for any taxable year which may be taken into account under this section shall not exceed $25,000.

''(B) SPORT UTILITY VEHICLE.—For purposes of subparagraph (A)—

''(i) IN GENERAL.—The term 'sport utility vehicle' means any 4-wheeled vehicle which—

''(I) is manufactured primarily for use on public streets, roads, and highways,

''(II) is not subject to section 280F, and

''(III) is rated at not more than 14,000 pounds gross vehicle weight.

''(ii) CERTAIN VEHICLES EXCLUDED.—Such term does not include any vehicle which—

''(I) does not have the primary load carrying device or container attached,

''(II) has a seating capacity of more than 12 individuals,

''(III) is designed for more than 9 individuals in seating rearward of the driver's seat,

''(IV) is equipped with an open cargo area, or a covered box not readily accessible from the passenger compartment, of at least 72.0 inches in interior length, or

''(V) has an integral enclosure, fully enclosing the driver compartment and load carrying device, does not have seating rearward of the driver's seat, and has no body section protruding more than 30 inches ahead of the leading edge of the windshield.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after February 2, 2004.

SEC. 5612. Section 9053(b) is amended by adding at the end the following new paragraph:

''(6) The Secretary shall transfer to the Highway Trust Fund an amount equal to $6 billion total to terminate at the end of fiscal year 2009.''

SA 2474. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. PROHIBITION OF ISSUANCE OF DRIVER'S LICENSES TO ILLEGAL ALIENS.

(a) WITHHOLDING OF FUNDS FOR NONCOMPLIANCE.—The Secretary of Transportation shall withhold 1 per cent of the amount required to be apportioned to any State under this Act on the first day of each fiscal year after the second fiscal year beginning after September 30, 2004, if such State does not prohibit by statute, regulation, or executive order issuance of a State driver's license or identification card to aliens who do not present valid documentation of lawful presence in the United States as determined by the Immigration and Nationality Act (8 U.S.C. 1001 et seq.).

(b) EFFECT OF WITHHOLDING OF FUNDS.—Any funds recovered due to a reduction in State funding in accordance with subsection (a) shall be redistributed amongst the States that are in compliance with this section in accordance with the formulas set forth in this Act, calculated without taking into account the States that have violated this section.

(c) The Bureau of Immigration and Customs Enforcement of the Department of Homeland Security shall issue a list of documents or combination of documents establishing legal presence in the United States by September 30, 2004. The Secretary shall utilize such list for the purpose of determinations of compliance with subsection (a).

SA 2475. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title IV, add the following:

Subtitle G—Immigration Related Provisions

SEC. 4701. PROHIBITION OF EMPLOYMENT OF ILLEGAL ALIENS ON FEDERALLY FUNDED TRANSPORTATION PROJECTS.

(a) IN GENERAL.—No funds authorized to be appropriated by this Act may be used to hire, retain, or compensate any alien who is not in lawful status, as determined under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), for performing work on any projects authorized or funded by this Act.

(b) ENFORCEMENT.—

(1) FINE.—Any person or entity who violates subsection (a) shall be subject to a fine of $100,000 per violation.

(2) EXCEPTION.—No person or entity may be fined in accordance with paragraph (1) if that person or entity utilizes the basic pilot program for employment eligibility confirmation established by title IV of Public Law 104–208 (8 U.S.C. 1324a note) to confirm the eligibility of the alien for employment and the employment eligibility confirmation system reports represent that the alien is eligible for employment.

(3) IMMIGRATION ENFORCEMENT ACCOUNT.—Any fines collected under paragraph (1) shall be deposited in the Immigration Enforcement Account established under section 280(b) of the Immigration and Nationality Act (8 U.S.C. 1330(b)) and made available for immigration enforcement activities described in clauses (i) and (ii) of section 280(b)(3)(A) of that Act (8 U.S.C. 1330(b)(3)(A)(i) and (ii)) within the interior of the United States and for the costs of operation and modernization of the employment eligibility confirmation pilot programs established by title IV of Public Law 104–208 (8 U.S.C. 1324a note).

(4) EFFECTIVE DATE.—This subsection shall take effect in a State on the date on which the operation of the basic pilot program for employment eligibility confirmation referred to in paragraph (2) is expanded to such State.

SA 2476. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. PROHIBITION OF ISSUANCE OF DRIVERS LICENSES TO ILLEGAL ALIENS.

(a) WITHHOLDING OF FUNDS FOR NONCOMPLIANCE.—The Secretary of Transportation shall withhold 1 per cent of the amount required to be apportioned to any State under this Act on the first day of each fiscal year after the second fiscal year beginning after September 30, 2004, if such State does not prohibit by statute, regulation, or executive order issuance of a State driver's license or identification card to aliens who do not present valid documentation of lawful presence in the United States as determined by the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

(b) EFFECT OF WITHHOLDING OF FUNDS.—Any funds recovered due to a reduction in State funding in accordance with subsection (a) shall be redistributed amongst the States that are in compliance with this section in accordance with the formulas set forth in this Act, calculated without taking into account the States that have violated this section.

(c) The Bureau of Immigration and Customs Enforcement of the Department of Homeland Security shall issue a list of documents or combinations of documents establishing a legal presence in the United States by September 30, 2004. The Secretary shall utilize such list for the purpose of determining compliance with subsection (a).

SEC. ___. PROHIBITION OF EMPLOYMENT OF ILLEGAL ALIENS ON FEDERALLY FUNDED TRANSPORTATION PROJECTS.

(a) IN GENERAL.—No funds authorized to be appropriated by this Act may be used to hire, retain, or compensate any alien who is not in lawful status, as determined under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), for performing work on any projects authorized or funded by this Act.

(b) ENFORCEMENT.—

(1) FINE.—Any person or entity who violates subsection (a) shall be subject to a fine of $100,000 per violation.

(2) EXCEPTION.—No person or entity may be fined in accordance with paragraph (1) if that person or entity utilizes the basic pilot program for employment eligibility confirmation established by title IV of Public Law 104–208 (8 U.S.C. 1324a note) to confirm the eligibility of the alien for employment and the employment eligibility confirmation system reports represent that the alien is eligible for employment.

(3) IMMIGRATION ENFORCEMENT ACCOUNT.—Any fines collected under paragraph (1) shall be deposited in the Immigration Enforcement Account established under section 280(b) of the Immigration and Nationality Act (8 U.S.C. 1330(b)) and made available for immigration enforcement activities described in clauses (i) and (ii) of section 280(b)(3)(A) of that Act (8 U.S.C. 1330(b)(3)(A)(i) and (ii)) within the interior of the United States and for the costs of operation and modernization of the employment eligibility confirmation pilot programs established by title IV of Public Law 104–208 (8 U.S.C. 1324a note).

(4) EFFECTIVE DATE.—This subsection shall take effect in a State on the date on which the operation of the basic pilot program for employment eligibility confirmation referred to in paragraph (2) is expanded to such State.

SA 2477. Mr. SESSIONS submitted an amendment intended to be proposed to

amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title IV, add the following:

Subtitle G—Immigration Related Provisions

SEC. 4701. PROHIBITION OF ISSUANCE OF DRIVERS LICENSES TO ILLEGAL ALIENS.

(a) WITHHOLDING OF FUNDS FOR NONCOMPLIANCE.—The Secretary of Transportation shall withhold 1 per cent of the amount required to be apportioned to any State under this Act on the first day of each fiscal year after the second fiscal year beginning after September 30, 2004, if such State permits by statute, regulation, or executive order issuance of a State's driver's license or identification card to aliens who do not present valid documentation of lawful presence in the United States as determined by the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

(b) EFFECT OF WITHHOLDING OF FUNDS.—Any funds recovered due to a reduction in State funding in accordance with subsection (a) shall be redistributed amongst the States that are in compliance with this section in accordance with the formulas set forth in this Act, calculated without taking into account the States that have violated this section.

(c) The Bureau of Immigration and Customs Enforcement of the Department of Homeland Security shall issue a list of documents or combinations of documents establishing legal presence in the United States by September 30, 2004. The Secretary shall utilize such list for the purpose of determinations of compliance with subsection (a).

SEC. 4702. PROHIBITION OF EMPLOYMENT OF ILLEGAL ALIENS ON FEDERALLY FUNDED TRANSPORTATION PROJECTS.

(a) IN GENERAL.—No funds authorized to be appropriated by this Act may be used to hire, retain, or compensate any alien who is not in lawful status, as determined under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), for performing work on any projects authorized or funded by this Act.

(b) ENFORCEMENT.—

(1) FINE.—Any person or entity who violates subsection (a) shall be subject to a fine of $100,000 per violation.

(2) EXCEPTION.—No person or entity may be fined in accordance with paragraph (1) if that person or entity utilizes the basic pilot program for employment eligibility confirmation established by title IV of Public Law 104–208 (8 U.S.C. 1324a note) to confirm the eligibility of the alien for employment and the employment eligibility confirmation system reports represent that the alien is eligible for employment.

(3) IMMIGRATION ENFORCEMENT ACCOUNT.—Any fines collected under paragraph (1) shall be deposited in the Immigration Enforcement Account established under section 280(b) of the Immigration and Nationality Act (8 U.S.C. 1330(b)) and made available for immigration enforcement activities described in clauses (i) and (ii) of section 280(b)(3)(A) of that Act (8 U.S.C. 1330(b)(3)(A)(i) and (ii)) within the interior of the United States and for the costs of operation and modernization of the employment eligibility confirmation pilot programs established by title IV of Public Law 104–208 (8 U.S.C. 1324a note).

(4) EFFECTIVE DATE.—This subsection shall take effect in a State on the date on which the operation of the basic pilot program for employment eligibility confirmation referred to in paragraph (2) is expanded to such State.

SA 2478. Mr. BOND submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle D of title I, add the following:

SEC. 1409. RENTED OR LEASED MOTOR VEHICLES.

(a) IN GENERAL.—Subchapter I of chapter 301 of title 49, United States Code, is amended by adding at the end the following:

"§ 30106. Rented or leased motor vehicle safety and responsibility

''(a) IN GENERAL.—Provided that there is no negligence or criminal wrongdoing on the part of the owner of a motor vehicle, no such owner engaged in the trade or business of renting or leasing motor vehicles may be held liable under State law for harm caused by a person to himself or herself, another person, or to property, which results or arises from that person's use, operation, or possession of a rented or leased motor vehicle, by reason of being the owner of such motor vehicle.

''(b) CONSTRUCTION.—Subsection (a) shall not apply if such owner does not maintain the required limits of financial responsibility for such vehicle, as required by State law in the State in which the vehicle is registered.

''(c) APPLICABILITY AND EFFECTIVE DATE.—Notwithstanding any other provision of law, this section shall apply with respect to any action commenced on or after the date of enactment of this section without regard to whether the harm that is the subject of the action or the conduct that caused the harm occurred before such date of enactment.

''(d) DEFINITIONS.—In this section:

''(1) MOTOR VEHICLE.—The term 'motor vehicle' shall have the meaning given the term under section 13102(14) of this title.

''(2) OWNER.—The term 'owner' means a person who is—

''(A) a record or beneficial owner, lessor, or lessee of a motor vehicle;

''(B) entitled to the use and possession of a motor vehicle subject to a security interest in another person; or

''(C) a lessor, lessee, or bailee of a motor vehicle, in the trade or business of renting or leasing motor vehicles, having the use or possession of such motor vehicle, under a lease, bailment, or otherwise.

''(3) PERSON.—The term 'person' means any individual, corporation, company, limited liability company, trust, association, firm, partnership, society, joint stock company, or any other entity.

''(4) STATE.—The term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, any other territory or possession of the United States, or any political subdivision of any such State, commonwealth, territory, or possession.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 301 of title 49, United States Code, is amended by inserting after the item relating to section 30105 the following:

''30106. Rented or leased motor vehicle safety and responsibility.''.

SA 2479. Mr. REED submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

(1) Not later than 90 days after enactment, the Secretary of Homeland Security shall enter into a memorandum of understanding with the Secretary to define and clarify the roles and responsibilities of the department of Transportation and Homeland Security as they relate to public transportation security. Such memorandum of understanding shall:

(a) establish national security standards for public transportation agencies;

(b) establish funding priorities for Department of Homeland Security grants to public transportation agencies; and

(c) create a method of coordination with public transportation agencies on security matters.

SA 2480. Mrs. LINCOLN (for herself and Mr. MILLER) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 389, between lines 15 and 16, insert the following:

SEC. ____. SPECIAL EXEMPTION FOR VEHICLE WEIGHT LIMITS FOR SEASONAL SEED COTTON HAULERS.

Section 127(a) of title 23, United States Code, is amended by striking ''not to exceed 100 days annually.'' and inserting the following: ''not to exceed 100 days annually. States may allow, by special permit, the operation of vehicles with a gross vehicle weight of up to 80,000 pounds for the hauling of seed cotton during the harvest season, not to exceed 180 days annually.''.

SA 2481. Mr. CARPER submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle F of title V, insert the following:

SEC. ____. CREDIT FOR MAINTENANCE OF RAILROAD TRACK;

(a) CREDIT FOR MAINTENANCE OF RAILROAD TRACK.—

(1) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits) is amended by adding at the end the following new section:

"SEC. 45I. RAILROAD TRACK MAINTENANCE CREDIT.

''(a) GENERAL RULE.—For purposes of section 38, the railroad track maintenance credit determined under this section for the taxable year is 50 percent of the amount of qualified railroad track maintenance expenditures paid or incurred by an eligible taxpayer during the taxable year.

''(b) LIMITATION.—The credit allowed under subsection (a) shall not exceed the product of—

''(1) $20,000, and

''(2) the number of miles of railroad track owned or leased by the taxpayer as of the close of the taxable year.

''(c) QUALIFIED RAILROAD TRACK MAINTENANCE EXPENDITURES.—For purposes of this section, the term 'qualified railroad track maintenance expenditures' means expenditures (whether or not otherwise chargeable to capital account) for maintaining railroad track (including roadbed, bridges, and related track structures) owned or leased as of January 1, 2004, by the taxpayer of Class II or Class III railroads (as determined by the Surface Transportation Board).

''(d) CONTROLLED GROUPS.—For purposes of subsection (b), rules similar to the rules of paragraph (1) of section 41(f) shall apply for purposes of this subsection.

''(e) BASIS ADJUSTMENT.—For purposes of this subtitle, if a credit is allowed under this section with respect to any railroad track, the basis of such track shall be reduced by the amount of the credit so allowed.

''(f) APPLICATION OF SECTION.—This section shall apply to qualified railroad track maintenance expenditures paid or incurred during taxable years beginning after December 31, 2003, and before January 1, 2009.

''(g) ELIGIBLE TAXPAYER.—For purposes of this subsection, the term 'eligible taxpayer' means—

''(1) any person who transports property using the rail facilities of the taxpayer or who furnishes railroad-related property or services to the taxpayer, and

''(2) any Class II or Class III railroad.''.

(2) LIMITATION ON CARRYBACK.—Section 39(d) (relating to transition rules), as amended by section 5453, is amended by adding at the end the following new paragraph:

''(14) NO CARRYBACK OF RAILROAD TRACK MAINTENANCE CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the railroad track maintenance credit determined under section 45G may be carried to a taxable year beginning before January 1, 2004.''.

(3) CONFORMING AMENDMENTS.—

(A) Section 38(b) (relating to general business credit), as amended by section 5253 of this Act, is amended by striking ''plus'' at the end of paragraph (18), by striking the period at the end of paragraph (19) and inserting '', plus'', and by adding at the end the following new paragraph:

''(20) the railroad track maintenance credit determined under section 45I(a).''.

(B) Subsection (a) of section 1016 is amended by striking ''and'' at the end of paragraph (27), by striking the period at the end of paragraph (28) and inserting '', and'', and by adding at the end the following new paragraph:

''(29) in the case of railroad track with respect to which a credit was allowed under section 45I, to the extent provided in section 45I(e).''.

(4) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 45H the following new item:

''Sec. 45I. Railroad track maintenance credit.''.

(5) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

(b) RAILROAD REVITALIZATION AND SECURITY INVESTMENT CREDIT.—

(1) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits) is amended by adding at the end the following new section:

''SEC. 45J. RAILROAD REVITALIZATION AND SECURITY INVESTMENT CREDIT.

''(a) GENERAL RULE.—For purposes of section 38, the railroad revitalization and security investment credit determined under this section for the taxable year is the amount of qualified project expenditures paid or incurred by an eligible taxpayer during the taxable year.

''(b) QUALIFIED PROJECT EXPENDITURES.—For purposes of this section, the term 'qualified project expenditures' means expenditures (whether or not otherwise chargeable to capital account) with respect to rail lines which are included in a State rail plan (within the meaning of section 22101 of title 49, United States Code) for—

''(A) planning and environmental review,

''(B) rail line rehabilitation,

''(C) upgrades and development of rail lines,

''(D) projects for safety and security with respect to rail lines,

''(E) passenger equipment acquisition with respect to rail lines,

''(F) rail station improvement, and

''(G) intermodal facilities development.

An expenditure shall not be a qualified project expenditure unless there is a written agreement between a State and the owner of the infrastructure improved by the expenditures regarding the use and ownership of such infrastructure, including compensation for such use and assurances regarding the capacity of such infrastructure.

''(c) LIMITATIONS.—

''(1) IN GENERAL.—The credit allowed under subsection (a) shall not exceed 50 percent of the amount allocated to such project under this subsection.

''(2) NATIONAL LIMITATION.—There is a railroad revitalization and security investment credit limitation of $167,000,000 for each calendar year.

''(3) ALLOCATION OF LIMITATION.—The limitation under paragraph (2) shall be allocated by the Secretary to each State with a State rail plan (within the meaning of section 22101 of title 49, United States Code) based on the following considerations:

''(A) the number of rail miles in active use in the State;

''(B) the number of rail cars loaded in the State;

''(C) the number of railroad and public road grade crossings in the State;

''(D) the number of intercity passenger rail miles; and

''(E) the number of intercity passenger embarkations.

''(d) ELIGIBLE TAXPAYER.—For purposes of this section, the term 'eligible taxpayer' means a taxpayer who is an employer for purposes of the Railroad Retirement Act of 1974 and who is a carrier for purposes of the Railway Labor Act (unless such person is a commuter rail passenger transportation (as defined in section 24102 of title 49, United States Code) operator of a State or local authority (as defined in section 5302 of such title) or an Alaska railroad or it contractor).

''(e) CONTROLLED GROUPS.—For purposes of subsection (b), rules similar to the rules of paragraph (1) of section 41(f) shall apply for purposes of this subsection.

''(f) BASIS ADJUSTMENT.—For purposes of this subtitle, if a credit is allowed under this section with respect to any railroad track, the basis of such track shall be reduced by the amount of the credit so allowed.

''(g) APPLICATION OF SECTION.—This section shall apply to qualified railroad track maintenance expenditures paid or incurred during taxable years beginning after December 31, 2003, and before January 1, 2009.

''(h) CREDIT TRANSFERABILITY.—

''(1) IN GENERAL.—Any credit allowable under this section may be transferred (but not more than once) as provided by the Secretary, and the determination as to whether the credit is allowable shall be made without regard to the tax-exempt status of the transferor.

''(2) MINIMUM PRICE FOR TRANSFER.—No transfer shall be allowed under this subsection unless the transferor receives compensation for the credit transfer equal to at least 50 percent of the amount of credit transferred. The excess of the amount of credit transferred over the compensation received by the transferor for such transfer shall be included in the gross income of the transferee.''.

(2) LIMITATION ON CARRYBACK.—Section 39(d) (relating to transition rules), as amended by subsection (a), is amended by adding at the end the following new paragraph:

''(16) NO CARRYBACK OF SECTION 45J CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the credit determined under section 45J(a) may be carried back to a taxable year beginning on or before the date of the enactment of section 45J.''.

(3) CONFORMING AMENDMENTS.—

(A) Section 38(b) (relating to general business credit), as amended by subsection (a), is amended by striking ''plus'' at the end of paragraph (19), by striking the period at the end of paragraph (20) and inserting '', plus'', and by adding at the end the following new paragraph:

''(21) the railroad revitalization and security investment credit determined under section 45J(a).''.

(B) Subsection (a) of section 1016 is amended by striking ''and'' at the end of paragraph (28), by striking the period at the end of paragraph (29) and inserting '', and'', and by adding at the end the following new paragraph:

''(30) in the case of qualified projects with respect to which a credit was allowed under section 45J, to the extent provided in section 45J(f).''.

(4) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by subsection (a), is amended by inserting after the item relating to section 45I the following new item:

''Sec. 45J. Railroad revitalization and security investment credit.''.

(5) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

SEC. ____. CONSISTENT AMORTIZATION OF PERIODS FOR INTANGIBLES.

(a) START-UP EXPENDITURES.—

(1) ALLOWANCE OF DEDUCTION.—Paragraph (1) of section 195(b) (relating to start-up expenditures) is amended to read as follows:

''(1) ALLOWANCE OF DEDUCTION.—If a taxpayer elects the application of this subsection with respect to any start-up expenditures—

''(A) the taxpayer shall be allowed a deduction for the taxable year in which the active trade or business begins in an amount equal to the lesser of—

''(i) the amount of start-up expenditures with respect to the active trade or business, or

''(ii) $5,000, reduced (but not below zero) by the amount by which such start-up expenditures exceed $50,000, and

''(B) the remainder of such start-up expenditures shall be allowed as a deduction ratably over the 180-month period beginning with the month in which the active trade or business begins.''.

(2) CONFORMING AMENDMENT.—Subsection (b) of section 195 is amended by striking ''AMORTIZE'' and inserting ''DEDUCT'' in the heading.

(b) ORGANIZATIONAL EXPENDITURES.—Subsection (a) of section 248 (relating to organizational expenditures) is amended to read as follows:

''(a) ELECTION TO DEDUCT.—If a corporation elects the application of this subsection (in

accordance with regulations prescribed by the Secretary) with respect to any organizational expenditures—

''(1) the corporation shall be allowed a deduction for the taxable year in which the corporation begins business in an amount equal to the lesser of—

''(A) the amount of organizational expenditures with respect to the taxpayer, or

''(B) $5,000, reduced (but not below zero) by the amount by which such organizational expenditures exceed $50,000, and

''(2) the remainder of such organizational expenditures shall be allowed as a deduction ratably over the 180-month period beginning with the month in which the corporation begins business.''.

(c) TREATMENT OF ORGANIZATIONAL AND SYNDICATION FEES OR PARTNERSHIPS.—

(1) IN GENERAL.—Section 709(b) (relating to amortization of organization fees) is amended by redesignating paragraph (2) as paragraph (3) and by amending paragraph (1) to read as follows:

''(1) ALLOWANCE OF DEDUCTION.—If a taxpayer elects the application of this subsection (in accordance with regulations prescribed by the Secretary) with respect to any organizational expenses—

''(A) the taxpayer shall be allowed a deduction for the taxable year in which the partnership begins business in an amount equal to the lesser of—

''(i) the amount of organizational expenses with respect to the partnership, or

''(ii) $5,000, reduced (but not below zero) by the amount by which such organizational expenses exceed $50,000, and

''(B) the remainder of such organizational expenses shall be allowed as a deduction ratably over the 180-month period beginning with the month in which the partnership begins business.

''(2) DISPOSITIONS BEFORE CLOSE OF AMORTIZATION PERIOD.—In any case in which a partnership is liquidated before the end of the period to which paragraph (1)(B) applies, any deferred expenses attributable to the partnership which were not allowed as a deduction by reason of this section may be deducted to the extent allowable under section 165.''.

(2) CONFORMING AMENDMENT.—Subsection (b) of section 709 is amended by striking ''AMORTIZATION'' and inserting ''DEDUCTION'' in the heading.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after the date of the enactment of this Act.

SA 2482. Mr. TALENT (for himself and Mr. WYDEN) submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 1298, after line 24, add insert the following:

Subtitle H—Tax-Exempt Financing of Highway Projects and Rail-Truck Transfer Facilities

SEC. 5671. TAX-EXEMPT FINANCING OF HIGHWAY PROJECTS AND RAIL-TRUCK TRANSFER FACILITIES.

(a) TREATMENT AS EXEMPT FACILITY BOND.—Subsection (a) of section 142 (relating to exempt facility bond) is amended by striking ''or'' at the end of paragraph (12), by striking the period at the end of paragraph (13), and by adding at the end the following:

''(14) qualified highway facilities, or

''(15) qualified surface freight transfer facilities.''.

(b) QUALIFIED HIGHWAY FACILITIES AND QUALIFIED SURFACE FREIGHT TRANSFER FACILITIES.—Section 142 is amended by adding at the end the following:

''(l) QUALIFIED HIGHWAY AND SURFACE FREIGHT TRANSFER FACILITIES.—

''(1) QUALIFIED HIGHWAY FACILITIES.—For purposes of subsection (a)(14), the term 'qualified highway facilities' means—

''(A) any surface transportation project which receives Federal assistance under title 23, United States Code (as in effect on the date of the enactment of this subsection), or

''(B) any project for an international bridge or tunnel for which an international entity authorized under Federal or State law is responsible and which receives Federal assistance under such title 23.

''(2) QUALIFIED SURFACE FREIGHT TRANSFER FACILITIES.—For purposes of subsection (a)(15), the term 'qualified surface freight transfer facilities' means facilities for the transfer of freight from truck to rail or rail to truck (including any temporary storage facilities directly related to such transfers) which receives Federal assistance under either title 23 or title 49, United States Code (as in effect on the date of the enactment of this subsection).

''(3) AGGREGATE FACE AMOUNT OF TAX-EXEMPT FINANCING FOR FACILITIES.—

''(A) IN GENERAL.—An issue shall not be treated as an issue described in subsection (a)(14) or (a)(15) if the aggregate face amount of bonds issued by any State pursuant thereto (when added to the aggregate face amount of bonds previously so issued) exceeds $15,000,000,000.

''(B) ALLOCATION BY SECRETARY OF TRANSPORTATION.—The Secretary of Transportation shall allocate the amount described in subparagraph (A) among eligible projects described in subsections (a)(14) and (a)(15) in such manner as the Secretary determines appropriate.''.

(c) EXEMPTION FROM GENERAL STATE VOLUME CAPS.—Paragraph (3) of section 146(g) of the Internal Revenue Code of 1986 (relating to exception for certain bonds) is amended by striking ''or (13)'' and all that follows through the end of the paragraph and inserting ''(13), (14), or (15) of section 142(a), and''.

(d) EFFECTIVE DATE.—The amendments made by this section apply to bonds issued after the date of the enactment of this Act.

SEC. 5672. ADDITION OF VACCINES AGAINST HEPATITIS A TO LIST OF TAXABLE VACCINES.

(a) IN GENERAL.—Section 4132(a)(1) (defining taxable vaccine) is amended by redesignating subparagraphs (I), (J), (K), and (L) as subparagraphs (J), (K), (L), and (M), respectively, and by inserting after subparagraph (H) the following new subparagraph:

''(I) Any vaccine against hepatitis A.''.

(b) CONFORMING AMENDMENT.—Section 9510(c)(1)(A) is amended by striking ''October 18, 2000'' and inserting ''the date of the enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004''.

(c) EFFECTIVE DATE.—

(1) SALES, ETC.—The amendments made by this section shall apply to sales and uses on or after the first day of the first month which begins more than 4 weeks after the date of the enactment of this Act.

(2) DELIVERIES.—For purposes of paragraph (1) and section 4131 of the Internal Revenue Code of 1986, in the case of sales on or before the effective date described in such paragraph for which delivery is made after such date, the delivery date shall be considered the sale date.

SEC. 5674. ADDITION OF VACCINES AGAINST INFLUENZA TO LIST OF TAXABLE VACCINES.

(a) IN GENERAL.—Section 4132(a)(1) (defining taxable vaccine), as amended by section 5673 of this Act, is amended by adding at the end the following new subparagraph:

''(N) Any trivalent vaccine against influenza.''.

(b) EFFECTIVE DATE.—

(1) SALES, ETC.—The amendment made by this section shall apply to sales and uses on or after the later of—

(A) the first day of the first month which begins more than 4 weeks after the date of the enactment of this Act, or

(B) the date on which the Secretary of Health and Human Services lists any vaccine against influenza for purposes of compensation for any vaccine-related injury or death through the Vaccine Injury Compensation Trust Fund.

(2) DELIVERIES.—For purposes of paragraph (1) and section 4131 of the Internal Revenue Code of 1986, in the case of sales on or before the effective date described in such paragraph for which delivery is made after such date, the delivery date shall be considered the sale date.

SEC. 5675. EXTENSION OF AMORTIZATION OF INTANGIBLES TO SPORTS FRANCHISES.

(a) IN GENERAL.—Section 197(e) (relating to exceptions to definition of section 197 intangible) is amended by striking paragraph (6) and by redesignating paragraphs (7) and (8) as paragraphs (6) and (7), respectively.

(b) CONFORMING AMENDMENTS.—

(1)(A) Section 1056 (relating to basis limitation for player contracts transferred in connection with the sale of a franchise) is repealed.

(B) The table of sections for part IV of subchapter O of chapter 1 is amended by striking the item relating to section 1056.

(2) Section 1245(a) (relating to gain from disposition of certain depreciable property) is amended by striking paragraph (4).

(3) Section 1253 (relating to transfers of franchises, trademarks, and trade names) is amended by striking subsection (e).

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to property acquired after the date of the enactment of this Act.

(2) SECTION 1245.—The amendment made by subsection (b)(2) shall apply to franchises acquired after the date of the enactment of this Act.

SA 2483. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 54 line 11, insert after the word census, ''vehicle miles traveled per lane mile in excess of 4,000 in the year 2001.''

SA 2484. Mr. LIEBERMAN (for himself and Mr. DODD) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. HIGH LEVEL OF SERVICE BONUS.

(a) IN GENERAL.—Amounts made available for projects under sections 103, 133, 144, and 149 of title 23, United States Code, shall be apportioned to the States as follows:

(1) ⅓ in the ratio that—

(A) the population density of each State that has a population of over 250 residents per square mile; bears to

(B) the population density of a State that has a population of 250 residents per square mile;

(2) ⅓ in the ratio that—

(A) the vehicle miles traveled per lane mile in each State in which such ratio exceeds the ratio of total vehicle miles traveled for the States to the total lane miles of the States; bears to

(B) the ration of total vehicle miles traveled for the States to the total lane miles of the States; and

(3) ⅓ in the ratio that—

(A) the funding apportioned to each State for projects eligible under section 144 of title 23, United States Code, that exceeds the average of such funds apportioned; bears to

(B) the total of such funds apportioned to the States.

(b) MINIMUM STATE SHARE.—The minimum share apportioned to a State under paragraphs (1) and (2) of subsection (a) shall be at least ½ of 1 percent.

(c) MAXIMUM FEDERAL SHARE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the maximum Federal share payable for projects funded under this program shall not exceed 80 percent.

(2) EXCEPTION.—The maximum Federal share payable for projects on the Interstate system shall not exceed 90 percent.

(d) EQUITY BONUS.—The calculation and distribution of funds under section 105 shall not be adjusted as a result of the allocations of funds under this section.

(e) FUNDING.—There is authorized to be appropriated to carry out this section $1,000,000,000 for each fiscal year.

SA 2485. Mr. HOLLINGS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 780, lines 21 and 22, strike ''shall consider the prescription of'' and insert ''shall prescribe''.

SA 2486. Mr. LIEBERMAN (for himself and Mr. DODD) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. LEVEL OF SERVICE BONUS.

(a) IN GENERAL.—Amounts made available for projects under sections 103, 133, 144, and 149 of title 23, United States Code, shall be apportioned to the States as follows:

(1) ⅓ in the ratio that—

(A) the population density of each State; bears to

(B) the population density of the State with the least population density;

(2) ⅓ in the ratio that—

(A) the vehicle miles traveled per lane mile in each State; bears to

(B) the State with the least such ratio; and

(3) ⅓ in the ratio that—

(A) the funding apportioned to each State for projects eligible under section 144 of title 23, United States Code; bears to

(B) the total of such funds apportioned to the States.

(b) MINIMUM STATE SHARE.—The minimum share apportioned to a State under paragraphs (1) and (2) of subsection (a) shall be at least ½ of 1 percent.

(c) MAXIMUM FEDERAL SHARE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the maximum Federal share payable for projects funded under this program shall not exceed 80 percent.

(2) EXCEPTION.—The maximum Federal share payable for projects on the Interstate system shall not exceed 90 percent.

(d) EQUITY BONUS.—The calculation and distribution of funds under section 105 shall not be adjusted as a result of the allocations of funds under this section.

(e) FUNDING.—There is authorized to be appropriated to carry out this section $1,000,000,000 for each fiscal year.

SA 2487. Mr. SPECTER submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 489, after line 23, add the following:

SEC. 21___. TRANSPORTATION TECHNOLOGY INNOVATION AND DEMONSTRATION PROGRAM.

(a) IN GENERAL.—Section 5117(b)(3) of the Transportation Equity Act for the 21st Century (112 Stat. 449; 112 Stat. 864; 115 Stat. 2330) is amended—

(1) in subparagraph (B)—

(A) in clause (i)—

(i) in the first sentence—

(I) by striking ''Build an'' and inserting ''Build or integrate an''; and

(II) by striking ''2,000,000'' and inserting ''2,500,000''; and

(ii) in the second sentence—

(I) by striking ''300,000 and that'' and inserting ''300,000,''; and

(II) by inserting before the period at the end the following: '', and includes major transportation corridors serving that metropolitan area'';

(B) in clause (ii), by striking all that follows ''will be'' and inserting ''reinvested in the intelligent transportation infrastructure system.'';

(C) by striking clause (iii); and

(D) by redesignating clauses (iv) and (v) as clauses (iii) and (iv), respectively;

(2) in subparagraph (C)(ii), by striking ''July 1, 2002'' and inserting ''the date that is 180 days after the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003'';

(3) in subparagraph (E), by striking clause (ii) and inserting the following:

''(ii) The term ''follow-on deployment areas'' means the metropolitan areas of Albany, Atlanta, Austin, Baltimore, Birmingham, Boston, Charlotte, Chicago, Cleveland, Columbus, Dallas/Ft. Worth, Denver, Detroit, Greensboro, Hartford, Houston, Indianapolis, Jacksonville, Kansas City, Las Vegas, Los Angeles, Louisville, Miami, Milwaukee, Minneapolis-St. Paul, Nashville, New Orleans, New York/Northern New Jersey, Norfolk, Northern Kentucky/Cincinnati, Oklahoma City, Orlando, Philadelphia, Phoenix, Pittsburgh, Portland, Providence, Raleigh, Richmond, Sacramento, Salt Lake, San Diego, San Francisco, San Jose, St. Louis, Seattle, Tampa, Tucson, Tulsa, and Washington, District of Columbia.'';

(4) in subparagraph (F)—

(A) by striking ''Of the amounts'' and inserting the following:

''(i) THIS ACT.—Of the amounts''; and

(B) by adding at the end the following:

''(ii) SAFETEA.—Of the amounts made available by section 1101(5) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003 for fiscal years 2004 through 2009, $5,000,000 for each fiscal year shall be made available by the Secretary to carry out this paragraph.

''(iii) AVAILABILITY; NO REDUCTION OR SETASIDE.—Amounts made available by this subparagraph—

''(I) shall remain available until expended; and

''(II) shall not be subject to any reduction or setaside.''; and

(5) by adding at the end the following:

''(H) USE OF RIGHTS-OF-WAY.—

''(i) IN GENERAL.—An intelligent transportation system project described in paragraph (3) or (6) that involves privately owned intelligent transportation system components and is carried out using funds made available from the Highway Trust Fund shall not be subject to any law (including a regulation) of a State or political subdivision of a State prohibiting or regulating commercial activities in the rights-of-way of a highway for which Federal-aid highway funds have been used for planning, design, construction, or maintenance, if the Secretary of Transportation determines that such use is in the public interest.

''(ii) EFFECT OF SUBPARAGRAPH.—Nothing in this subparagraph affects the authority of a State or political subdivision of a State to regulate highway safety.''.

(b) CONFORMING AMENDMENT.—Section 5204(k) of the Transportation Equity Act for the 21st Century (112 Stat. 453) is amended by striking subsection (k) (112 Stat. 2681–478).

SA 2488. Mr. SPECTER submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 396, line 4, strike ''$40,000,000'' and insert ''$50,000,000''.

On page 396, line 5, strike ''$45,000,000'' and insert ''$55,000,000''.

On page 403, in the analysis for chapter 5 of title 23, United States Code (as added by section 2101(a)), strike the item relating to section 511 and insert the following:

''511. University bridge research centers.

''512. Multistate corridor operations and management.

On page 475, strike lines 15 and 16 and insert the following:

''§ 511. University bridge research centers

''(a) IN GENERAL.—The Secretary shall establish and implement a university bridge research center program in accordance with this section.

''(b) PURPOSES.—The Secretary, in coordination with nonprofit institutions of higher learning, shall encourage and promote specific research on—

''(1) advanced highway bridge materials and systems for economical, rapid, and durable repair, replacement, and protection of highway bridges; and

''(2) technology to monitor and evaluate bridge damage and deterioration to significantly extend the useful life of highway bridges.

''(c) BRIDGE CENTERS.—The Secretary shall make grants to nonprofit institutions of

higher learning to establish and operate university bridge research centers.

''(d) SELECTION OF GRANT RECIPIENTS.—

''(1) APPLICATIONS.—To be eligible to receive a grant under this section, a nonprofit institution of higher learning shall submit to the Secretary an application in such form and containing such information as the Secretary may require.

''(2) SELECTION CRITERIA.—

''(A) IN GENERAL.—Except as otherwise provided by subparagraph (B), the Secretary shall select each recipient of a grant under this section through a competitive process on the basis of—

''(i) the demonstrated research and development resources available to the recipient to carry out this section;

''(ii) the capability of the recipient to provide leadership in making national and regional contributions to the solution of immediate and long-range bridge deterioration and structure problems;

''(iii) the demonstrated commitment by the recipient of at least $200,000 in regularly budgeted institutional amounts each year to support ongoing bridge research and education programs;

''(iv) the demonstrated ability of the recipient to disseminate results of bridge transportation research and education programs through a statewide or regionwide program;

''(v) the demonstrated ability of the recipient to partner with other institutions that have highway bridge research expertise;

''(vi) the demonstrated ability of the recipient to conduct analysis, laboratory testing, and field verification of bridge design through a record of demonstration projects with State transportation departments and private, public and quasi-public bridge authorities;

''(vii) the demonstrated record of the recipient in transferring technology to practitioners;

''(viii) the demonstrated record of the recipient in testing full-scale bridge components in laboratory facilities and implementing results in design changes and field verification; and

''(ix) the strategic plan that the recipient proposes to carry out under the grant.

''(B) PREFERENCE.—Preference shall be given to nonprofit institutions of higher learning located in the 10 States with the worst deficiencies in highway bridges, as ranked by the 2002 Federal Highway Administration National Bridge Inventory.

''(e) ACTIVITIES.—A Federal Highway Administration university bridge transportation center that receives a grant under this section shall conduct—

''(1) basic and applied bridge research, the products of which are judged by peers or other experts in the field to advance the body of knowledge in bridge longevity;

''(2) an education program that includes multidisciplinary course work and student participation in research; and

''(3) an ongoing program of technology transfer that makes research results available to potential users in a form that can be implemented, used, or otherwise applied.

''(f) FEDERAL SHARE.—

''(1) IN GENERAL.—The Federal share of the costs of activities carried out using a grant made under this section shall be 50 percent.

''(2) NON-FEDERAL SHARE.—The non-Federal share may include funds provided to a recipient under section 503, 504(b), or 505 of title 23.

''(g) PROGRAM COORDINATION.—

''(1) COORDINATION.—The Secretary shall—

''(A) coordinate the research, education, training, and technology transfer activities that grant recipients carry out under this section; and

''(B) establish a clearinghouse for dissemination of the results of the research.

''(2) ANNUAL REVIEW AND EVALUATION.—At least annually the Secretary shall review and evaluate programs carried out by grant recipients.

''(3) FUNDING LIMITATION.—The Secretary shall use not more than 1 percent of amounts made available from Government sources to carry out this subsection.

''(h) LIMITATION ON AVAILABILITY OF FUNDS.—Funds made available to carry out this section shall remain available for obligation for 2 years after the last day of the fiscal year for which the funds are made available.

''(i) NUMBER AND AMOUNT OF GRANTS.—For each of fiscal years 2005, 2006, 2007, 2008, and 2009, the Secretary shall make a grant of $2,000,000 to each of 5 nonprofit institutions of higher education to conduct bridge transportation research.

''§ 512. Multistate corridor operations and management

SA 2489. Mr. WARNER submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 346, before line 1, insert the following:

(c) ADDITION.—

(1) DESIGNATION.—There is designated as an addition to the Appalachian development highway system under section 14501 of title 40, United States Code, Segment B of the Coalfields Expressway from Corridor B near Pound to Clintwood in Virginia.

(2) CONFORMING AMENDMENT.—Section 14501 of title 40, United States Code, is amended in the second sentence by striking ''not be more than'' and all that follows through the period and insert ''not be more than 3,102 miles.''.

SA 2490. Mr. WARNER submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 346, before line 1, insert the following:

(c) ADDITION.—

(1) DESIGNATION.—There is designated as an addition to the Appalachian development highway system under section 14501 of title 40, United States Code, Segment B of the Coalfields Expressway from Corridor B near Pound to Clintwood in Virginia.

(2) SUBTRACTION.—The portion of Corridor H in Virginia from the West Virginia State line to Interstate 81—

(A) shall be subtracted from Corridor H; and

(B) may be included on a map of that system only for the purpose of continuity.

(3) CONFORMING AMENDMENT.—Section 14501 of title 40, United States Code, is amended in the second sentence by striking ''not be more than'' and all that follows through the period and insert ''not be more than 3,102 miles.''.

SA 2491. Mrs. MURRAY (for herself, Ms. COLLINS, Mrs. BOXER, Ms. CANTWELL, Mrs. CLINTON, Mr. COCHRAN, Mr. CORZINE, Mr. EDWARDS, Mrs. FEINSTEIN, Mr. KENNEDY, Mr. LAUTENBERG, Ms. MIKULSKI, Mr. SCHUMER, Ms. SNOWE, and Mr. STEVENS) submitted an amendment intended to be proposed by her to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 38, strike line 22 and all that follows through page 39, line 6, and insert the following:

(13) INFRASTRUCTURE PERFORMANCE AND MAINTENANCE PROGRAM.—For carrying out the infrastructure performance and maintenance program under section 139 of that title $1,328,000,000 for fiscal year 2004.

(14) CONSTRUCTION OF FERRY BOATS AND FERRY TERMINAL FACILITIES.—For construction of ferry boats and ferry terminal facilities under section 147 of that title, $$150,000,000 for each of fiscal years 2004 through 2009.

SA 2492. Mrs. MURRAY (for herself, Ms. COLLINS, Mrs. BOXER, Ms. CANTWELL, Mrs. CLINTON, Mr. COCHRAN, Mr. CORZINE, Mr. EDWARDS, Mrs. FEINSTEIN, Mr. KENNEDY, Mr. LAUTENBERG, Ms. MIKULSKI, Ms. MURKOWSKI, Mr. SCHUMER, Ms. SNOWE, and Mr. STEVENS) submitted an amendment intended to be proposed by her to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 80, strike line 7 and all that follows through page 81, line 3, and insert the following:

SEC. 1204. CONSTRUCTION OF FERRY BOATS AND FERRY TERMINAL AND MAINTENANCE FACILITIES.

(a) IN GENERAL.—Section 147 of title 23, United States Code, is amended to read as follows:

''§ 147. Construction of ferry boats and ferry terminal and maintenance facilities

''(a) IN GENERAL.—The Secretary shall carry out a program for construction of ferry boats and ferry terminal and maintenance facilities in accordance with section 129(c).

''(b) FEDERAL SHARE.—The Federal share of the cost of construction of ferry boats and ferry terminals and maintenance facilities under this section shall be 80 percent.

''(c) ALLOCATION OF FUNDS.—The Secretary shall give priority in the allocation of funds under this section to those ferry systems, and public entities responsible for developing ferries, that—

''(1) carry the greatest number of passengers and vehicles;

''(2) carry the greatest number of passengers in passenger-only service; or

''(3) provide critical access to areas that are not well-served by other modes of surface transportation.

''(d) SET-ASIDE.—Of the amounts made available under section 1101(a)(14) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003, $112,000,000 for each of fiscal years 2004 through 2009 shall be made available to carry out this section.

''(e) RULE OF CONSTRUCTION.—Notwithstanding any other provision of law—

''(1) paragraph (13) of section 1101(a) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003 shall be applied by substituting '$1,328,000,000' for '$2,000,000,000'; and

''(2) paragraph (14) of section 1101(a) of that Act shall be applied by substituting '$150,000,000' for '$38,000,000'.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 129(c) of title 23, United States Code, is amended—

(A) in the matter preceding paragraph (1), by inserting ''and maintenance'' after ''terminal''; and

(B) in paragraph (3), by inserting ''or maintenance'' after ''terminal'' each place it appears.

(2) The analysis for subchapter I of chapter 1 of title 23, United States Code, is amended by striking the item relating to section 147 and inserting the following:

''147. Construction of ferry boats and ferry terminal and maintenance facilities.''.

(3) Section 1064 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2005) is repealed.

SA 2493. Mr. CARPER submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 588, strike line 21 and all that follows through page 589, line 2, and insert the following:

(E) by amending subparagraph (C), as redesignated, to read as follows:

''(C) capital projects to replace, rehabilitate, and purchase buses and related equipment, including the differential cost of purchasing alternative fuels (as defined in section 301 of the Energy Policy Act of 1992 (42 U.S.C. 13211)), not to exceed the difference in purchasing costs between conventional bus fuels and such alternative fuels, and to construct bus-related facilities, including programs of bus and bus-related projects for assistance to subrecipients that are public agencies, private companies engaged in public transportation, or private nonprofit organizations; and''; and

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SA 2494. Mr. REED submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

In subsection (b)(1)(B) of section 105 of title 23, United States Code (as added by section 1104(a)), strike ''1,000,000'' and insert ''1,100,000''.

SA 2495. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 61, strike line 4 and all that follows through line 8 on page 64, and insert the following:

SEC. 1201. HIGH TRAFFIC DENSITY EQUITY ADJUSTMENT PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code, is amended by inserting after section 138 the following:

''§ 139. High traffic density equity adjustment program

''(a) ESTABLISHMENT OF PROGRAM.—The Secretary shall establish and implement a high traffic density equity adjustment program in accordance with this section.

''(b) ELIGIBLE PROJECTS.—

''(1) IN GENERAL.—A State may obligate funds allocated to the State under this section only for projects eligible under the Interstate maintenance program under section 119, the National Highway System program under section 103, the surface transportation program under section 133, the highway safety improvement program under section 148, the highway bridge replacement and rehabilitation program under section 144, and the congestion mitigation and air quality improvement program under section 149 that will—

''(A) preserve, maintain, or otherwise extend, in a cost-effective manner, the useful life of existing highway infrastructure elements; or

''(B) provide operational improvements (including traffic management and intelligent transportation system strategies and limited capacity enhancements) at points of recurring highway congestion.

''(2) SET-ASIDE.—Notwithstanding any other provision of law, of the amounts made available under section 1101(a)(14) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003, $439,000,000 shall be available for obligation to carry out this section without further appropriation.

''(3) HIGH TRAFFIC DENSITY EQUITY ADJUSTMENT PROGRAM.—

''(A) IN GENERAL.—The Secretary shall allocate the amounts made available under paragraph (2) for a fiscal year to each State in the proportion that—

''(i) the excess, if any, of the number of annual vehicle miles per lane mile in the State over the average of that number for all of the States; bears to

''(ii) the average of that number for all of the States.

''(B) DETERMINATION OF ANNUAL VEHICLE MILES TRAVEL.—In determining annual vehicle miles per lane mile for purposes of this paragraph, the Secretary shall use the latest available annual estimates prepared by the Secretary of Transportation.

''(c) PERIOD OF AVAILABILITY.—

''(1) OBLIGATION WITHIN 180 DAYS.—

''(A) IN GENERAL.—Funds allocated to a State under this section shall be obligated by the State not later than 180 days after the date of apportionment.

''(B) UNOBLIGATED FUNDS.—Any amounts that remain unobligated at the end of that period shall be allocated in accordance with subsection (d).

''(2) OBLIGATION BY END OF FISCAL YEAR.—

''(A) IN GENERAL.—All funds allocated or reallocated under this section shall remain available for obligation until the last day of the fiscal year for which the funds are apportioned.

''(B) UNOBLIGATED FUNDS.—Any amounts allocated that remain unobligated at the end of the fiscal year shall lapse.

''(d) REDISTRIBUTION OF ALLOCATED FUNDS AND OBLIGATION AUTHORITY.—

''(1) IN GENERAL.—On the date that is 180 days after the date of allocation, or as soon thereafter as practicable, for each fiscal year, the Secretary shall -

''(A) withdraw—

''(i) any funds allocated to a State under this section that remain unobligated; and

''(ii) an equal amount of obligation authority provided for the use of the funds in accordance with section 1101(a)(14) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003; and

''(B) reallocate the funds and redistribute the obligation authority to States that—

''(i) have fully obligated all amounts allocated under this section for the fiscal year; and

(ii) demonstrate that the State is able to obligate additional amounts for projects eligible under this section before the end of the fiscal year.

''(2) EQUITY BONUS.—The calculation and distribution of funds under section 105 shall not be adjusted as a result of the allocation of funds under this subsection.

''(e) FEDERAL SHARE PAYABLE.—The Federal share payable for a project funded under this section shall be determined in accordance with section 120.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 1 of title 23, United States Code, is amended by adding after the item relating to section 138 the following:

''139. High traffic density equity adjustment program.''.

SA 2496. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 61, strike line 4 and all that follows through page 64, line 23 and insert the following:

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code, is amended by inserting after section 138 the following:

''SEC. 139. HIGH TRAFFIC DENSITY APPORTIONMENT PROGRAM.

''(a) ESTABLISHMENT.—The Secretary shall establish and implement a high traffic density apportionment program in accordance with this section.

''(b) ELIGIBLE PROJECTS.—

''(1) IN GENERAL.—A State may obligate funds allocated to the State under this section only for projects eligible under the Interstate maintenance program under section 119, the National Highway System program under section 103, the surface transportation program under section 133, the highway safety improvement program under section 148, the highway bridge replacement and rehabilitation program under section 144, and the congestion mitigation and air quality improvement program under section 149 that will—

''(A) preserve, maintain, or otherwise extend, in a cost-effective manner, the useful life of existing highway infrastructure elements; or

''(B) provide operational improvements (including traffic management and intelligent transportation system strategies and limited capacity enhancements) at points of recurring highway congestion.

''(2) SET-ASIDE.—Notwithstanding any other provision of law, of the amounts made available under section 1101(13) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003, $1,000,000,000 shall be available for obligation to carry out this section without further appropriation.

''(3) HIGH TRAFFIC DENSITY APPORTIONMENT PROGRAM.—

''(A) IN GENERAL.—The Secretary shall allocate the amounts made available under paragraph (2) for a fiscal year to each State in the proportion that—

''(i) the excess, if any, of the number of annual vehicle miles traveled per lane mile of each State-owned public road in the State over the average of that number for all of the States; bears to

''(ii) the number of daily vehicle miles traveled per the total lane miles of all State-owned public roads in the State.

''(B) DETERMINATION OF ANNUAL VEHICLE MILES TRAVELED.—In determining annual vehicle miles per lane mile for purposes of this paragraph, the Secretary shall use the latest available annual estimates prepared by the Secretary.

''(c) PERIOD OF AVAILABILITY.—

''(1) OBLIGATION WITHIN 180 DAYS.—

''(A) IN GENERAL.—Funds allocated to a State under this section shall be obligated by the State not later than 180 days after the date of apportionment.

''(B) UNOBLIGATED FUNDS.—Any amounts that remain unobligated at the end of that period shall be allocated in accordance with subsection (d).

''(2) OBLIGATION BY END OF FISCAL YEAR.—

''(A) IN GENERAL.—All funds allocated or reallocated under this section shall remain available for obligation until the last day of the fiscal year for which the funds are apportioned.

''(B) UNOBLIGATED FUNDS.—Any amounts allocated that remain unobligated at the end of the fiscal year shall lapse.

''(d) REDISTRIBUTION OF ALLOCATED FUNDS AND OBLIGATION AUTHORITY.—

''(1) IN GENERAL.—On the date that is 180 days after the date of allocation, or as soon thereafter as practicable, for each fiscal year, the Secretary shall—

''(A) withdraw—

''(i) any funds allocated to a State under this section that remain unobligated; and

''(ii) an equal amount of obligation authority provided for the use of the funds in accordance with section 1101(13) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003; and

''(B) reallocate the funds and redistribute the obligation authority to States that—

''(i) have fully obligated all amounts allocated under this section for the fiscal year; and

''(ii) demonstrate that the State is able to obligate additional amounts for projects eligible under this section before the end of the fiscal year.

''(2) EQUITY BONUS.—The calculation and distribution of funds under section 105 shall not be adjusted as a result of the allocation of funds under this subsection.

''(e) FEDERAL SHARE PAYABLE.—The Federal share payable for a project funded under this section shall be determined in accordance with section 120.''.

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code, is amended by adding after the item relating the section 138 the following:

''105. High traffic density apportionment program.''.

SEC. 1202. FUTURE OF SURFACE TRANSPORTATION SYSTEM.

SA 2497. Mr. LIEBERMAN (for himself and Mr. DODD) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 61, strike line 4 and all that follows through page 64, line 8 and insert the following:

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code, is amended by inserting after section 138 the following:

''SEC. 139. WEIGHTED HIGH TRAFFIC DENSITY APPORTIONMENT PROGRAM.

''(a) ESTABLISHMENT.—The Secretary shall establish and implement a weighted high traffic density apportionment program in accordance with this section.

''(b) ELIGIBLE PROJECTS.—

''(1) IN GENERAL.—A State may obligate funds allocated to the State under this section only for projects eligible under the Interstate maintenance program under section 119, the National Highway System program under section 103, the surface transportation program under section 133, the highway safety improvement program under section 148, the highway bridge replacement and rehabilitation program under section 144, and the congestion mitigation and air quality improvement program under section 149 that will—

''(A) preserve, maintain, or otherwise extend, in a cost-effective manner, the useful life of existing highway infrastructure elements; or

''(B) provide operational improvements (including traffic management and intelligent transportation system strategies and limited capacity enhancements) at points of recurring highway congestion.

''(2) SET-ASIDE.—Notwithstanding any other provision of law, of the amounts made available under section 1101(13) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003, $1,000,000,000 shall be available for obligation to carry out this section without further appropriation.

''(3) WEIGHTED HIGH TRAFFIC DENSITY APPORTIONMENT PROGRAM.—

''(A) IN GENERAL.—Of amounts made available under paragraph (2) for a fiscal year to each State—

''(i) the Secretary shall allocate ⅓ in the proportion that—

''(I) the excess, if any, of the number of annual daily vehicle miles traveled per lane mile of State-owned rural public roads in the State over the average of that number for all of the States; bears to

''(II) the total of those numbers for all of the States; and

''(ii) the Secretary shall allocate ⅔ in the proportion that—

''(I) the excess, if any, of the number of annual daily vehicle miles traveled per lane mile of State-owned urban public roads in the State over the average of that number for all of the States; bears to

''(II) the total of those numbers for all of the States.

''(B) DETERMINATION OF ANNUAL VEHICLE MILES TRAVELED.—In determining annual vehicle miles per lane mile for purposes of this paragraph, the Secretary shall use the latest available annual estimates prepared by the Secretary.

''(c) PERIOD OF AVAILABILITY.—

''(1) OBLIGATION WITHIN 180 DAYS.—

''(A) IN GENERAL.—Funds allocated to a State under this section shall be obligated by the State not later than 180 days after the date of apportionment.

''(B) UNOBLIGATED FUNDS.—Any amounts that remain unobligated at the end of that period shall be allocated in accordance with subsection (d).

''(2) OBLIGATION BY END OF FISCAL YEAR.—

''(A) IN GENERAL.—All funds allocated or reallocated under this section shall remain available for obligation until the last day of the fiscal year for which the funds are apportioned.

''(B) UNOBLIGATED FUNDS.—Any amounts allocated that remain unobligated at the end of the fiscal year shall lapse.

''(d) REDISTRIBUTION OF ALLOCATED FUNDS AND OBLIGATION AUTHORITY.—

''(1) IN GENERAL.—On the date that is 180 days after the date of allocation, or as soon thereafter as practicable, for each fiscal year, the Secretary shall—

''(A) withdraw—

''(i) any funds allocated to a State under this section that remain unobligated; and

''(ii) an equal amount of obligation authority provided for the use of the funds in accordance with section 1101(13) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003; and

''(B) reallocate the funds and redistribute the obligation authority to States that—

''(i) have fully obligated all amounts allocated under this section for the fiscal year; and

''(ii) demonstrate that the State is able to obligate additional amounts for projects eligible under this section before the end of the fiscal year.

''(2) EQUITY BONUS.—The calculation and distribution of funds under section 105 shall not be adjusted as a result of the allocation of funds under this subsection.

''(e) FEDERAL SHARE PAYABLE.—The Federal share payable for a project funded under this section shall be determined in accordance with section 120.''.

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code, is amended by adding after the item relating the section 138 the following:

''105. Weighted high traffic density apportionment program.''.

SEC. 1202. FUTURE OF SURFACE TRANSPORTATION SYSTEM.

SA 2498. Ms. MURKOWSKI (for herself and Mr. STEVENS) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 39, between lines 22 and 23, insert the following:

(17) DENALI ACCESS SYSTEM.—For the Denali Access System under section 309 of the Denali Commission Act of 1998 (42 U.S.C. 3121 note; Public Law 105–277), $50,000,000 for each of fiscal years 2004 through 2009.

SA 2499. Ms. MURKOWSKI (for herself and Mr. STEVENS) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 389, between lines 15 and 16, insert the following:

SEC. 18___. DENALI ACCESS SYSTEM.

(a) IN GENERAL.—The Denali Commission Act of 1998 (42 U.S.C. 3121 note; Public Law 105–277) is amended—

(1) by redesignating section 309 as section 310; and

(2) by inserting after section 308 the following:

''SEC. 309. DENALI ACCESS SYSTEM.

''(a) PURPOSE.—It is the purpose of this section to fund the construction of roads necessary to connect isolated rural communities to a road system and to construct essential access routes within isolated communities.

''(b) DEFINITIONS.—In this section:

''(1) STATE.—The term 'State' means the State of Alaska.

''(2) SYSTEM.—The term 'System' means the Denali Access System constructed under subsection (c).

''(c) PROGRAM.—The Secretary shall establish a program that provides for the transfer to the Commission of funds for the costs of construction (including the costs of planning, design, engineering, permitting, right-of-way acquisition, utility relocation, project management, and maintenance) of segments of the System in the State.

''(d) DESIGNATION OF SYSTEM BY COMMISSION.—The Commission shall submit to the Secretary—

''(1) designations by the Commission of the general location and description of segments comprising the System;

''(2) priorities for construction of segments of the System; and

''(3) other criteria applicable to the program established under this section.

''(e) CONNECTING INFRASTRUCTURE.—In carrying out this section, the Commission may construct such access infrastructure as the Commission determines to be necessary to provide for adequate surface, water, or air access for communities and regions in the State.

''(f) DESIGN STANDARDS.—Each project carried out under this section shall use technology and design standards determined by the Commission to be appropriate for the associated segments of the System.

''(g) ADDITION TO PUBLIC TRANSPORTATION SYSTEMS.—At the request of the Governor of the State, each completed segment of the System may be added to the National Highway System or other public transportation system, as appropriate, under the conditions applicable to other segments of that system in the State.

''(h) PREFERENCE TO ALASKA MATERIALS AND PRODUCTS.—In the construction of the System under this section, the Commission—

''(1) shall, to the maximum extent practicable, encourage the use of employees and businesses that are residents of the State; and

''(2) may give preference—

''(A) to the use of materials and products produced in the State; and

''(B) with respect to construction projects in the State, to local residents and firms.

''(i) MATCHING FUNDS.—Notwithstanding any other provision of law—

''(1) funds made available under this section may be used as matching shares for any other Federal funds; and

''(2) Federal funds from any other source may be used as matching funds for funds made available under this section if the use of those Federal funds would contribute to the purposes for which funds are made available under this section, as determined by the State.

''(j) LEAD AGENCY.—The Secretary shall delegate authority to the Commission to serve as the lead agency in determining the purpose of and need for, and in developing and implementing all segments of, the System.

''(k) OBLIGATION OF FUNDS.—Funds made available to carry out this section shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code.''.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 310 of the Denali Commission Act of 1998 (42 U.S.C. 3121 note; Public Law 105–277) (as redesignated by subsection (a)) is amended by striking subsection (a) and inserting the following:

''(a) IN GENERAL.—There are authorized to be appropriated to the Commission—

''(1) to carry out the duties of the Commission under this title (other than section 309), and in accordance with the work plan approved under section 304, such sums as are necessary for each fiscal year; and

''(2) to carry out section 309, $50,000,000 for each of fiscal years 2004 through 2009.''.

SA 2500. Ms. MURKOWSKI (for herself, Mr. INHOFE, Mr. STEVENS, and Mr. CAMPBELL) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 119, strike line 6 and all that follows through page 129, line 18, and insert the following:

highway safety matters (including motorcyclist safety); or

''(ii) enforce highway safety laws.

''(4) STATE HIGHWAY SAFETY IMPROVEMENT PROGRAM.—The term 'State highway safety improvement program' means projects or strategies included in the State strategic highway safety plan carried out as part of the State transportation improvement program under section 135(f).

''(5) STATE STRATEGIC HIGHWAY SAFETY PLAN.—The term 'State strategic highway safety plan' means a plan developed by the State transportation department that—

''(A) is developed after consultation with—

''(i) a highway safety representative of the Governor of the State;

''(ii) regional transportation planning organizations and metropolitan planning organizations, if any;

''(iii) representatives of major modes of transportation (including motorcycling);

''(iv) State and local traffic enforcement officials;

''(v) persons responsible for administering section 130 at the State level;

''(vi) representatives conducting Operation Lifesaver;

''(vii) representatives conducting a motor carrier safety program under section 31104 or 31107 of title 49;

''(viii) motor vehicle administration agencies; and

''(ix) other major State and local safety stakeholders;

''(B) analyzes and makes effective use of State, regional, or local crash data;

''(C) addresses engineering, management, operation, education, enforcement, and emergency services elements of highway safety as key factors in evaluating highway projects;

''(D) considers safety needs of, and high-fatality segments of, public roads;

''(E) considers the results of State, regional, or local transportation and highway safety planning processes;

''(F) describes a program of projects or strategies to reduce or eliminate safety hazards;

''(G) is approved by the Governor of the State or a responsible State agency; and

''(H) is consistent with the requirements of section 135(f).

''(b) PROGRAM.—

''(1) IN GENERAL.—The Secretary shall carry out a highway safety improvement program.

''(2) PURPOSE.—The purpose of the highway safety improvement program shall be to achieve a significant reduction in traffic fatalities and serious injuries on public roads.

''(c) ELIGIBILITY.—

''(1) IN GENERAL.—To obligate funds apportioned under section 104(b)(5) to carry out this section, a State shall have in effect a State highway safety improvement program under which the State—

''(A) develops and implements a State strategic highway safety plan that identifies and analyzes highway safety problems and opportunities as provided in paragraph (2);

''(B) produces a program of projects or strategies to reduce identified safety problems;

''(C) evaluates the plan on a regular basis to ensure the accuracy of the data and priority of proposed improvements; and

''(D) submits to the Secretary an annual report that—

''(i) describes, in a clearly understandable fashion, not less than 5 percent of locations determined by the State, using criteria established in accordance with paragraph (2)(B)(ii), as exhibiting the most severe safety needs; and

''(ii) contains an assessment of—

''(I) potential remedies to hazardous locations identified;

''(II) estimated costs associated with those remedies; and

''(III) impediments to implementation other than cost associated with those remedies.

''(2) IDENTIFICATION AND ANALYSIS OF HIGHWAY SAFETY PROBLEMS AND OPPORTUNITIES.—As part of the State strategic highway safety plan, a State shall—

''(A) have in place a crash data system with the ability to perform safety problem identification and countermeasure analysis;

''(B) based on the analysis required by subparagraph (A)—

''(i) identify hazardous locations, sections, and elements (including roadside obstacles, railway-highway crossing needs, and unmarked or poorly marked roads) that constitute a danger to motorists (including motorcyclists), bicyclists, pedestrians, and other highway users; and

''(ii) using such criteria as the State determines to be appropriate, establish the relative severity of those locations, in terms of accidents, injuries, deaths, traffic volume levels, and other relevant data;

''(C) adopt strategic and performance-based goals that—

''(i) address traffic safety, including behavioral and infrastructure problems and opportunities on all public roads;

''(ii) focus resources on areas of greatest need; and

''(iii) are coordinated with other State highway safety programs;

''(D) advance the capabilities of the State for traffic records data collection, analysis, and integration with other sources of safety data (such as road inventories) in a manner that—

''(i) complements the State highway safety program under chapter 4 and the commercial vehicle safety plan under section 31102 of title 49;

''(ii) includes all public roads;

''(iii) identifies hazardous locations, sections, and elements on public roads that constitute a danger to motorists (including motorcyclists), bicyclists, pedestrians, and other highway users; and

''(iv) includes a means of identifying the relative severity of hazardous locations described in clause (iii) in terms of accidents, injuries, deaths, and traffic volume levels;

''(E)(i) determine priorities for the correction of hazardous road locations, sections, and elements (including railway-highway crossing improvements), as identified through crash data analysis;

''(ii) identify opportunities for preventing the development of such hazardous conditions; and

''(iii) establish and implement a schedule of highway safety improvement projects for hazard correction and hazard prevention; and

''(F)(i) establish an evaluation process to analyze and assess results achieved by highway safety improvement projects carried out

in accordance with procedures and criteria established by this section; and

''(ii) use the information obtained under clause (i) in setting priorities for highway safety improvement projects.

''(d) ELIGIBLE PROJECTS.—

''(1) IN GENERAL.—A State may obligate funds apportioned to the State under section 104(b)(5) to carry out—

''(A) any highway safety improvement project on any public road or publicly owned bicycle or pedestrian pathway or trail; or

''(B) as provided in subsection (e), for other safety projects.

''(2) USE OF OTHER FUNDING FOR SAFETY.—

''(A) EFFECT OF SECTION.—Nothing in this section prohibits the use of funds made available under other provisions of this title for highway safety improvement projects.

''(B) USE OF OTHER FUNDS.—States are encouraged to address the full scope of their safety needs and opportunities by using funds made available under other provisions of this title (except a provision that specifically prohibits that use).

''(e) FLEXIBLE FUNDING FOR STATES WITH A STRATEGIC HIGHWAY SAFETY PLAN.—

''(1) IN GENERAL.—To further the implementation of a State strategic highway safety plan, a State may use up to 25 percent of the amount of funds made available under this section for a fiscal year to carry out safety projects under any other section as provided in the State strategic highway safety plan.

''(2) OTHER TRANSPORTATION AND HIGHWAY SAFETY PLANS.—Nothing in this subsection requires a State to revise any State process, plan, or program in effect on the date of enactment of this section.

''(f) REPORTS.—

''(1) IN GENERAL.—A State shall submit to the Secretary a report that—

''(A) describes progress being made to implement highway safety improvement projects under this section;

''(B) assesses the effectiveness of those improvements; and

''(C) describes the extent to which the improvements funded under this section contribute to the goals of—

''(i) reducing the number of fatalities on roadways;

''(ii) reducing the number of roadway-related injuries;

''(iii) reducing the occurrences of roadway-related crashes;

''(iv) mitigating the consequences of roadway-related crashes; and

''(v) reducing the occurrences of roadway-railroad grade crossing crashes.

''(2) CONTENTS; SCHEDULE.—The Secretary shall establish the content and schedule for a report under paragraph (1).

''(3) TRANSPARENCY.—The Secretary shall make reports under paragraph (1) available to the public through—

''(A) the Internet site of the Department; and

''(B) such other means as the Secretary determines to be appropriate.

''(4) DISCOVERY AND ADMISSION INTO EVIDENCE OF CERTAIN REPORTS, SURVEYS, AND INFORMATION.—Notwithstanding any other provision of law, no report, survey, schedule, list, or other data compiled or collected for any purpose directly relating to paragraph (1) or subsection (c)(1)(D), or published by the Secretary in accordance with paragraph (3), shall be—

''(A) subject to discovery or admitted into evidence in any Federal or State judicial proceeding; or

''(B) considered for any other purpose in any action for damages arising from an occurrence at a location identified or addressed in the report, survey, schedule, list, or other collection of data.

''(g) FEDERAL SHARE OF HIGHWAY SAFETY IMPROVEMENT PROJECTS.—Except as provided in sections 120 and 130, the Federal share of the cost of a highway safety improvement project carried out with funds made available under this section shall be 90 percent.

''(h) FUNDS FOR BICYCLE AND PEDESTRIAN SAFETY.—A State shall allocate for bicycle and pedestrian improvements in the State a percentage of the funds remaining after implementation of sections 130(e) and 150, in an amount that is equal to or greater than the percentage of all fatal crashes in the States involving bicyclists and pedestrians.

''(i) ROADWAY SAFETY IMPROVEMENTS FOR OLDER DRIVERS AND PEDESTRIANS.—For each of fiscal years 2004 through 2009, $25,000,000 is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for projects in all States to improve traffic signs and pavement markings in a manner consistent with the recommendations included in the publication of the Federal Highway Administration entitled 'Guidelines and Recommendations to Accommodate Older Drivers and Pedestrians (FHWA–RD–01–103)' and dated October 2001.''.

(2) MOTORCYCLIST SAFETY—

(A) MOTORCYCLIST SAFETY TRAINING AND MOTORIST AWARENESS PROGRAMS.—

(i) IN GENERAL.—Chapter 4 of title 23, United States Code, is amended—

(I) by redesignating section 413 (as added by section 4161(a)) as section 414; and

(II) by adding after section 414 (as redesignated by subparagraph (A)) the following:

''§ 415. Motorcyclist safety training and motorist awareness programs

''(a) DEFINITIONS.—In this section:

''(1) MOTORCYCLIST SAFETY TRAINING.—The term 'motorcyclist safety training' means any formal program of instruction that—

''(A) provides accident avoidance and other safety-oriented operational skills to motorcyclists, including innovative training opportunities to meet unique regional needs; and

''(B) is approved for use in a State by the designated State authority having jurisdiction over motorcyclist safety issues, which may include the State Motorcycle Safety Administrator or a motorcycle advisory council appointed by the Governor of the State.

''(2) MOTORIST AWARENESS.—The term 'motorist awareness' means individual or collective motorist awareness of—

''(A) the presence of motorcycles on or near roadways; and

''(B) safe driving practices that avoid injury to motorcyclists, bicyclists, and pedestrians.

''(3) MOTORIST AWARENESS PROGRAM.—The term 'motorist awareness program' means any informational or public awareness program designed to enhance motorist awareness that is developed by or in coordination with the designated State authority having jurisdiction over motorcyclist safety issues, which may include the State Motorcycle Safety Administrator or, in the absence of a State Administrator, a motorcycle advisory council appointed by a Governor of the State.

''(4) STATE.—The term 'State' means—

''(A) a State;

''(B) the District of Columbia; and

''(C) the Commonwealth of Puerto Rico.

''(b) ELIGIBILITY.—Not later than 90 days after the date of enactment of this section, on September 1, 2004, and on September 1 of each fiscal year thereafter, and based on a letter of certification provided by the Governor of each State, the Secretary shall develop and publish a list of States that, as of the date of publication of the list, have established motorcyclist safety training programs and motorist awareness programs, including information that indicates—

''(1) the level of base funding provided for each such program for the applicable fiscal year; and

''(2) whether the level of base funding provided for each such program for the applicable fiscal year was increased, decreased, or maintained from the level of funding provided for the program for the previous fiscal year.

''(c) ALLOCATION.—Not later than 120 days after the date of enactment of this section, on October 1, 2004, and on October 1 of each fiscal year thereafter, the Secretary shall allocate to each State for which the base funding allocated for motorcyclist safety training and motorist awareness programs was not less than the amount allocated for the previous year, not less than $100,000, to be used only for motorcyclist safety training and motorist awareness programs, including—

''(1) improvements to motorcyclist safety training curricula;

''(2) improvements in program delivery to both urban and rural areas, including—

''(A) procurement or repair of practice motorcycles;

''(B) instructional aides;

''(C) mobile training units; and

''(D) leasing or purchase of facilities for classroom instruction and closed-course skill training;

''(3) an increase in the recruitment or retention of motorcyclist safety training instructors certified by a State Motorcycle Safety Administrator or motorcycle advisory council appointed by the Governor; and

''(4) public awareness, public service announcements, and other outreach programs to enhance motorist awareness.

''(d) CONTRACTS WITH ORGANIZATIONS.—The Secretary may enter into an agreement with an organization that is recommended by and represents the interests of State Motorcycle Safety Administrators to review, determine, and disseminate a description of best practices in motorcycle safety training and motorist awareness, and to recommend such practices, to State administrators, governors, State legislative bodies, and chief licensing officers of States.

''(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section from the Highway Trust Fund (other than the Mass Transit Account) $5,200,000 for each of fiscal years 2004 through 2009.''.

(ii) CONFORMING AMENDMENT.—The analysis for chapter 4 of title 23, United States Code, is amended—

(I) by redesignating the item relating to section 413 (as added by section 4161(b)) as relating to section 414; and

(II) by adding at the end the following:

''415. Motorcyclist safety training and motorist awareness programs.''.

(B) REDUCTION OF CRASHES INVOLVING MOTORCYCLES.—Section 402 of title 23, United States Code, is amended by inserting after subsection (h) (as added by section 4103(c)) the following:

''(i) REDUCTION OF CRASHES INVOLVING MOTORCYCLES.—

''(1) IN GENERAL.—As part of the program carried out under this section, the Secretary shall make annual grants to States to pay the Federal share of expanding programs to reduce single- and multiple-vehicle crashes involving motorcycles.

''(2) ELIGIBILITY.—To be eligible for a grant under this subsection, a State shall demonstrate to the Secretary that for each of fiscal years 2004 and 2005, at least 1, for fiscal years 2006 and 2007, at least 2, and for fiscal

years 2008 and 2009, at least 3, of the programs or conditions described in the following subparagraphs apply to the State:

''(A) DRIVERS LICENSE SUSPENSION OR REVOCATION SYSTEM.—The State has implemented a statewide drivers license suspension or revocation system that suspends a drivers license for at least 1 year for an individual who operates a motor vehicle in a reckless or negligent manner that causes—

''(i) an accident with a motorcycle or other motor vehicle; and

''(ii) injury or death to an individual.

''(B) REDUCTION OF CRASH RATE INVOLVING MOTORCYCLES.—The State demonstrates to the Secretary that, for the year following receipt of a grant under this section, there has been a reduction in the crash rate of motor vehicles involving motorcycles in the State (expressed as a function of crashes per 10,000 motorcycle registrations as compared to the previous year).

''(C) MOTORCYCLE RIDER TRAINING COURSES.—The State demonstrates to the Secretary that, between the fiscal year for which a grant is received under this section and the preceding fiscal year, there has been no reduction in the number of individuals enrolled in motorcycle rider training based on a course of instruction approved for the State by the State Motorcycle Safety Administrator or, in the absence of a State Administrator, by a motorcycle advisory council appointed by the Governor of the State.

''(D) MOTORIST AWARENESS.—The State—

''(i) has implemented a statewide program to enhance motorist awareness of motorcyclists; and

''(ii) demonstrates to the Secretary that, between each fiscal year for which a grant is received under this section and the preceding fiscal year, there has been a reduction in the rate of multiple-vehicle collisions in the State involving motorcycles (expressed as a function of crashes per 10,000 motorcycle registrations).

''(E) IMPAIRED MOTORCYCLE OPERATION.—The State—

''(i) has implemented a statewide program to reduce impaired motorcycle operation; and

''(ii) demonstrates to the Secretary that, between each fiscal year for which a grant is received under this section and the preceding fiscal year, there has been a reduction in the rate of reported accidents involving alcohol- or drug-impaired motorcycle operators (expressed as a function of 10,000 motorcycle registrations).

''(F) MOTORCYCLIST TRAINING.—The State—

''(i) has implemented a statewide program to expedite delivery of motorcyclist training to urban and rural areas; and

''(ii) demonstrates to the Secretary that, between each fiscal year for which a grant is received under this section and the preceding fiscal year, there has been a reduction in the rate of reported accidents involving motorcyclists with improper licenses or lacking a motorcycle endorsement (expressed as a function of 10,000 motorcycle registrations).

''(3) FEDERAL SHARE.—The Federal share of the cost of implementing and enforcing a program described in paragraph (2) for a fiscal year shall not exceed (as determined by the Secretary)—

''(A) for the first 3 years for which a State receives a grant under this subsection, 50 percent; and

''(B) for each additional year for which a State receives a grant under this subsection, 25 percent.

''(4) MAINTENANCE OF EFFORT.—No grant may be made to a State under this subsection for any fiscal year unless the State enters into such agreement with the Secretary as the Secretary may require to ensure that the State will maintain the aggregate expenditures of the State from all other sources for motorcycle safety programs at a level that is at or above the average level of such expenditures for each of the 2 fiscal years preceding the date of enactment of this section, as determined by the Secretary.

''(5) FUNDING.—

''(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall use funds authorized to be appropriated to carry out this section for a fiscal year to carry out this subsection for the fiscal year.

''(B) LIMITATION.—The amount of a grant made to a State under this subsection for a fiscal year shall not exceed 10 percent of the amount apportioned to the State under this section for fiscal year 2002.''.

SA 2501. Mr. SPECTER submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 384, strike line 21 and all that follows through page 386, line 19, and insert the following:

SEC. 1818. HIGH-SPEED MAGNETIC LEVITATION SYSTEM DEPLOYMENT PROGRAM.

(a) IN GENERAL.—Section 322 of title 23, United States Code, is amended to read as follows:

''§ 322. High-speed magnetic levitation system deployment program

''(a) DEFINITIONS.—In this section:

''(1) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Federal Railroad Administration.

''(2) ELIGIBLE PROJECT COSTS.—

''(A) IN GENERAL.—The term 'eligible project costs' means the capital cost of the fixed guideway infrastructure of a MAGLEV project, including land, piers, guideways, propulsion equipment and other components attached to guideways, power distribution facilities (including substations), control and communications facilities, access roads, and storage, repair, and maintenance facilities.

''(B) INCLUSION.—The term 'eligible project costs' includes the costs of preconstruction planning activities.

''(C) EXCLUSION.—The term 'eligible project costs' does not include costs incurred for a new station.

''(3) FULL PROJECT COSTS.—The term 'full project costs' means the total capital costs of a MAGLEV project, including eligible project costs and the costs of stations, vehicles, and equipment.

''(4) MAGLEV.—

''(A) IN GENERAL.—The term 'MAGLEV' means transportation systems in revenue service employing magnetic levitation that would be capable of safe use by the public at a speed in excess of 240 miles per hour.

''(B) INCLUSION.—The term 'MAGLEV' includes power, control, and communication facilities required for the safe operation of the vehicles within a system described in subparagraph (A).

''(b) PHASE I—PRECONSTRUCTION PLANNING.—

''(1) IN GENERAL.—A State, State-designated authority, multi-State-designated authority, or special purpose entity may apply to the Administrator for grants to conduct preconstruction planning for proposed new MAGLEV projects, or extensions to MAGLEV systems planned, studied, or deployed under this or any other program.

''(2) APPLICATIONS.—An application for a grant under this subsection shall include a description of the proposed MAGLEV project, including, at a minimum—

''(A) a description of the purpose and need for the proposed project;

''(B) a description of the travel market to be served;

''(C) a description of the technology selected for the project;

''(D) forecasts of ridership and revenues;

''(E) a description of preliminary engineering that is sufficient to provide a reasonable estimate of the capital cost of constructing, operating, and maintaining the project;

''(F) a realistic schedule for construction and equipment for the project;

''(G) an environmental assessment;

''(H) a preliminary identification of the 1 or more organizations that will construct and operate the project; and

''(I) a cost-benefit analysis and tentative financial plan for construction and operation of the project.

''(3) DEADLINE FOR APPLICATIONS.—The Administrator shall establish an annual deadline for receipt of applications under this subsection.

''(4) EVALUATION.—The Administrator shall evaluate all applications received by the annual deadline to determine whether the applications meet criteria established by the Administrator.

''(5) SELECTION.—The Administrator shall select for Federal support for preconstruction planning any project that the Administrator determines meets the criteria.

''(c) PHASE II—ENVIRONMENTAL IMPACT STUDIES.—

''(1) IN GENERAL.—A State, State-designated authority, multi-State-designated authority, or special purpose entity that has conducted (under this section or any other provision of law) 1 or more studies that address each of the requirements of subsection (b)(2) may submit the studies to the Administrator, to support an application for Federal funding to assist in—

''(A) preparing an environmental impact statement or similar analysis required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

''(B) planning for construction, operation, and maintenance of a MAGLEV project.

''(2) ENVIRONMENTAL IMPACT STATEMENT.—The final environmental impact statement or analysis described in paragraph (1)(A) shall—

''(A) identify a preferred alternative; and

''(B) describe the organization that will own, plan, finance, construct, equip, operate, and maintain the proposed project.

''(3) DEADLINE FOR APPLICATIONS.—

''(A) IN GENERAL.—The Administrator shall—

''(i) establish an annual deadline for receipt of Phase II applications; and

''(ii) evaluate all applications received by that deadline in accordance with criteria established under subparagraph (B).

''(B) CRITERIA.—The Administrator shall establish criteria to evaluate applications that include whether—

''(i) the technology selected is available for deployment at the time of the application;

''(ii) operating revenues combined with known and dedicated sources of other revenues in any year will exceed annual operation and maintenance costs;

''(iii) over the life of the MAGLEV project, total project benefits will exceed total project costs; and

''(iv) the proposed capital financing plan is realistic and does not assume Federal assistance that is greater than the maximums specified in clause (ii).

''(C) PROJECTS SELECTED.—If the Administrator determines that a MAGLEV project meets the criteria established under subparagraph (B), the Administrator shall—

''(i) select that project for Federal Phase II support; and

''(ii) publish in the Federal Register a notice of intent to prepare an environmental impact statement or similar analysis required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

''(d) PHASE III—DEPLOYMENT.—

''(1) IN GENERAL.—A proposed owner of a MAGLEV project that has initiated a final environmental impact statement or similar analysis required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and has refined planning for the construction, operation, and maintenance of the MAGLEV project, under this or any other program, may submit an application to the Administrator for Federal funding of a portion of the capital costs of planning, financing, constructing, and equipping the preferred alternative identified in the final environmental impact statement or analysis.

''(2) RECORD OF DECISION.—

''(A) IN GENERAL.—The Administrator shall publish a record of decision for each application, based on the information provided in the application and the environmental impact statement or similar analysis required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

''(B) DECISION TO CONSTRUCT.—The Administrator shall issue a record of decision to construct for a project determined by the Administrator—

''(i) to have a high probability of being financed, constructed, equipped, and operated by the proposed owners; and

''(ii) to meet other criteria established by the Administrator.

''(C) FEDERAL FUNDING.—To the extent that funds are available, the Administrator shall negotiate a Federal funding agreement for each project that is recommended for deployment in the record of decision.

''(e) FINANCIAL ASSISTANCE.—

''(1) IN GENERAL.—The Secretary shall make available financial assistance to pay the Federal share of the full project costs of projects selected under this section.

''(2) PREVAILING WAGE AND BUY AMERICA REQUIREMENTS.—Sections 5333(a) and 5323(j) of title 49 shall apply to financial assistance made available under this section and projects funded with that assistance.

''(3) FEDERAL SHARE.—

''(A) PHASE I AND PHASE II.—For Phase I—preconstruction planning and Phase II—environmental impact studies carried out under subsections (b) and (c), respectively, the Federal share of the costs of the planning and studies shall be not more than ⅔ of the full cost of the planning and studies.

''(B) PHASE III.—For Phase III—deployment projects carried out under subsection (d), not more than ⅔ of the full capital cost of such a project shall be made available from funds appropriated for this program.

''(4) FUNDING.—

''(A) CONTRACT AUTHORITY; AUTHORIZATION OF APPROPRIATIONS.—

''(i) IN GENERAL.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) for fiscal years 2004 through 2009 to carry out this section—

''(I) $10,000,000 for Phase I—preconstruction planning studies;

''(II) $20,000,000 for Phase II—environmental impact studies; and

''(III) $60,000,000 for Phase III—deployment projects.

''(ii) OBLIGATION AUTHORITY.—Funds authorized by this subparagraph shall be available for obligation in the same manner as if the funds were apportioned under chapter I, except that—

''(I) the Federal share of the cost of the project shall be in accordance with paragraph (2); and

''(II) the availability of the funds shall be in accordance with subsection (f).

''(B) NONCONTRACT AUTHORITY AUTHORIZATION OF APPROPRIATIONS.—

''(i) PHASE I.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out Phase I—preconstruction planning studies under subsection (b)—

''(I) $12,000,000 for fiscal year 2004;

''(II) $6,000,000 for fiscal year 2005; and

''(III) $2,000,000 for each of fiscal years 2006 through 2009.

''(ii) PHASE II.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out Phase II—environmental impact studies under subsection (c)—

''(I) $5,000,000 for fiscal year 2004;

''(II) $5,000,000 for fiscal year 2005;

''(III) $5,000,000 for fiscal year 2006;

''(IV) $5,000,000 for fiscal year 2007; and

''(V) $5,000,000 for fiscal year 2008.

''(iii) PHASE III.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out Phase III—deployment projects under subsection (d)—

''(I) $355,500,000 for fiscal year 2004;

''(II) $376,000,000 for fiscal year 2005;

''(III) $392,000,000 for fiscal year 2006;

''(IV) $410,000,000 for fiscal year 2007;

''(V) $423,000,000 for fiscal year 2008; and

''(VI) $443,000,000 for fiscal year 2009.

''(iv) PROGRAM ADMINISTRATION.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out administration of this program—

''(I) $2,500,000 for fiscal year 2004;

''(II) $13,000,000 for fiscal year 2005;

''(III) $16,000,000 for fiscal year 2006;

''(IV) $8,000,000 for fiscal year 2007; and

''(V) $5,000,000 for each of fiscal years 2008 and 2009.

''(v) RESEARCH AND DEVELOPMENT.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out research and development activities to reduce MAGLEV deployment costs $4,000,000 for each of fiscal years 2004 through 2009.

''(f) AVAILABILITY OF FUNDS.—Funds made available under subsection (e) shall remain available until expended.

''(g) OTHER FEDERAL FUNDS.—Funds made available to a State to carry out the surface transportation program under section 133 and the congestion mitigation and air quality improvement programs under section 149 may be used by any State to pay a portion of the full project costs of an eligible project selected under this section, without requirement for non-Federal funds.

''(h) OTHER FEDERAL FUNDS.—A project selected for funding under this section shall be eligible for other forms of financial assistance provided by this title and title V of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821 et seq.), including loans, loan guarantees, and lines of credit.

''(i) MANDATORY ADDITIONAL SELECTION.—

''(1) IN GENERAL.—Subject to paragraph 2, in selecting projects for preconstruction planning, deployment, and financial assistance, the Administrator may only provide funds to MAGLEV projects that meet the criteria established under subsection (b)(4).

''(2) PRIORITY FUNDING.—The Administrator shall give priority funding to a MAGLEV project that—

Has received funding prior to the date of enactment of this section as a result of evaluation and contracting procedures for MAGLEV transportation, to the extent that the project continues to fulfill the requirements of this section;

''(B) to the maximum extent practicable, has met safety guidelines established by the Administrator to protect the health and safety of the public;

''(C) is based on designs that ensure the greatest life cycle advantages for the project;

''(D) contains domestic content of at least 70 percent; and

''(E) Those projects eligible for (d) Phase III—Deployment which were developed through a public-private partnership shall be implemented through the efforts of such a public-private partnership with the private sector taking a leadership position with regard to design, development and deployment those private sector industry participants involved throughout the development of the various projects under TEA–21 Section 1218, shall continue to participate in the Phase III-Deployment effort, if the private sector industry participants so choose.

SA 2502. Mr. BOND submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 876, strike line 12 and all that follows through the matter between lines 6 and 7 on page 880.

SA 2503. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 1609.

SA 2504. Ms. MURKOWSKI submitted an amendment intended to be proposed by her to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, add the following:

SEC. . NATIONAL TRIBAL ROADS INVENTORY.

(a) IN GENERAL.—Chapter 2 of title 23, United States Code (as amended by section), is amended by adding at the end the following:

''§ . National tribal roads inventory

''(a) DEFINITIONS.—In this section:

''(1) INVENTORY.—The term 'inventory' means the comprehensive national tribal roads inventory completed under subsection (b).

''(2) NATIVE VILLAGE.—The term 'Native village' has the meaning given the term in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602).

''(3) PRIMARY ACCESS ROUTE.—

''(A) IN GENERAL.—The term 'primary access route' means, as determined by a Native village in accordance with the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), a route within the boundaries of land held or managed by a Village Corporation for the Native village that—

''(i) is most commonly used;

''(ii)(I) is a community street; or

''(II) provides access to the center of the Native village by the shortest practicable route; or

''(iii) in the case of a proposed route, is the shortest practicable route connecting 2 points.

''(B) INCLUSIONS.—The term 'primary access route' includes a road or trail that—

''(i) connects 2 villages (including a bridge over water);

''(ii) leads to a landfill;

''(iii) leads to a drinking water source;

''(iv) leads to a natural resource identified for economic development; and

''(v) provides access to an intermodal terminus such as an airport, harbor, or boat landing.

''(4) VILLAGE CORPORATION.—The term 'Village Corporation' has the meaning given the term in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602).

''(b) INVENTORY.—

''(1) IN GENERAL.—Not later than 2 years after the date of enactment of this section, the Secretary, in conjunction with the Secretary of the Interior, shall complete a comprehensive national tribal roads inventory.

''(2) INCLUSIONS.—The Secretary shall include in the inventory—

''(A) routes previously included in any similar inventory; and

''(B) primary access routes.

''(c) AVAILABILITY OF ACTIVITIES, FUNCTIONS, AND SERVICES.—All activities, functions, and services relating to or associated with the inventory shall be available to Indian tribes and tribal organizations in accordance with the contracting and compacting provisions of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b et seq.).

''(d) REPORT.—Not later than January 1, 2006, the Secretary shall submit to Congress a report that includes the data gathered in completing, and the results of, the inventory.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 2 of title 23, United States Code (as amended by section), is amended by adding at the end the following:

'' . National tribal roads inventory.''.

SA 2505. Mr. BUNNING submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 1406.

SA 2506. Mr. BUNNING submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. GRANTS IN AID FOR AIRPORTS.

(a) APPROPRIATIONS TRANSFER.—Title I of Division I of the Consolidated Appropriations Resolution, 2003 (Public Law 108–7) is amended—

(1) under the heading ''GRANTS-IN-AID FOR AIRPORTS''—

(A) by striking ''$3,100,000,000'' and inserting ''$3,100,500,000''; and

(B) by striking ''$3,400,000,000'' and inserting ''$3,400,500,000''; and

(2) under the heading ''CAPITAL INVESTMENT GRANTS'', by striking ''$607,200,000'' each place it appears and inserting ''$606,700,000''.

(b) EARMARK ADJUSTMENT.—

(1) INCREASE.—Page 1258 of House Conference Report 108–10 is deemed to be amended by increasing the amount earmarked for Grants-in-Aid for Airports, high priority projects by $500,000, which is reserved for various improvements to the Henderson City-County, Kentucky Airport.

(2) OFFSET.—Page 1297 of House Conference Report 108–10 is deemed to be amended by striking the line that earmarks $500,000 for the Henderson County, Kentucky bus facility.

SA 2507. Mr. PRYOR (for himself and Mrs. LINCOLN) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 389, between lines 15 and 16, insert the following:

SEC. 1823. DEPARTEE CREEK WATERSHED PROJECT.

Pursuant to Subpart 505D of the National Watershed Manual, the Committee on Environment and Public Works of the Senate approves of the watershed plan and environmental impact statement submitted by the Departee Creek Watershed Project in Independence and Jackson Counties, Arkansas.

SA 2508. Mr. SMITH submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 1148, between lines 6 and 7, insert the following:

SEC. 5454. CREDIT FOR MAINTENANCE OF RAILROAD TRACK.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business-related credits), as amended by section 5453 of this Act, is further amended by adding at the end the following new section:

''SEC. 45I. RAILROAD TRACK MAINTENANCE CREDIT.

''(a) GENERAL RULE.—For purposes of section 38, the railroad track maintenance credit determined under this section for the taxable year is the amount of qualified railroad track maintenance expenditures paid or incurred by the taxpayer during the taxable year.

''(b) LIMITATION.—The credit allowed under subsection (a) shall not exceed the product of—

''(1) $10,000, and

''(2) the number of miles of railroad track owned or leased by the taxpayer as of the close of the taxable year.

''(c) QUALIFIED RAILROAD TRACK MAINTENANCE EXPENDITURES.—For purposes of this section, the term 'qualified railroad track maintenance expenditures' means expenditures (whether or not otherwise chargeable to capital account) for maintaining railroad track (including roadbed, bridges, and related track structures) owned or leased by the taxpayer of Class II or Class III railroads (as determined by the Surface Transportation Board).

''(d) CONTROLLED GROUPS.—For purposes of subsection (b), rules similar to the rules of paragraph (1) of section 41(f) shall apply for purposes of this subsection.

''(e) BASIS ADJUSTMENT.—For purposes of this subtitle, if a credit is allowed under this section with respect to any railroad track, the basis of such track shall be reduced by the amount of the credit so allowed.

''(f) APPLICATION OF SECTION.—This section shall apply to qualified railroad track maintenance expenditures paid or incurred during taxable years beginning after December 31, 2003, and before January 1, 2009.

''(g) CREDIT TRANSFERABILITY.—

''(1) IN GENERAL.—Any credit allowable under this section may be transferred as provided in this subsection, and the determination as to whether the credit is allowable shall be made without regard to the tax-exempt status of the transferor.

''(2) TRANSFER TO ELIGIBLE TAXPAYER.—Any credit transferred under paragraph (1) shall be transferred to an eligible taxpayer. Any credit so transferred shall be allowed to the transferee, but the transferee may not assign such credit to any other person.

''(3) ELIGIBLE TAXPAYER.—For purposes of this subsection, the term 'eligible taxpayer' means—

''(A) any person who transports property using the rail facilities of the taxpayer or who furnishes railroad-related property or services to the taxpayer, and

''(B) any Class II or Class III railroad.

''(4) MINIMUM PRICE FOR TRANSFER.—No transfer shall be allowed under this subsection unless the transferor receives compensation for the credit transfer equal to at least 50 percent of the amount of credit transferred. The excess of the amount of credit transferred over the compensation received by the transferor for such transfer shall be included in the gross income of the transferee.''.

(b) LIMITATION ON CARRYBACK.—Section 39(d) of the Internal Revenue Code of 1986 (relating to transition rules) is amended by adding at the end the following new paragraph:

''(11) NO CARRYBACK OF RAILROAD TRACK MAINTENANCE CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the railroad track maintenance credit determined under section 45I may be carried to a taxable year beginning before January 1, 2004.''.

(c) CONFORMING AMENDMENTS.—

(1) Section 38(b) of the Internal Revenue Code of 1986 (relating to general business credit) is amended by striking ''plus'' at the end of paragraph (14), by striking the period at the end of paragraph (15) and inserting '', plus'', and by adding at the end the following new paragraph:

''(16) the railroad track maintenance credit determined under section 45I(a).''.

(2) Subsection (a) of section 1016 of such Code is amended by striking ''and'' at the end of paragraph (27), by striking the period at the end of paragraph (28) and inserting '', and'', and by adding at the end the following new paragraph:

''(29) in the case of railroad track with respect to which a credit was allowed under section 45G, to the extent provided in section 45I(e).''.

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986, as amended by section 5453 of this Act, is further amended by inserting after the item relating to section 45H the following new item:

''Sec. 45I. Railroad track maintenance credit.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

SA 2509. Mr. SMITH submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 91 (of the Committee Print for the proposed Federal Public Transportation Act of 2004), line 22 in Sec. 3012(a)'s proposed Sec. 5310(a)(1), insert a comma and the following phrase after the words ''transportation projects'': ''and operating costs associated with public transportation capital projects,''

On page 93, in Sec. 3012(a)'s proposed Sec. 5310(c)(1), replace the words ''IN GENERAL'' with ''CAPITAL PROJECTS'' at line 17, and add the following subparagraph after line 24:

''(C) OPERATING ASSISTANCE.—A grant made under this section for operating assistance may not exceed 50 percent of the net operating costs of the project, as determined by the Secretary.

SA 2510. Mr. GRAHAM of Florida (for himself and Mr. NELSON of Florida) submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 389, after line 15, insert the following:

SEC. ___. HIGH PRIORITY CORRIDORS.

Section 1105(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2032) is amended by adding at the end the following:

''(45) The Corridor consisting of I–95 from the border with Canada to the terminus of I–95 in the State of Florida.

''(46) The Corridor consisting of I–75 in the State of Florida.

''(47) The Corridor consisting of I–4 in the State of Florida.

''(48) United States Route 1 from Maine to its terminus in Florida.

''(49) Interstate Route 10 from Jacksonville, Florida, to Los Angeles, California.''.

SA 2511. Mr. DASCHLE submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 321, strike lines 15 through 22 and insert the following:

''(i) RESERVATION OF FUNDS.—In addition to any other funds made available for Indian reservation roads for each fiscal year, there is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) $15,000,000 for each of fiscal years 2004 through 2009 to carry out planning, design, engineering, for bridges located on Native American lands.

SA 2512. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 60, after line 25, add the following:

SEC. 1106. FUNDING FORMULA.

Notwithstanding any other provision of this Act, all transportation funding shall be determined using the formula under the Transportation Equity Act for the 21st Century (Public Law 105–178) as in effect before the date of enactment of this Act.

SA 2513. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle F of title V, insert the following:

SEC. ___. CREDIT FOR MAINTENANCE OF RAILROAD TRACK;

(a) CREDIT FOR MAINTENANCE OF RAILROAD TRACK.—

(1) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits) is amended by adding at the end the following new section:

''SEC. 45I. RAILROAD TRACK MAINTENANCE CREDIT.

''(a) GENERAL RULE.—For purposes of section 38, the railroad track maintenance credit determined under this section for the taxable year is 50 percent of the amount of qualified railroad track maintenance expenditures paid or incurred by an eligible taxpayer during the taxable year.

''(b) LIMITATION.—The credit allowed under subsection (a) shall not exceed the product of—

''(1) $20,000, and

''(2) the number of miles of railroad track owned or leased by the taxpayer as of the close of the taxable year.

''(c) QUALIFIED RAILROAD TRACK MAINTENANCE EXPENDITURES.—For purposes of this section, the term 'qualified railroad track maintenance expenditures' means expenditures (whether or not otherwise chargeable to capital account) for maintaining railroad track (including roadbed, bridges, and related track structures) owned or leased as of January 1, 2004, by the taxpayer of Class II or Class III railroads (as determined by the Surface Transportation Board).

''(d) CONTROLLED GROUPS.—For purposes of subsection (b), rules similar to the rules of paragraph (1) of section 41(f) shall apply for purposes of this subsection.

''(e) BASIS ADJUSTMENT.—For purposes of this subtitle, if a credit is allowed under this section with respect to any railroad track, the basis of such track shall be reduced by the amount of the credit so allowed.

''(f) APPLICATION OF SECTION.—This section shall apply to qualified railroad track maintenance expenditures paid or incurred during taxable years beginning after December 31, 2003, and before January 1, 2009.

''(g) ELIGIBLE TAXPAYER.—For purposes of this subsection, the term 'eligible taxpayer' means—

''(1) any person who transports property using the rail facilities of the taxpayer or who furnishes railroad-related property or services to the taxpayer, and

''(2) any Class II or Class III railroad.''.

(2) LIMITATION ON CARRYBACK.—Section 39(d) (relating to transition rules), as amended by section 5453, is amended by adding at the end the following new paragraph:

''(14) NO CARRYBACK OF RAILROAD TRACK MAINTENANCE CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the railroad track maintenance credit determined under section 45G may be carried to a taxable year beginning before January 1, 2004.''.

(3) CONFORMING AMENDMENTS.—

(A) Section 38(b) (relating to general business credit), as amended by section 5253 of this Act, is amended by striking ''plus'' at the end of paragraph (18), by striking the period at the end of paragraph (19) and inserting '', plus'', and by adding at the end the following new paragraph:

''(20) the railroad track maintenance credit determined under section 45I(a).''.

(B) Subsection (a) of section 1016 is amended by striking ''and'' at the end of paragraph (27), by striking the period at the end of paragraph (28) and inserting '', and'', and by adding at the end the following new paragraph:

''(29) in the case of railroad track with respect to which a credit was allowed under section 45I, to the extent provided in section 45I(e).''.

(4) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 45H the following new item:

''Sec. 45I. Railroad track maintenance credit.''.

(5) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

(b) RAILROAD REVITALIZATION AND SECURITY INVESTMENT CREDIT.—

(1) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits) is amended by adding at the end the following new section:

''SEC. 45J. RAILROAD REVITALIZATION AND SECURITY INVESTMENT CREDIT.

''(a) GENERAL RULE.—For purposes of section 38, the railroad revitalization and security investment credit determined under this section for the taxable year is the amount of qualified project expenditures paid or incurred by an eligible taxpayer during the taxable year.

''(b) QUALIFIED PROJECT EXPENDITURES.—For purposes of this section, the term 'qualified project expenditures' means expenditures (whether or not otherwise chargeable to capital account) with respect to rail lines which are included in a State rail plan (within the meaning of section 22101 of title 49, United States Code) for—

''(A) planning and environmental review,

''(B) rail line rehabilitation,

''(C) upgrades and development of rail lines,

''(D) projects for safety and security with respect to rail lines,

''(E) passenger equipment acquisition with respect to rail lines,

''(F) rail station improvement, and

''(G) intermodal facilities development.

An expenditure shall not be a qualified project expenditure unless there is a written agreement between a State and the owner of the infrastructure improved by the expenditures regarding the use and ownership of such infrastructure, including compensation for such use and assurances regarding the capacity of such infrastructure.

''(c) LIMITATIONS.—

''(1) IN GENERAL.—The credit allowed under subsection (a) shall not exceed 50 percent of the amount allocated to such project under this subsection.

''(2) NATIONAL LIMITATION.—There is a railroad revitalization and security investment credit limitation of $167,000,000 for each calendar year.

''(3) ALLOCATION OF LIMITATION.—The limitation under paragraph (2) shall be allocated by the Secretary to each State with a State rail plan (within the meaning of section 22101 of title 49, United States Code) based on the following considerations:

''(A) the number of rail miles in active use in the State;

''(B) the number of rail cars loaded in the State;

''(C) the number of railroad and public road grade crossings in the State;

''(D) the number of intercity passenger rail miles; and

''(E) the number of intercity passenger embarkations.

''(d) ELIGIBLE TAXPAYER.—For purposes of this section, the term 'eligible taxpayer' means a taxpayer who is an employer for purposes of the Railroad Retirement Act of 1974 and who is a carrier for purposes of the Railway Labor Act (unless such person is a commuter rail passenger transportation (as defined in section 24102 of title 49, United States Code) operator of a State or local authority (as defined in section 5302 of such title) or an Alaska railroad or it contractor).

''(e) CONTROLLED GROUPS.—For purposes of subsection (b), rules similar to the rules of paragraph (1) of section 41(f) shall apply for purposes of this subsection.

''(f) BASIS ADJUSTMENT.—For purposes of this subtitle, if a credit is allowed under this section with respect to any railroad track, the basis of such track shall be reduced by the amount of the credit so allowed.

''(g) APPLICATION OF SECTION.—This section shall apply to qualified railroad track maintenance expenditures paid or incurred during taxable years beginning after December 31, 2003, and before January 1, 2009.

''(h) CREDIT TRANSFERABILITY.—

''(1) IN GENERAL.—Any credit allowable under this section may be transferred (but not more than once) as provided by the Secretary, and the determination as to whether the credit is allowable shall be made without regard to the tax-exempt status of the transferor.

''(2) MINIMUM PRICE FOR TRANSFER.—No transfer shall be allowed under this subsection unless the transferor receives compensation for the credit transfer equal to at least 50 percent of the amount of credit transferred. The excess of the amount of credit transferred over the compensation received by the transferor for such transfer shall be included in the gross income of the transferee.''.

(2) LIMITATION ON CARRYBACK.—Section 39(d) (relating to transition rules), as amended by subsection (a), is amended by adding at the end the following new paragraph:

''(16) NO CARRYBACK OF SECTION 45J CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the credit determined under section 45J(a) may be carried back to a taxable year beginning on or before the date of the enactment of section 45J.''.

(3) CONFORMING AMENDMENTS.—

(A) Section 38(b) (relating to general business credit), as amended by subsection (a), is amended by striking ''plus'' at the end of paragraph (19), by striking the period at the end of paragraph (20) and inserting '', plus'', and by adding at the end the following new paragraph:

''(21) the railroad revitalization and security investment credit determined under section 45J(a).''.

(B) Subsection (a) of section 1016 is amended by striking ''and'' at the end of paragraph (28), by striking the period at the end of paragraph (29) and inserting '', and'', and by adding at the end the following new paragraph:

''(30) in the case of qualified projects with respect to which a credit was allowed under section 45J, to the extent provided in section 45J(f).''.

(4) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by subsection (a), is amended by inserting after the item relating to section 45I the following new item:

''Sec. 45J. Railroad revitalization and security investment credit.''.

(5) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

SEC. ____. CONSISTENT AMORTIZATION OF PERIODS FOR INTANGIBLES.

(a) START-UP EXPENDITURES.—

(1) ALLOWANCE OF DEDUCTION.—Paragraph (1) of section 195(b) (relating to start-up expenditures) is amended to read as follows:

''(1) ALLOWANCE OF DEDUCTION.—If a taxpayer elects the application of this subsection with respect to any start-up expenditures—

''(A) the taxpayer shall be allowed a deduction for the taxable year in which the active trade or business begins in an amount equal to the lesser of—

''(i) the amount of start-up expenditures with respect to the active trade or business, or

''(ii) $5,000, reduced (but not below zero) by the amount by which such start-up expenditures exceed $50,000, and

''(B) the remainder of such start-up expenditures shall be allowed as a deduction ratably over the 180-month period beginning with the month in which the active trade or business begins.''.

(2) CONFORMING AMENDMENT.—Subsection (b) of section 195 is amended by striking ''AMORTIZE'' and inserting ''DEDUCT'' in the heading.

(b) ORGANIZATIONAL EXPENDITURES.—Subsection (a) of section 248 (relating to organizational expenditures) is amended to read as follows:

''(a) ELECTION TO DEDUCT.—If a corporation elects the application of this subsection (in accordance with regulations prescribed by the Secretary) with respect to any organizational expenditures—

''(1) the corporation shall be allowed a deduction for the taxable year in which the corporation begins business in an amount equal to the lesser of—

''(A) the amount of organizational expenditures with respect to the taxpayer, or

''(B) $5,000, reduced (but not below zero) by the amount by which such organizational expenditures exceed $50,000, and

''(2) the remainder of such organizational expenditures shall be allowed as a deduction ratably over the 180-month period beginning with the month in which the corporation begins business.''.

(c) TREATMENT OF ORGANIZATIONAL AND SYNDICATION FEES OR PARTNERSHIPS.—

(1) IN GENERAL.—Section 709(b) (relating to amortization of organization fees) is amended by redesignating paragraph (2) as paragraph (3) and by amending paragraph (1) to read as follows:

''(1) ALLOWANCE OF DEDUCTION.—If a taxpayer elects the application of this subsection (in accordance with regulations prescribed by the Secretary) with respect to any organizational expenses—

''(A) the taxpayer shall be allowed a deduction for the taxable year in which the partnership begins business in an amount equal to the lesser of—

''(i) the amount of organizational expenses with respect to the partnership, or

''(ii) $5,000, reduced (but not below zero) by the amount by which such organizational expenses exceed $50,000, and

''(B) the remainder of such organizational expenses shall be allowed as a deduction ratably over the 180-month period beginning with the month in which the partnership begins business.

''(2) DISPOSITIONS BEFORE CLOSE OF AMORTIZATION PERIOD.—In any case in which a partnership is liquidated before the end of the period to which paragraph (1)(B) applies, any deferred expenses attributable to the partnership which were not allowed as a deduction by reason of this section may be deducted to the extent allowable under section 165.''.

(2) CONFORMING AMENDMENT.—Subsection (b) of section 709 is amended by striking ''AMORTIZATION'' and inserting ''DEDUCTION'' in the heading.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after the date of the enactment of this Act.

SA 2514. Mr. GRASSLEY (for himself and Mr. BAUCUS) submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 1027, strike lines 14 through 18, and insert the following:

(h) HIGHWAY TRUST FUND EXPENDITURES FOR HIGHWAY USE TAX EVASION PROJECTS.—Section 9503(c), as amended by this Act, is amended to add at the end the following new paragraph:

''(5) HIGHWAY USE TAX EVASION PROJECTS.—From amounts available in the Highway Trust Fund, there is authorized to be expended—

''(A) for each fiscal year after 2003 to the Internal Revenue Service—

''(i) $30,000,000 for enforcement of fuel tax compliance, including the per-certification of tax-exempt users,

''(ii) $10,000,000 for Xstars, and

''(iii) $10,000,000 for xfirs, and

''(B) for each fiscal year after 2003 to the Federal Highway Administration, $50,000,000 to be allocated $1,000,000 to each State to combat fuel tax evasion on the State level.''.

SA 2515. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, please insert the following:

SEC. . SENSE OF THE SENATE CONCERNING THE NEED FOR THE MAXIMUM POSSIBLE AMOUNT OF SURFACE TRANSPORTATION INVESTMENT OVER THE NEXT SIX YEARS.

(a) FINDINGS—The Senate finds that—

(1) The U.S. Department of Transportation estimates that simply to maintain the current physical conditions and congestion levels of the nation's highway and transit network an annual federal surface transportation investment of $53.6 billion is necessary, and that improving the system would require $75 billion in annual federal investment in highways and transit;

(2) the Senate Environment and Public Works Committee, the Senate Banking, Housing, and Urban Affairs Committee, the Senate Finance Committee, and the Senate Commerce Committee have authorized a substitute amendment that provides $318 billion

over six years to help address these considerable surface transportation infrastructure needs; and

(3) the United States Department of Transportation estimates that each $1 billion in surface transportation investment supports more than 47,000 jobs.

(b) SENSE OF THE SENATE.—It is the Sense of the Senate that the Senate should insist that the conference report on S. 1072 provide for a six-year federal investment in highway, transit, and rail infrastructure totaling at least $318 billion.

SA 2516. Mr. MILLER submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 120, line 18, after ''elements'' insert '', including integrated, interoperable emergency communications,''.

SA 2517. Mr. MILLER submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 404, line 7, before ''communication'' insert ''integrated, interoperable emergency''.

SA 2518. Mr. MILLER submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 260, after line 9, insert the following:

''(7) if the project or program involves the purchase of integrated, interoperable emergency communications equipment.''.

SA 2519. Mr. MILLER submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 423, line 14, before ''reliability'' insert ''mobile communications,''.

SA 2520. Mr. MILLER submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 423, line 14, before ''reliability'' insert ''mobile communications,''.

SA 2521. Mr. MILLER submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 489, after line 23, insert the following:

SEC. 2105. WIDEBAND MULTI-BAND MOBILE PILOT PROJECTS.

(a) IN GENERAL.—The Secretary shall make grants for wideband multi-media mobile pilot projects to demonstrate emergency communications systems that provide wideband, two-way information transfer capabilities utilizing the public safety spectrum made available by the Federal Communications Commission in the 700 MHz radio frequency band and that are compliant with the public safety wideband data standard TIA–902 as recommended as the wideband data interoperability standard by the Public Safety National Coordinating Committee to the Federal Communications Commission.

(b) LOCATIONS.—Not later than 90 days after the date of enactment of this Act, the Secretary shall establish locations for pilot projects under this section. In determining pilot project locations, the Secretary shall certify that pilot project locations awarded grants have spectrum available for public safety purposes and are in the 700 MHz band pursuant to the Federal Communications Commission's rules.

(c) LIMIT ON TIME.—Grants under this section shall be awarded not later than 12 months after the date of enactment of this Act.

SA 2522. Mr. KOHL submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 55, strike line 25 and all that follows through page 57, line 23, and insert the following:

''(c) SPECIAL RULES.—

''(1) MINIMUM COMBINED ALLOCATION.—For each fiscal year, before making the allocations under subsection (a)(1), the Secretary shall allocate among the States amounts sufficient to ensure that no State receives a combined total of amounts allocated under subsection (a)(1), apportionments for the programs specified in subsection (a)(2), and amounts allocated under this subsection, that is less than 110 percent of the sum of—

''(A) the total apportionments of the State for the fiscal year for the programs specified in subsection (a)(2); exceeds

''(B) the sum of—

''(i) the percentage of the average, for the period of fiscal years 1998 through 2003, of the annual apportionments of the State for all programs specified in subsection (b)(2), as specified in paragraph (2); and

''(ii) an amount which is equivalent to—

''(I) the amount equal to the number of gallons of gasohol sold within the State during fiscal years 1996 through 2001 multiplied by the excess of the tax rate applicable for a gallon of gasoline over the tax rate applicable for a gallon of gasohol for such years; plus

''(II) an amount equal to the number of gallons of gasohol sold within the State during fiscal years 1996 through 2001 multiplied by the amount of the tax rate applicable to a gallon of gasohol which is not deposited into the Highway Trust Fund with respect to each such year.

''(2) PERCENTAGES.—The percentages referred to in paragraph (1)(B)(i) are—

''(A) for fiscal year 2004, 120 percent;

''(B) for fiscal year 2005, 130 percent;

''(C) for fiscal year 2006, 134 percent;

''(D) for fiscal year 2007, 137 percent;

''(E) for fiscal year 2008, 145 percent; and

''(F) for fiscal year 2009, 250 percent.''.

''(3) NO NEGATIVE ADJUSTMENT.—Notwithstanding subsection (d), no negative adjustment shall be made under subsection (a)(1) to the apportionment of any State.

''(4) MINIMUM SHARE OF TAX PAYMENTS.—Notwithstanding subsection (d), for each fiscal year, the Secretary shall allocate among the States amounts sufficient to ensure that no State receives a percentage of apportionments for the fiscal year for the programs specified in subsection (a)(2) that is less than 90.5 percent of the percentage share of the State of estimated tax payments attributable to highway users in the State paid into the Highway Trust Fund (other than the Mass Transit Account) in the most recent fiscal year for which data are available.

''(d) LIMITATION ON ADJUSTMENTS.—

''(1) IN GENERAL.—Except as provided in paragraphs (2) and (3) of subsection (c), no State shall receive, for any fiscal year, additional amounts under subsection (a)(1) if—

''(A) the total apportionments of the State for the fiscal year for the programs specified in subsection (a)(2); exceeds

''(B) the sum of—

''(i) the percentage of the average, for the period of fiscal years 1998 through 2003, of the annual apportionments of the State for all programs specified in subsection (b)(2), as specified in paragraph (2); and

''(ii) an amount which is equivalent to—

''(I) the amount equal to the number of gallons of gasohol sold within the State during fiscal years 1996 through 2001 multiplied by the excess of the tax rate applicable for a gallon of gasoline over the tax rate applicable for a gallon of gasohol for such years; plus

''(II) an amount equal to the number of gallons of gasohol sold within the State during fiscal years 1996 through 2001 multiplied by the amount of the tax rate applicable to a gallon of gasohol which is not deposited into the Highway Trust Fund with respect to each such year.

''(2) PERCENTAGES.—The percentages referred to in paragraph (1)(B)(i) are—

''(A) for fiscal year 2004, 120 percent;

''(B) for fiscal year 2005, 130 percent;

''(C) for fiscal year 2006, 134 percent;

''(D) for fiscal year 2007, 137 percent;

''(E) for fiscal year 2008, 145 percent; and

''(F) for fiscal year 2009, 250 percent.''.

SA 2523. Mr. LEAHY submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 1310, line 4, insert the following:

VERMONT WILDLIFE AND TRANSPORTATION DEMONSTRATION PROJECT.—Under the Highways Safety Improvement Program, there is $5,000,000 available to the State of Vermont to research, design and construct connectivity infrastructure to facilitate wildlife movement and improve transportation safety at significant wildlife habitat areas.

SA 2524. Mr. LEAHY submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr.

INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 1310, line 4, insert the following:

WILDLIFE CONNECTORS RESEARCH PROGRAM.—Under the Highway Research and Technology Program, $15 million is authorized for the Department to work with states to conduct research and data collection to improve the design and placement of connectivity infrastructure to facilitate wildlife movement and improve transportation safety at significant wildlife habitat areas.

SA 2525. Mr. LEAHY submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 288, between lines 2 and 3, insert the following:

SEC. 1622. AIR QUALITY PLANNING INITIATIVE.

Section 104 of title 23, United States Code (as amended by section 1607(b)), is amended by adding at the end the following:

''(o) AIR QUALITY PLANNING INITIATIVE.—

''(1) IN GENERAL.—The Secretary, in cooperation with the Administrator of the Environmental Protection Agency, shall establish an air quality planning initiative to support State and local governments, or groups of such governments organized to protect air quality in a specific region, in—

''(A) developing the technical capacity to perform transportation air quality conformity analysis, including carbon monoxide and particulate matter hot spot analysis;

''(B) providing training in areas such as modeling, monitoring, and data collection and synthesis to support air quality planning and analysis;

''(C) developing materials and systems to convey air quality information to decision-makers and the public;

''(D) enhancing mobile source monitoring and emission inventorying capabilities; and

''(E) carrying out other activities necessary to assist State, regional, and local governments in achieving the national ambient air quality standards.

''(2) USE OF FUNDS.—

''(A) IN GENERAL.—Funds authorized to be appropriated to carry out this subsection may be used for activities and purposes consistent with paragraph (1), such as—

''(i) research;

''(ii) program and computer systems development;

''(iii) information collection and dissemination;

''(iv) technical assistance; and

''(v) training.

''(B) COOPERATION.—To carry out this subsection, the Secretary may, with the concurrence of the Administrator of the Environmental Protection Agency—

''(i) use funds under this section independently; or

''(ii) make grants to enter into contracts or cooperative agreements with—

''(I) Federal, State, and local agencies;

''(II) federally-recognized Indian tribal governments and tribal consortia;

''(III) associations of State or local governments; and

''(IV) nonprofit organizations, research institutions, or institutions of higher education.

''(3) FUNDING.—

''(A) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection $20,000,000 for the period of fiscal years 2004 through 2009, to remain available until expended.

''(B) FEDERAL SHARE.—The Federal share of the cost of a project or activity carried out using funds made available under subparagraph (A) shall not exceed 100 percent.''.

SA 2526. Mr. JOHNSON submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 619, strike line 1 and all that follows through page 621, line 8, and insert the following:

''(1) AUTHORIZATION.—The Secretary may award grants to a State for capital public transportation projects that are planned, designed, and carried out to meet the needs of elderly individuals and individuals with disabilities, and for operating costs of equipment and facilities for use in such projects, with priority given to the needs of these individuals to access necessary health care.

''(2) ACQUISITION OF PUBLIC TRANSPORTATION SERVICES.—A capital public transportation project under this section may include acquiring public transportation services as an eligible capital expense.

''(3) ADMINISTRATIVE COSTS.—A State may use not more than 15 percent of the amounts received under this section to administer, plan, and provide technical assistance for a project funded under this section.

''(b) ALLOTMENTS AMONG STATES.—

''(1) IN GENERAL.—From amounts made available or appropriated in each fiscal year under subsections (a)(1)(C)(iv) and (b)(2)(D) of section 5338 for grants under this section, the Secretary shall allot amounts to each State under a formula based on the number of elderly individuals and individuals with disabilities in each State.

''(2) TRANSFER OF FUNDS.—Any funds allotted to a State under paragraph (1) may be transferred by the State to the apportionments made under sections 5311(c) and 5336 if such funds are only used for eligible projects selected under this section.

''(3) REALLOCATION OF FUNDS.—A State receiving a grant under this section may reallocate such grant funds to—

''(A) a private nonprofit organization;

''(B) a public transportation agency or authority; or

''(C) a governmental authority that—

''(i) has been approved by the State to coordinate services for elderly individuals and individuals with disabilities;

''(ii) certifies that nonprofit organizations are not readily available in the area that can provide the services described under this subsection; or

''(iii) will provide services to persons with disabilities that exceed those services required by the Americans with Disabilities Act.

''(c) FEDERAL SHARE.—

''(1) MAXIMUM.—

''(A) IN GENERAL.—A grant for a capital project under this section may not exceed 80 percent of the net capital costs of the project, as determined by the Secretary.

''(B) OPERATING COSTS.—Grant funds for operating costs under this section may not exceed 50 percent of the net operating costs of the project, as determined by the Secretary.

''(C) EXCEPTION.—A State described in section 120(d) of title 23 shall receive an increased Federal share under subparagraph (A) in accordance with the formula under that section.

SA 2527. Mr. HOLLINGS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning with line 18 on page 1006, strike through lines 20 on page 1009 and insert the following:

SUBTITLE F—RAIL TRANSPORTATION

PART 1—RAILROAD TRACK MODERNIZATION

SEC. 4601. SHORT MILE.

This part may be cited as the ''Railroad Track Modernization Act of 2004''.

SEC. 4602. CAPITAL GRANTS FOR RAILROAD TRACK.

(a) AUTHORITY.—Chapter 223 of title 49, United States Code, is amended to read as follows:

''CHAPTER 223—CAPITAL GRANTS FOR RAILROAD TRACK

''Sec. 22301. Capital grants for railroad track.

''§ 22301. Capital grants for railroad track

''(a) ESTABLISHMENT OF PROGRAM.—''(1) ESTABLISHMENT.—The Secretary of Transportation shall establish a program of capital grants for the rehabilitation, preservation, or improvement of railroads. Such grants shall be for rail transportation and ensuring that track can be operated safely and efficiently, including grants for rehabilitating, preserving, or improving track. Grants may be provided under this chapter to a State or a group of States for, or in connection with, 1 or more rail capital projects that—

''(A) in accordance with section 634(a)(5) of this title, are listed in a State rail plan approved for such State under chapter 225 of this title; and

''(B) as determined by the Secretary, would primarily benefit intercity passenger rail infrastructure or services or freight rail transportation infrastructure or services and provide significant public benefits.

''(2) REGULATIONS.—

''(A) IN GENERAL.—The Secretary shall prescribe regulations to carry out the program under this section.

''(B) CRITERIA.—In developing the regulations, the Secretary shall establish criteria that—

''(i) condition the award of a grant on reasonable assurances that the facilities to be rehabilitated and improved will be economically and efficiently utilized;

''(ii) ensure that the award of a grant is justified by present and probable future demand for rail services; and

''(iii) ensure that projects are part of a State rail plan.

''(C) GRANT ALLOCATIONS.—Of the total amount made available for the program, 50 percent shall be awarded on a discretionary basis for passenger rail projects, and the remaining 50 percent shall be apportioned to States to fund freight rail projects in accordance with a formula prescribed by the Secretary to weigh equally for each State—

''(i) the number of rail miles in active use in the State;

''(ii) the number of rail cars loaded in the State;

''(iii) the number of rail cars unloaded in the State; and

''(iv) the number of railroad and public road grade crossings in the State.

''(b) FEDERAL SHARE.—The Federal share for carrying out a project under this section shall be 80 percent of the project cost. The non-Federal share may be provided by any non-Federal source in cash, equipment, or supplies. Other in-kind contributions may be approved by the Secretary on a case by case basis consistent with this chapter.

''(c) AUTHORIZATION OF APPROPRIATIONS.—Notwithstanding section 4635, there are authorized to be appropriated to the Secretary of Transportation $2,000,000,000 for each of the fiscal years 2005, 2006, 2007, 2008, 2009, 2010 to carry out this section.

''§ 22302. State rail plans

''(a) IN GENERAL.—Each State may prepare and maintain a State rail plan in accordance with the provisions of this chapter.

''(b) REQUIREMENTS.—For the preparation and periodic revision of a State rail plan, a State shall

''(1) establish or designate a State rail transportation authority to prepare, maintain, coordinate, and administer the plan;

''(2) establish or designate a State rail plan approval authority to approve the plan;

''(3) submit the State's approved plan to the Secretary of Transportation for review; and

''(4) revise and resubmit a State-approved plan no less frequently than once every 5 years for re-approval by the Secretary.

''§ 22303. Purposes

''(a) PURPOSES.—The purposes of a State rail plan are as follows:

''(1) To set forth State policy involving freight and passenger rail transportation, including commuter rail operations, in the State.

''(2) To establish the period covered by the State rail plan.

''(3) To present priorities and strategies to enhance rail service in the State that benefits the public.

''(4) To serve as the basis for Federal and State rail investments within the State.

''(b) COORDINATION.—A State rail plan shall be coordinated with other State transportation planning goals and programs and set forth rail transportation's role within the State transportation system. A State shall provide adequate and reasonable notice and opportunity for comment and other input to the public, rail carriers, commuter and transit authorities operating in, or affected by rail operations within the State, units of local government, and other interested parties in the preparation and review of its State rail plan.

''§ 22304. Content

''(a) IN GENERAL.—Each State rail plan shall contain the following:

''(1) An inventory of the existing overall rail transportation system and rail services and facilities within the State and an analysis of the role of rail transportation within the State's surface transportation system.

''(2) A comprehensive review of all rail lines within the State, including proposed high speed rail corridors and significant rail line segments not currently in service.

''(3) A general analysis of rail's transportation, economic, and environmental impacts in the State, including congestion mitigation, trade and economic development, air quality, land-use, energy-use, and community impacts.

''(4) A long-range rail investment program for current and future freight and passenger infrastructure in the State that meets the requirements of subsection (b).

''(5) A statement of public financing issues for rail projects in the State.

''(6) An identification of rail infrastructure issues within the State that reflects consultation with all relevant stake holders.

''(7) A review of major passenger and freight intermodal rail connections and facilities within the State, including seaports.

''(8) A statement that the State is in compliance with the requirements of section 22102.

''(b) LONG-RANGE SERVICE AND INVESTMENT PROGRAM.—

''(1) PROGRAM CONTENT.—A long-range rail investment program included in a State rail plan under subsection (a)(5) shall include the following matters:

''(A) Two lists for rail capital projects, 1 for freight rail capital projects and 1 for intercity passenger rail capital projects.

''(B) A detailed funding plan for the projects.

''(2) PROJECT LIST CONTENT.—The list of freight and intercity passenger rail capital projects shall contain—

''(A) a description of the anticipated public and private benefits of each such project; and

''(B) a statement of the correlation between—

''(i) public funding contributions for the projects; and

''(ii) the public benefits.

''(3) CONSIDERATIONS FOR PROJECT LIST.—In preparing the list of freight and intercity passenger rail capital projects, a State rail transportation authority shall take into consideration the following matters:

''(A) Contributions made by non-Federal and non-State sources through user fees, matching funds, or other private capital involvement.

''(B) Rail capacity and congestion effects.

''(C) Effects to highway, aviation, and maritime capacity, congestion, or safety.

''(D) Regional balance.

''(E) Environmental impact. .

''(F) Economic and employment impacts.

''(G) Projected ridership and other service measures for passenger rail projects.

''(c) Waiver.—The Secretary may waive any requirement of subsection (a) upon application under circumstances that the Secretary determines appropriate.

''22306. Approval

''(a) CRITERIA.—The Secretary may approve a State rail plan for the purposes of this chapter if

''(1) the plan meets all of the requirements applicable to State plans under this chapter;

''(2) for each ready-to-commence project listed on the ranked list of freight and intercity passenger rail capital projects under the plan—

''(A) the project meets all safety and environmental requirements including those prescribed under the National Environmental Policy Act of 1969 (42 U.S.C. 4331 et seq.) that are applicable to the project under law; and

''(B) the State has entered into an agreement with any owner of rail infrastructure or right of way directly affected by the project that provides for the State to proceed with the project; and

''(3) the content of the plan is coordinated with State transportation plans developed pursuant to the requirements of section 135 of title 23.

§ Definitions

In this chapter:

''(1) PRIVATE BENEFIT.—-The term 'private benefit'—

''(A) means a benefit accrued to a person or private entity, other than the National Railroad Passenger Corporation, that directly improves the economic and competitive condition of that person or entity through improved assets, cost reductions, service improvements, or any other means as defined by the Secretary; and

''(B) shall be determined on a project-by-project basis, based upon an agreement between the parties.

''(2) PUBLIC BENEFIT.—The term 'public benefit'—

''(A) means a benefit accrued to the public in the form of enhanced mobility of people or goods, environmental protection or enhancement, congestion mitigation, enhanced trade and economic development, improved air quality or land use, more efficient energy use, enhanced public safety or security, reduction of public expenditures due to improved transportation efficiency or infrastructure preservation, and any other positive community effects as defined by the Secretary; and

''(B) shall be determined on a project-by-project basis, based upon an agreement between the parties.''.

SEC. 4603. STANDARDS AND CONDITIONS.

(a) OPERATORS DEEMED RAIL CARRIERS AND EMPLOYERS FOR CERTAIN PURPOSES.—A person that conducts rail operations over rail infrastructure constructed or improved with funding provided in whole or in part in a grant made under this title—

(1) shall be considered an employer for purposes of the Railroad Retirement Act of 1974 (45 U.S.C. 231 et seq.); and

(2) shall be considered a carrier for purposes of the Railway Labor Act (43 U.S.C. 151 et seq.).

SEC. 4604. GRANT PROGRAM FUNDING.

(a) IN GENERAL.—Section 250(c)(4) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 900(c)(4)) is amended by adding at the end the following:

''(D) RAIL INFRASTRUCTURE CATEGORY.—The term 'rail infrastructure category' means discretionary appropriations to the Secretary of Transportation for the provision of grants to States for railroad infrastructure investment activities subject to the obligation limitations on contract authority provided under division B of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 or for which appropriations are provided in accordance with authorizations contained in that division.''.

(b) BUDGET AUTHORITY; OUTLAYS.—For purposes of section 251(c) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)):

(1) BUDGET AUTHORITY.—The budget authority for the rail infrastructure category shall be—

(A) $300,000,000 for fiscal year 2005;

(B) $600,000,000 for fiscal year 2006;

(C) $900,000,000 for fiscal year 2007;

(D) $1,200,000,000 for fiscal year 2008;

(E) $1,500,000,000 for fiscal year 2009; and

(F) $1,500,000,000 for fiscal year 2010.

(2) OUTLAYS.—The level of outlays for the rail infrastructure category is—

(A) $60,000,000 for fiscal year 2005;

(B) $180,000,000 for fiscal year 2006;

(C) $360,000,000 for fiscal year 2007;

(D) $480,000,000 for fiscal year 2008;

(E) $900,000,000 for fiscal year 2009; and

(F) $1,140,000,000 for fiscal year 2010.

(c) APPLICABLE PERCENT.—From funds appropriated to carry out the grant programs authorized by sections 651 and 652, the Secretary of Transportation shall reserve—

(1) 50 percent for the intercity passenger rail development grant program under section 651; and

(2) 50 percent for the freight infrastructure development grant program under section 652.

SA 2528. Mr. HOLLINGS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which

was ordered to lie on the table; as follows:

Beginning with line 18 on page 1006, strike through lines 20 on page 1009 and insert the following:

Subtitle F—Rail Transportation

PART 1—RAILROAD TRACK MODERNIZATION

SEC. 4601. SHORT TITLE.

This part may be cited as the ''Railroad Track Modernization Act of 2004''.

SEC. 4602. CAPITAL GRANTS FOR RAILROAD TRACK.

(a) AUTHORITY.—Chapter 223 of title 49, United States Code, is amended to read as follows:

''CHAPTER 223—CAPITAL GRANTS FOR RAILROAD TRACK

''Sec.
''22301. Capital grants for railroad track.

''§ 22301. Capital grants for railroad track

''(a) ESTABLISHMENT OF PROGRAM.—

''(1) ESTABLISHMENT.—The Secretary of Transportation shall establish a program of capital grants for the rehabilitation, preservation, or improvement of railroads. Such grants shall be for rail transportation and ensuring that track can be operated safely and efficiently, including grants for rehabilitating, preserving, or improving track. Grants may be provided under this chapter to a State or a group of States for, or in connection with, 1 or more rail capital projects that—

''(A) in accordance with section 634(a)(5) of this title, are listed in a State rail plan approved for such State under chapter 225 of this title; and

''(B) as determined by the Secretary, would primarily benefit intercity passenger rail infrastructure or services or freight rail transportation infrastructure or services and provide significant public benefits.

''(2) REGULATIONS.—

''(A) IN GENERAL.—The Secretary shall prescribe regulations to carry out the program under this section.

''(B) CRITERIA.—In developing the regulations, the Secretary shall establish criteria that—

''(i) condition the award of a grant on reasonable assurances that the facilities to be rehabilitated and improved will be economically and efficiently utilized;

''(ii) ensure that the award of a grant is justified by present and probable future demand for rail services; and

''(iii) ensure that projects are part of a State rail plan.

''(C) GRANT ALLOCATIONS.—Of the total amount made available for the program, 50 percent shall be awarded on a discretionary basis for passenger rail projects, and the remaining 50 percent shall be apportioned to States to fund freight rail projects in accordance with a formula prescribed by the Secretary to weigh equally for each State—

''(i) the number of rail miles in active use in the State;

''(ii) the number of rail cars loaded in the State;

''(iii) the number of rail cars unloaded in the State; and

''(iv) the number of railroad and public road grade crossings in the State.

''(b) FEDERAL SHARE.—The Federal share for carrying out a project under this section shall be 80 percent of the project cost. The non-Federal share may be provided by any non-Federal source in cash, equipment, or supplies. Other in-kind contributions may be approved by the Secretary on a case by case basis consistent with this chapter.

''(c) AUTHORIZATION OF APPROPRIATIONS.—Notwithstanding section 4635, there are authorized to be appropriated to the Secretary of Transportation $2,000,000,000 for each of the fiscal years 2005, 2006, 2007, 2008, 2009, 2010 to carry out this section.

''§ 22302. State rail plans

''(a) IN GENERAL.—Each State may prepare and maintain a State rail plan in accordance with the provisions of this chapter.

''(b) REQUIREMENTS.—For the preparation and periodic revision of a State rail plan, a State shall—

''(1) establish or designate a State rail transportation authority to prepare, maintain, coordinate, and administer the plan;

''(2) establish or designate a State rail plan approval authority to approve the plan;

''(3) submit the State's approved plan to the Secretary of Transportation for review; and

''(4) revise and resubmit a State-approved plan no less frequently than once every 5 years for reapproval by the Secretary.

''§ 22303. Purposes

''(a) PURPOSES.—The purposes of a State rail plan are as follows:

''(1) To set forth State policy involving freight and passenger rail transportation, including commuter rail operations, in the State.

''(2) To establish the period covered by the State rail plan.

''(3) To present priorities and strategies to enhance rail service in the State that benefits the public.

''(4) To serve as the basis for Federal and State rail investments within the State.

''(b) COORDINATION.—A State rail plan shall be coordinated with other State transportation planning goals and programs and set forth rail transportation's role within the State transportation system. A State shall provide adequate and reasonable notice and opportunity for comment and other input to the public, rail carriers, commuter and transit authorities operating in, or affected by rail operations within the State, units of local government, and other interested parties in the preparation and review of its State rail plan.

''§ 22304. Content

''(a) IN GENERAL.—Each State rail plan shall contain the following:

''(1) An inventory of the existing overall rail transportation system and rail services and facilities within the State and an analysis of the role of rail transportation within the State's surface transportation system.

''(2) A comprehensive review of all rail lines within the State, including proposed high speed rail corridors and significant rail line segments not currently in service.

''(3) A general analysis of rail's transportation, economic, and environmental impacts in the State, including congestion mitigation, trade and economic development, air quality, land-use, energy-use, and community impacts.

''(4) A long-range rail investment program for current and future freight and passenger infrastructure in the State that meets the requirements of subsection (b).

''(5) A statement of public financing issues for rail projects in the State.

''(6) An identification of rail infrastructure issues within the State that reflects consultation with all relevant stake holders.

''(7) A review of major passenger and freight intermodal rail connections and facilities within the State, including seaports.

''(8) A statement that the State is in compliance with the requirements of section 22102.

''(b) LONG-RANGE SERVICE AND INVESTMENT PROGRAM.—

''(1) PROGRAM CONTENT.—A long-range rail investment program included in a State rail plan under subsection (a)(5) shall include the following matters:

''(A) Two lists for rail capital projects, 1 for freight rail capital projects and 1 for intercity passenger rail capital projects.

''(B) A detailed funding plan for the projects.

''(2) PROJECT LIST CONTENT.—The list of freight and intercity passenger rail capital projects shall contain—

''(A) a description of the anticipated public and private benefits of each such project; and

''(B) a statement of the correlation between—

''(i) public funding contributions for the projects; and

''(ii) the public benefits.

''(3) CONSIDERATIONS FOR PROJECT LIST.—In preparing the list of freight and intercity passenger rail capital projects, a State rail transportation authority shall take into consideration the following matters:

''(A) Contributions made by non-Federal and non-State sources through user fees, matching funds, or other private capital involvement.

''(B) Rail capacity and congestion effects.

''(C) Effects to highway, aviation, and maritime capacity, congestion, or safety.

''(D) Regional balance.

''(E) Environmental impact.

''(F) Economic and employment impacts.

''(G) Projected ridership and other service measures for passenger rail projects.

''(c) WAIVER.—The Secretary may waive any requirement of subsection (a) upon application under circumstances that the Secretary determines appropriate.

''§ 22306. Approval

''(a) CRITERIA.—The Secretary may approve a State rail plan for the purposes of this chapter if—

''(1) the plan meets all of the requirements applicable to State plans under this chapter;

''(2) for each ready-to-commence project listed on the ranked list of freight and intercity passenger rail capital projects under the plan

''(A) the project meets all safety and environmental requirements including those prescribed under the National Environmental Policy Act of 1969 (42 U.S.C. 4331 et seq.) that are applicable to the project under law; and

''(B) the State has entered into an agreement with any owner of rail infrastructure or right of way directly affected by the project that provides for the State to proceed with the project; and

''(3) the content of the plan is coordinated with State transportation plans developed pursuant to the requirements of section 135 of title 23.

''§ Definitions

''In this chapter:

''(1) PRIVATE BENEFIT.—The term 'private benefit'—

''(A) means a benefit accrued to a person or private entity, other than the National Railroad Passenger Corporation, that directly improves the economic and competitive condition of that person or entity through improved assets, cost reductions, service improvements, or any other means as defined by the Secretary; and

''(B) shall be determined on a project-by-project basis, based upon an agreement between the parties.

''(2) PUBLIC BENEFIT.—The term 'public benefit'—

''(A) means a benefit accrued to the public in the form of enhanced mobility of people or goods, environmental protection or enhancement, congestion mitigation, enhanced trade and economic development, improved air quality or land use, more efficient energy use, enhanced public safety or security, reduction of public expenditures due to improved transportation efficiency or infrastructure preservation, and any other positive community effects as defined by the Secretary; and

''(B) shall be determined on a project-by-project basis, based upon an agreement between the parties.''.

SEC. 4603. STANDARDS AND CONDITIONS.

(a) OPERATORS DEEMED RAIL CARRIERS AND EMPLOYERS FOR CERTAIN PURPOSES.—A person that conducts rail operations over rail infrastructure constructed or improved with funding provided in whole or in part in a grant made under this title—

(1) shall be considered an employer for purposes of the Railroad Retirement Act of 1974 (45 U.S.C. 231 et seq.); and

(2) shall be considered a carrier for purposes of the Railway Labor Act (43 U.S.C. 151 et seq.).

SA 2529. Mr. HOLLINGS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning with line 18 on page 1006, strike through lines 20 on page 1009 and insert the following:

SUBTITLE F—RAIL TRANSPORTATION

PART 1—RAILROAD TRACK MODERNIZATION

SEC. 4601. SHORT TITLE.

This part may be cited as the ''Railroad Track Modernization Act of 2004''.

SEC. 4602. CAPITAL GRANTS FOR RAILROAD TRACK.

(a) AUTHORITY.—Chapter 223 of title 49, United States Code, is amended to read as follows:

''CHAPTER 223—CAPITAL GRANTS FOR RAILROAD TRACK

''Sec.

''22301. Capital grants for railroad track.

''§ 22301. Capital grants for railroad track

''(a) ESTABLISHMENT OF PROGRAM.—

''(1) ESTABLISHMENT.—The Secretary of Transportation shall establish a program of capital grants for the rehabilitation, preservation, or improvement of railroads. Such grants shall be for rail transportation and ensuring that track can be operated safely and efficiently, including grants for rehabilitating, preserving, or improving track. Grants may be provided under this chapter to a State or a group of States for, or in connection with, 1 or more rail capital projects that—

''(A) in accordance with section 634(a)(5) of this title, are listed in a State rail plan approved for such State under chapter 225 of this title; and

''(B) as determined by the Secretary, would primarily benefit intercity passenger rail infrastructure or services or freight rail transportation infrastructure or services and provide significant public benefits.

''(2) REGULATIONS.—

''(A) IN GENERAL.—The Secretary shall prescribe regulations to carry out the program under this section.

''(B) CRITERIA.—In developing the regulations, the Secretary shall establish criteria that—

''(i) condition the award of a grant on reasonable assurances that the facilities to be rehabilitated and improved will be economically and efficiently utilized;

''(ii) ensure that the award of a grant is justified by present and probable future demand for rail services; and

''(iii) ensure that projects are part of a State rail plan.

''(C) GRANT ALLOCATIONS.—Of the total amount made available for the program, 50 percent shall be awarded on a discretionary basis for passenger rail projects, and the remaining 50 percent shall be apportioned to States to fund freight rail projects in accordance with a formula prescribed by the Secretary to weigh equally for each State—

''(i) the number of rail miles in active use in the State;

''(ii) the number of rail cars loaded in the State;

''(iii) the number of rail cars unloaded in the State; and

''(iv) the number of railroad and public road grade crossings in the State.

''(b) FEDERAL SHARE.—The Federal share for carrying out a project under this section shall be 80 percent of the project cost. The non-Federal share may be provided by any non-Federal source in cash, equipment, or supplies. Other in-kind contributions may be approved by the Secretary on a case by case basis consistent with this chapter.

''(c) AUTHORIZATION OF APPROPRIATIONS.—Notwithstanding section 4635, there are authorized to be appropriated to the Secretary of Transportation $2,000,000,000 for each of the fiscal years 2005, 2006, 2007, 2008, 2009, 2010 to carry out this section.

''§ 22302. State rail plans

''(a) IN GENERAL.—Each State may prepare and maintain a State rail plan in accordance with the provisions of this chapter.

''(b) REQUIREMENTS.—For the preparation and periodic revision of a State rail plan, a State shall—

''(1) establish or designate a State rail transportation authority to prepare, maintain, coordinate, and administer the plan;

''(2) establish or designate a State rail plan approval authority to approve the plan;

''(3) submit the State's approved plan to the Secretary of Transportation for review; and

''(4) revise and resubmit a State-approved plan no less frequently than once every 5 years for reapproval by the Secretary.

''§ 22303. Purposes

''(a) PURPOSES.—The purposes of a State rail plan are as follows:

''(1) To set forth State policy involving freight and passenger rail transportation, including commuter rail operations, in the State.

''(2) To establish the period covered by the State rail plan.

''(3) To present priorities and strategies to enhance rail service in the State that benefits the public.

''(4) To serve as the basis for Federal and State rail investments within the State.

''(b) COORDINATION.—A State rail plan shall be coordinated with other State transportation planning goals and programs and set forth rail transportation's role within the State transportation system. A State shall provide adequate and reasonable notice and opportunity for comment and other input to the public, rail carriers, commuter and transit authorities operating in, or affected by rail operations within the State, units of local government, and other interested parties in the preparation and review of its State rail plan.

''§ 22304. Content

''(a) IN GENERAL.—Each State rail plan shall contain the following:

''(1) An inventory of the existing overall rail transportation system and rail services and facilities within the State and an analysis of the role of rail transportation within the State's surface transportation system.

''(2) A comprehensive review of all rail lines within the State, including proposed high speed rail corridors and significant rail line segments not currently in service.

''(3) A general analysis of rail's transportation, economic, and environmental impacts in the State, including congestion mitigation, trade and economic development, air quality, land-use, energy-use, and community impacts.

''(4) A long-range rail investment program for current and future freight and passenger infrastructure in the State that meets the requirements of subsection (b).

''(5) A statement of public financing issues for rail projects in the State.

''(6) An identification of rail infrastructure issues within the State that reflects consultation with all relevant stake holders.

''(7) A review of major passenger and freight intermodal rail connections and facilities within the State, including seaports.

''(8) A statement that the State is in compliance with the requirements of section 22102.

''(b) LONG-RANGE SERVICE AND INVESTMENT PROGRAM.—

''(1) PROGRAM CONTENT.—A long-range rail investment program included in a State rail plan under subsection (a)(5) shall include the following matters:

''(A) Two lists for rail capital projects, 1 for freight rail capital projects and 1 for intercity passenger rail capital projects.

''(B) A detailed funding plan for the projects.

''(2) PROJECT LIST CONTENT.—The list of freight and intercity passenger rail capital projects shall contain—

''(A) a description of the anticipated public and private benefits of each such project; and

''(B) a statement of the correlation between—

''(1) public funding contributions for the projects; and

''(ii) the public benefits.

''(3) CONSIDERATIONS FOR PROJECT LIST.—In preparing the list of freight and intercity passenger rail capital projects, a State rail transportation authority shall take into consideration the following matters:

''(A) Contributions made by non-Federal and non-State sources through user fees, matching funds, or other private capital involvement.

''(B) Rail capacity and congestion effects.

''(C) Effects to highway, aviation, and maritime capacity, congestion, or safety.

''(D) Regional balance.

''(E) Environmental impact.

''(F) Economic and employment impacts.

''(G) Projected ridership and other service measures for passenger rail projects.

''(c) WAIVER.—The Secretary may waive any requirement of subsection (a) upon application under circumstances that the Secretary determines appropriate.

''§ 22306. Approval

''(a) CRITERIA.—The Secretary may approve a State rail plan for the purposes of this chapter if—

''(1) the plan meets all of the requirements applicable to State plans under this chapter;

''(2) for each ready-to-commence project listed on the ranked list of freight and intercity passenger rail capital projects under the plan—

''(A) the project meets all safety and environmental requirements including those prescribed under the National Environmental Policy Act of 1969 (42 U.S.C. 4331 et seq.) that are applicable to the project under law; and

''(B) the State has entered into an agreement with any owner of rail infrastructure or right of way directly affected by the project that provides for the State to proceed with the project; and

''(3) the content of the plan is coordinated with State transportation plans developed pursuant to the requirements of section 135 of title 23.

''§ Definitions

In this chapter:

''(1) PRIVATE BENEFIT.—The term 'private benefit'—

''(A) means a benefit accrued to a person or private entity, other than the National Railroad Passenger Corporation, that directly improves the economic and competitive condition of that person or entity through improved assets, cost reductions, service improvements, or any other means as defined by the Secretary; and

''(B) shall be determined on a project-by-project basis, based upon an agreement between the parties.

''(2) PUBLIC BENEFIT.—The term 'public benefit'—

''(A) means a benefit accrued to the public in the form of enhanced mobility of people or goods, environmental protection or enhancement, congestion mitigation, enhanced trade and economic development, improved air quality or land use, more efficient energy use, enhanced public safety or security, reduction of public expenditures due to improved transportation efficiency or infrastructure preservation, and any other positive community effects as defined by the Secretary; and

''(B) shall be determined on a project-by-project basis, based upon an agreement between the parties.''.

SEC. 4603. STANDARDS AND CONDITIONS.

(a) OPERATORS DEEMED RAIL CARRIERS AND EMPLOYERS FOR CERTAIN PURPOSES.—A person that conducts rail operations over rail infrastructure constructed or improved with funding provided in whole or in part in a grant made under this title—

(1) shall be considered an employer for purposes of the Railroad Retirement Act of 1974 (45 U.S.C. 231 et seq.); and

(2) shall be considered a carrier for purposes of the Railway Labor Act (43 U.S.C. 151 et seq.).

SEC. 4604. GRANT PROGRAM FUNDING.

(a) IN GENERAL.—Section 250(c)(4) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 900(c)(4)) is amended by adding at the end the following:

''(D) RAIL INFRASTRUCTURE CATEGORY.—The term 'rail infrastructure category' means discretionary appropriations to the Secretary of Transportation for the provision of grants to States for railroad infrastructure investment activities subject to the obligation limitations on contract authority provided under division B of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 or for which appropriations are provided in accordance with authorizations contained in that division.''.

(b) BUDGET AUTHORITY; OUTLAYS.—For purposes of section 251(c) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)):

(1) BUDGET AUTHORITY.—The budget authority for the rail infrastructure category shall be—

(A) $300,000,000 for fiscal year 2005;
(B) $600,000,000 for fiscal year 2006;
(C) $900,000,000 for fiscal year 2007;
(D) $1,200,000,000 for fiscal year 2008;
(E) $1,500,000,000 for fiscal year 2009; and
(F) $1,500,000,000 for fiscal year 2010.

(2) OUTLAYS.—The level of outlays for the rail infrastructure category is—

(A) $60,000,000 for fiscal year 2005;
(B) $180,000,000 for fiscal year 2006;
(C) $360,000,000 for fiscal year 2007;
(D) $480,000,000 for fiscal year 2008;
(E) $900,000,000 for fiscal year 2009; and
(F) $1,140,000,000 for fiscal year 2010.

(c) APPLICABLE PERCENT.—From funds appropriated to carry out the grant programs authorized by sections 651 and 652, the Secretary of Transportation shall reserve—

(1) 50 percent for the intercity passenger rail development grant program under section 651; and

(2) 50 percent for the freight infrastructure development grant program under section 652.

SEC. 4605. EXTENSION OF CUSTOMS USER FEES.

Section 13031(j)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)) is amended by striking ''March 31, 2004,'' and inserting ''March 31, 2014,''.

SA 2530. Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 601 and add the following after section 662:

SUBTITLE D—AMTRAK AUTHORIZATIONS

SEC. 681. NATIONAL RAILROAD PASSENGER TRANSPORTATION SYSTEM DEFINED.

(a) IN GENERAL.—Section 24102 is amended—

(1) by striking paragraph (2);

(2) by redesignating paragraphs (3), (4), and (5) as paragraphs (2), (3), and (4), respectively; and

(3) by inserting after paragraph (4) as so redesignated the following:

''(5) 'national rail passenger transportation system' means—

''(A) the segment of the Northeast Corridor between Boston, Massachusetts and Washington, D.C.;

''(B) rail corridors that have been designated by the Secretary of Transportation as high-speed corridors, but only after they have been improved to permit operation of high-speed service;

''(C) long-distance routes of more than 750 miles between endpoints operated by Amtrak as of the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004; and

''(D) short-distance corridors or routes operated by Amtrak.''.

(b) AMTRAK ROUTES WITH STATE FUNDING.—

(1) IN GENERAL.—Chapter 247 is amended by inserting after section 24701 the following:

''§ 24702. Transportation requested by States, authorities, and other persons

''(a) CONTRACTS FOR TRANSPORTATION.—Amtrak and a State, a regional or local authority, or another person may enter into a contract for Amtrak to operate an intercity rail service or route not included in the national rail passenger transportation system upon such terms as the parties thereto may agree.

''(b) DISCONTINUANCE.—Upon termination of a contract entered into under this section, or the cessation of financial support under such a contract by either party, Amtrak may discontinue such service or route, notwithstanding any other provision of law.''.

(2) CONFORMING AMENDMENT.—The chapter analysis for chapter 247 is amended by inserting after the item relating to section 24701 the following:

''24702. Transportation requested by States, authorities, and other persons''.

(c) AMTRAK TO CONTINUE TO PROVIDE NON-HIGH-SPEED SERVICES.—Nothing in this subtitle is intended to preclude Amtrak from restoring, improving, or developing non-high-speed intercity passenger rail service.

SEC. 682. REPAYMENT OF LOAN TO NATIONAL RAILROAD PASSENGER CORPORATION.

(a) IN GENERAL.—The Secretary of Transportation may not collect any payments of principal or interest for the direct loan made to the National Railroad Passenger Corporation under section 502 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 822). There are authorized to be appropriated to the Secretary for fiscal year 2005 $100,000,000 for the purpose of repaying that loan to the Secretary of the Treasury. The Secretary of Transportation shall waive any conditions imposed under the loan.

(b) CERTAIN CONDITIONS WAIVED.—Section 151 of the Transportation, Treasury, and Independent Agencies Appropriations Act, 2004, is repealed.

(c) FEDERAL RAILROAD ADMINISTRATION.—

(1) IN GENERAL.—Section 11123 is amended—

(A) by striking ''failure of existing commuter rail passenger transportation operations caused by a cessation of service by the National Railroad Passenger Corporation,'' in subsection (a);

(B) by inserting ''or'' after the semicolon in subsection (a)(3);

(C) by striking ''permits; or'' in subsection (a)(4) and inserting ''permits.'';

(D) by striking paragraph (5) of subsection (a);

(E) by striking ''(A) Except as provided in subparagraph (B), when'' in subsection (b)(3) and inserting ''When'';

(F) by striking subparagraph (B) of sub section (b)(3);

(G) by striking paragraph (4) of subsection (c); and

(H) by striking subsections (e) and (f).

(2) Section 24301(c) is amended by striking ''11123,''.

SEC. 683. RESTRUCTURING OF LONG-TERM DEBT AND CAPITAL LEASES.

(a) IN GENERAL.—The Secretary of the Treasury shall work with the Secretary of Transportation and Amtrak to restructure Amtrak's indebtedness as of the date of enactment of this Act.

(b) NEW DEBT PROHIBITION.—Except as approved by the Secretary of Transportation, Amtrak may not enter into any obligation secured by assets of the Corporation after the date of enactment of this Act. This section does not prohibit unsecured lines of credit used by Amtrak or any subsidiary for working capital purposes.

(c) DEBT REDEMPTION.—The Secretary of Transportation, in consultation with the Secretary of the Treasury, shall enter into negotiations with the holders of Amtrak debt, including leases, that is outstanding on the date of enactment of this Act for the purpose of redeeming or restructuring that debt. The Secretary, in consultation with the Secretary of the Treasury, shall secure agreements for repayment on such terms as the Secretary deems favorable to the interests of the Government. Payments for such redemption may be made after October 1, 2005, in either a single payment or a series of payments, but in no case shall the repayment period extend beyond September 30, 2010.

(d) CRITERIA.—In redeeming or restructuring Amtrak's indebtedness, the Secretaries and Amtrak—

(1) shall ensure that the restructuring imposes the least practicable burden on taxpayers; and

(2) take into consideration repayment costs, the term of any loan or loans, and market conditions.

(e) AUTHORIZATION.—There are authorized to be appropriated to the Secretary such sums as may be necessary for fiscal years 2005 through 2010 to restructure or redeem Amtrak's secured debt.

(f) AMTRAK PRINCIPAL AND INTEREST PAYMENTS.—

(1) PRINCIPAL ON DEBT SERVICE.—Unless the Secretary of Transportation and the Secretary of the Treasury restructure in its entirety or redeem the debt, there are authorized to be appropriated to the Secretary of

Transportation for the use of Amtrak for retirement of principal on loans for capital equipment, or capital leases, not more than the following amounts:

(A) For fiscal year 2005, $109,500,000.
(B) For fiscal year 2006, $114,700,000.
(C) For fiscal year 2007, $202,900,000.
(D) For fiscal year 2008, $164,300,000.
(E) For fiscal year 2009, $155,800,000.
(F) For fiscal year 2010, $203,500,000.

(2) INTEREST ON DEBT.—Unless the Secretary of Transportation and the Secretary of the Treasury restructure or redeem the debt, there are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak for the payment of interest on loans for capital equipment, or capital leases, the following amounts:

(A) For fiscal year 2005, $151,300,000.
(B) For fiscal year 2006, $146,300,000.
(C) For fiscal year 2007, $137,500,000.
(D) For fiscal year 2008, $125,300,000.
(E) For fiscal year 2009, $117,100,000.
(F) For fiscal year 2010, $107,800,000.

(3) REDUCTIONS IN AUTHORIZATION LEVELS.—Whenever action taken by the Secretary of the Treasury under subsection (c) results in reductions in amounts of principle and interest that Amtrak must service on existing debt, Amtrak shall submit to the Senate Committee on Commerce, Science and Transportation, the House of Representatives Committee on Transportation and Infrastructure, the Senate Committee on Appropriations, and House of Representatives Committee on Appropriations revised requests for amounts authorized by paragraphs (1) and (2) that reflect such reductions.

SEC. 684. GENERAL AMTRAK AUTHORIZATIONS.

(a) REPEAL OF SELF-SUFFICIENCY REQUIREMENTS.—

(1) TITLE 49 AMENDMENTS.—Chapter 241 is amended—

(A) by striking the last sentence of section 24101(d); and

(B) by striking the last sentence of section 24104(a).

(2) AMTRAK REFORM AND ACCOUNTABILITY ACT AMENDMENTS.—Title II of the Amtrak Reform and Accountability Act of 1997 (49 U.S.C. 24101 nt) is amended by striking sections 204 and 205.

(3) COMMON STOCK REDEMPTION DATE.—Section 415 of the Amtrak Reform and Accountability Act of 1997 (49 U.S.C. 24304 nt) is amended by striking subsection (b).

(b) LEASE ARRANGEMENTS.—Amtrak may obtain services from the Administrator of General Services, and the Administrator may provide services to Amtrak, under section 201(b) and 211(b) of the Federal Property and Administrative Service Act of 1949 (40 U.S.C. 481(b) and 491(b)) for each of fiscal years 2005 through 2009.

(c) FINANCIAL POWERS.—Section 415(d) of the Amtrak Reform and Accountability Act of 1997 by adding at the end the following:

''(3) This section does not affect the applicability of section 3729 of title 31, United States Code, to claims made against Amtrak.''.

(d) AMTRAK REPORTS.—Section 24315 is amended—

(1) by striking ''February 15'' in subsection (a) and inserting ''January 31st'';

(2) by striking subparagraph (B) of subsection (a)(1) and inserting the following:

''(B) the route profitability survey data, excluding interest and depreciation costs, or any other route cost allocation or profitability analysis that Amtrak develops;'';

(3) by striking subparagraph (D) of subsection (a)(1) and inserting the following:

''(D) the total revenue-to-total cost ratio;'';

(4) by striking subparagraphs (C), (F), and (G) of subsection (a)(1), and redesignating subparagraphs (D), (E), and (H) as subparagraphs (C), (D), and (E), respectively; and

(5) by striking ''February 15'' in subsection (b) and inserting ''January 31st''.

SEC. 685. EXCESS RAILROAD RETIREMENT.

Beginning in fiscal year 2005, the Secretary of the Treasury each year shall pay to the Railroad Retirement Account an amount equal to the amount Amtrak must pay under section 3221 of the Internal Revenue Code of 1986 in fiscal years that is more than the amount needed for benefits for individuals who retire from Amtrak and for their beneficiaries. There are authorized to be appropriated such sums as may be necessary in each fiscal year beginning after fiscal year 2005 through 2010 for these payments.

SEC. 686. AUTHORIZATIONS FOR ENVIRONMENTAL COMPLIANCE AND STATION IMPROVEMENTS.

(a) ENVIRONMENTAL COMPLIANCE.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak in order to comply with environmental regulations the following amounts:

(A) For fiscal year 2005, $18,800,000.
(B) For fiscal year 2006, $21,700,000.
(C) For fiscal year 2007, $22,300,000.
(D) For fiscal year 2008, $15,100,000.
(E) For fiscal year 2009, $15,900,000.
(F) For fiscal year 2010, $16,000,000.

(b) CAPITAL IMPROVEMENTS TO STATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak for capital improvements to stations, including an initial assessment of the full set of accessibility needs across the national rail passenger transportation system and improved accessibility for the elderly and people with disabilities and in Amtrak facilities and stations, the following amounts:

(A) For fiscal year 2005, $17,100,000.
(B) For fiscal year 2006, $19,800,000.
(C) For fiscal year 2007, $19,800,000.
(D) For fiscal year 2008, $19,000,000.
(E) For fiscal year 2009, $19,000,000.
(F) For fiscal year 2010, $19,000,000.

(2) STUDY OF COMPLIANCE REQUIREMENTS AT EXISTING INTERCITY RAIL STATIONS.—Amtrak shall evaluate the improvements necessary to make all existing stations it serves readily accessible to and usable by individuals with disabilities, as required by section 242(e)(2) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12162(e)(2)). The evaluation shall include the estimated cost of the improvements necessary, the identification of the responsible person (as defined in section 241(5) of that Act (42 U.S.C. 12161(5))), and the earliest practicable date when such improvements can be made. Amtrak shall submit the survey to the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Transportation and Infrastructure, and the National Council on Disability by September 30, 2005, along with recommendations for funding the necessary improvements.

SEC. 687. TUNNEL LIFE SAFETY.

(a) LIFE SAFETY NEEDS.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak for fiscal year 2005:

(1) $677,000,000 for the 6 New York tunnels built in 1910 to provide ventilation, electrical, and fire safety technology upgrades, emergency communication and lighting systems, and emergency access and egress for passengers.

(2) $57,000,000 for the Baltimore & Potomac tunnel built in 1872 to provide adequate drainage, ventilation, communication, lighting, and passenger egress upgrades.

(3) $40,000,000 for the Washington, D.C., Union Station tunnels built in 1904 under the Supreme Court and House and Senate Office Buildings to improve ventilation, communication, lighting, and passenger egress upgrades.

(b) INFRASTRUCTURE UPGRADES.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak $3,000,000 for fiscal year 2005 for the preliminary design of options for a new tunnel on a different alignment to augment the capacity of the existing Baltimore tunnels.

(c) FINANCIAL CONTRIBUTION FROM OTHER TUNNEL USERS.—The Secretary shall, taking into account the need for the timely completion of all life safety portions of the tunnel projects described in subsection (a)—

(1) consider the extent to which rail carriers other than Amtrak use the tunnels;

(2) consider the feasibility of seeking a financial contribution from those other rail carriers toward the costs of the projects; and

(3) obtain financial contributions or commitments from such other rail carriers if feasible.

(d) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to this section shall remain available until expended.

SEC. 688. AUTHORIZATION FOR CAPITAL AND OPERATING EXPENSES.

(a) OPERATING EXPENSES.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak for operating costs the following amounts:

(1) For fiscal year 2005, $581,400,000.
(2) For fiscal year 2006, $566,700,000.
(3) For fiscal year 2007, $557,700,000.
(4) For fiscal year 2008, $528,500,000.
(5) For fiscal year 2009, $522,000,000.
(6) For fiscal year 2010, $522,000,000.

(b) CAPITAL BACKLOG AND UPGRADES.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak for capital expenses, the following amounts:

(1) For fiscal year 2005, $741,500,000.
(2) For fiscal year 2006, $835,200,000.
(3) For fiscal year 2007, $760,800,000.
(4) For fiscal year 2008, $733,600,000.
(5) For fiscal year 2009, $774,300,000.
(6) For fiscal year 2010, $874,300,000.

(c) REPLACEMENT EQUIPMENT.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak for the purchase of replacement passenger rail equipment the following amounts:

(1) For fiscal year 2006, $250,000,000.
(2) For fiscal year 2007, $250,000,000.
(3) For fiscal year 2008, $350,000,000.
(4) For fiscal year 2009, $350,000,000.
(5) For fiscal year 2010, $350,000,000.

SEC. 689. GRANTS NOT CONSIDERED TO REPLACE FEDERAL OPERATING OR CAPITAL SUPPORT.

Grants or assistance provided directly to a State or group of States by the Secretary under this title for rail infrastructure investments shall not be considered to reduce or replace the authorizations or the need for annual Federal appropriations for the National Railroad Passenger Corporation.

SEC. 690. ESTABLISHMENT OF GRANT PROCESS.

(a) GRANT REQUESTS.—Amtrak shall submit grant requests to the Secretary of Transportation for funds authorized to be appropriated to the Secretary for the use of Amtrak under sections 686, 687, and 688.

(b) PROCEDURES FOR GRANT REQUESTS.—The Secretary shall establish substantive and procedural requirements, including schedules, for grant requests under this section not later than 30 days after the date of enactment of this Act and shall transmit copies to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure.

(c) REVIEW AND APPROVAL.—

(1) 30–DAY PROCESS.—The Secretary shall complete the review of a grant request and approve or disapprove the request within 30 days after the date on which Amtrak submits the grant request.

(2) INCOMPLETE OR DEFICIENT REQUESTS.—If the Secretary disapproves the request or determines that the request is incomplete or deficient, the Secretary shall immediately notify Amtrak of the reason for disapproval or the incomplete items or deficiencies. Within 15 days after receiving notification from the Secretary under the preceding sentence, Amtrak shall submit a modified request for the Secretary's review.

(3) REVISED REQUESTS.—Within 15 days after receiving a modified request from Amtrak, the Secretary shall either approve the modified request, or, if the Secretary finds that the request is still incomplete or deficient, the Secretary shall identify in writing to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure the remaining deficiencies and recommend a process for resolving the outstanding portions of the request.

SEC. 691. STATE-SUPPORTED ROUTES.

The Board of Directors of Amtrak, in consultation with the Secretary of Transportation and the chief executive officer of each State and the District of Columbia, shall develop a formula for funding the operating costs of trains operating on routes not in excess of 750 miles in length that—

(1) is equitable and fair; and

(2) ensures, within 5 years after the date of enactment of this Act, equal treatment of all States (and the District of Columbia) and groups of States (including the District of Columbia).

SEC. 692. RE-ESTABLISHMENT OF NORTHEAST CORRIDOR SAFETY COMMITTEE.

(a) RE-ESTABLISHMENT OF NORTHEAST CORRIDOR SAFETY COMMITTEE.—The Secretary of Transportation shall re-establish the Northeast Corridor Safety Committee authorized by section 24905(b) of title 49, United States Code.

(b) TERMINATION DATE.—Section 24905(b)(4) is amended by striking ''January 1, 1999,'' and inserting ''January 1, 2009,''.

SEC. 693. AMTRAK BOARD OF DIRECTORS.

Section 24302 is amended to read as follows:

"§ 24302. Board of directors

''(a) COMPOSITION AND TERMS.—

''(1) The board of directors of Amtrak is composed of the following 9 directors, each of whom must be a citizen of the United States:

''(A) The President of Amtrak.

''(B) The Secretary of Transportation.

''(C) 7 individuals appointed by the President of the United States, by and with the advice and consent of the Senate, with experience and qualifications in or directly related to rail transportation, including representatives of freight and passenger rail transportation, travel, hospitality, cruise line, and passenger air transportation businesses, consumers of passenger rail transportation, and State government.

''(2) In selecting individuals described in paragraph (1) for nominations for appointments to the Board, the President shall consult with the Speaker of the House of Representatives, the Minority Leader of the House of Representatives, the Majority Leader of the Senate, and the Minority Leader of the Senate and should ensure adequate and balanced representation of the major geographic regions of the United States.

''(3) Each member shall be appointed for a term of 5 years and until the individual's successor is appointed and qualified. Not more than 4 individuals appointed under paragraph (1)(C) may be members of the same political party.

''(4) The board shall elect a chairman and a vice chairman from among its membership. The vice chairman shall serve as chairman in the absence of the chairman.

''(5) The Secretary may be represented at board meetings by the Secretary's designee.

''(b) PAY AND EXPENSES.—Each director not employed by the United States Government is entitled to $300 a day when performing board duties and powers. Each director is entitled to reimbursement for necessary travel, reasonable secretarial and professional staff support, and subsistence expenses incurred in attending board meetings.

''(c) VACANCIES.—A vacancy on the board is filled in the same way as the original selection, except that an individual appointed by the President of the United States under subsection (a)(1)(C) of this section to fill a vacancy occurring before the end of the term for which the predecessor of that individual was appointed is appointed for the remainder of that term. A vacancy required to be filled by appointment under subsection (a)(1)(C) must be filled not later than 120 days after the vacancy occurs.

''(d) BYLAWS.—The board may adopt and amend bylaws governing the operation of Amtrak. The bylaws shall be consistent with this part and the articles of incorporation.''.

SEC. 694. ESTABLISHMENT OF FINANCIAL ACCOUNTING SYSTEM FOR AMTRAK OPERATIONS BY INDEPENDENT AUDITOR.

(a) IN GENERAL.—The Inspector General of the Department of Transportation shall employ an independent financial consultant with experience in railroad accounting—

(1) to assess Amtrak's financial accounting and reporting system and practices;

(2) to design and assist Amtrak in implementing a modern financial accounting and reporting system, on the basis of the assessment, that will produce accurate and timely financial information in sufficient detail—

(A) to enable Amtrak to assign revenues and expenses appropriately to each of its lines of business and to each major activity within each line of business activity, including train operations, equipment maintenance, ticketing, and reservations;

(B) to aggregate expenses and revenues related to infrastructure and distinguish them from expenses and revenues related to rail operations; and

(C) to provide ticketing and reservation information on a real-time basis.

(b) VERIFICATION OF SYSTEM; REPORT.—The Inspector General of the Department of Transportation shall review the accounting system designed and implemented under subsection (a) to ensure that it accomplishes the purposes for which it is intended. The Inspector General shall report his findings and conclusions, together with any recommendations, to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation $2,500,000 for fiscal year 2005 to carry out subsection (a), such sums to remain available until expended.

SEC. 695. DEVELOPMENT OF 5–YEAR FINANCIAL PLAN.

(a) DEVELOPMENT OF 5–YEAR FINANCIAL PLAN.—The Amtrak board of directors shall submit an annual budget for Amtrak, and a 5–year financial plan for the fiscal year to which that budget relates and the subsequent 4 years, prepared in accordance with this section, to the Secretary of Transportation and the Inspector General of the Department of Transportation no later than—

(1) the first day of each fiscal year beginning after the date of enactment of this Act; or

(2) the date that is 60 days after the date of enactment of an appropriation Act for the fiscal year, if later.

(b) CONTENTS OF 5–YEAR FINANCIAL PLAN.—The 5-year financial plan for Amtrak shall include, at a minimum—

(1) all projected revenues and expenditures for Amtrak, including governmental funding sources,

(2) projected ridership levels for all Amtrak passenger operations;

(3) revenue and expenditure forecasts for nonpassenger operations;

(4) capital funding requirements and expenditures necessary to maintain passenger service which will accommodate predicted ridership levels and predicted sources of capital funding;

(5) operational funding needs, if any, to maintain current and projected levels of passenger service, including state-supported routes and predicted funding sources;

(6) projected capital and operating requirements, ridership, and revenue for any new passenger service operations or service expansions;

(7) an assessment of the continuing financial stability of Amtrak, as indicated by factors such as: the ability of the federal government to adequately meet capital and operating requirements, Amtrak's access to long-term and short-term capital markets, Amtrak's ability to efficiently manage its workforce, and Amtrak's ability to effectively provide passenger train service.

(8) lump sum expenditures of $10,000,000 or more and sources of funding.

(9) estimates of long-term and short-term debt and associated principle and interest payments (both current and anticipated);

(10) annual cash flow forecasts; and

(11) a statement describing methods of estimation and significant assumptions.

(C) STANDARDS TO PROMOTE FINANCIAL STABILITY.—In meeting the requirements of subsection (b) with respect to a 5-year financial plan, Amtrak shall—

(1) apply sound budgetary practices, including reducing costs and other expenditures, improving productivity, increasing revenues, or combinations of such practices; and

(2) use the categories specified in the financial accounting and reporting system developed under section 652 when preparing its 5-year financial plan.

(d) ASSESSMENT BY DOT INSPECTOR GENERAL.—

(1) IN GENERAL.—The Inspector General of the Department of Transportation shall assess the 5-year financial plans prepared by Amtrak under this section to determine whether they meet the requirements of subsection (b), and may suggest revisions to any components thereof that do not meet those requirements.

(2) ASSESSMENT TO BE FURNISHED TO THE CONGRESS.—The Inspector General shall furnish to the House of Representatives Committee on Appropriations, the Senate Committee on Appropriations, the House of Representatives Committee on Transportation and Infrastructure, and the Senate Committee on Commerce, Science, and Transportation—

(A) an assessment of the annual budget within 90 days after receiving it from Amtrak; and

(B) an assessment of the remaining 4 years of the 5-year financial plan within 180 days after receiving it from Amtrak.

SEC. 696. INDEPENDENT AUDITOR TO ESTABLISH METHODOLOGIES FOR AMTRAK ROUTE AND SERVICE PLANNING DECISIONS.

(a) REVIEW.—The Secretary of Transportation shall, in consultation with the Federal Railroad Administration, execute a contract to obtain the services of an independent auditor or consultant to research

and define Amtrak's past and current methodologies for determining intercity passenger rail routes and services.

(b) RECOMMENDATIONS.—The independent auditor or consultant shall recommend objective methodologies for determining such routes and services, including the establishment of new routes, the elimination of existing routes, and the contraction or expansion of services or frequencies over such routes.

(c) SUBMITTAL TO CONGRESS.—The Secretary shall submit recommendations received under subsection (b) to Amtrak, the House of Representatives Committee on Transportation and Infrastructure, and the Senate Committee on Commerce, Science, and Transportation.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be made available to the Secretary of Transportation, out of any amounts authorized by this title to be appropriated for the benefit of Amtrak and not otherwise obligated or expended, such sums as may be necessary to carry out this section.

SEC. 697. METRICS AND STANDARDS.

The Administrator of the Federal Railroad Administration shall, in consultation with Amtrak and host railroads, develop new or improve existing metrics and minimum standards for measuring the service quality of intercity train operations, including on-time performance, on-board services, stations, facilities, equipment, and other services.

SEC. 698. ON-TIME PERFORMANCE.

Section 24308 is amended by adding at the end the following:

''(f) ON-TIME PERFORMANCE AND OTHER STANDARDS.—If the on-time performance of any intercity passenger train averages less than 80 percent for any consecutive 6-month period, or the service quality of intercity train operations for which minimum standards are established under section 697 of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 Act fails to meet those standards, Amtrak may petition the Surface Transportation Board to investigate whether, and to what extent, delays or failure to achieve minimum standards are due to causes that could reasonably be addressed by a rail carrier over the tracks of which the intercity passenger train operates, or by a regional authority providing commuter service, if any. In carrying out such an investigation, the Surface Transportation Board shall obtain information from all parties involved and make recommendations regarding reasonable measures to improve the service, quality, and on-time performance of the train.''.

SEC. 699. RAIL COOPERATIVE RESEARCH PROGRAM.

(a) REQUIREMENT FOR PROGRAM.—

(1) ESTABLISHMENT AND CONTENT.—Chapter 249 is amended by adding at the end the following:

''§ 24910. Rail cooperative research program

''(a) IN GENERAL.—The Secretary shall establish and carry out a rail cooperative research program. The program shall—

''(1) address, among other matters, intercity rail passenger services, including existing rail passenger technologies and speeds, incrementally enhanced rail systems and infrastructure, and new high-speed wheel-on-rail systems and rail security;

''(2) consider research on the interconnectedness of commuter rail, passenger rail, and other rail networks; and

''(3) give consideration to regional concerns regarding rail passenger transportation, including meeting research needs common to designated high speed corridors, long-distance rail services, and regional intercity rail corridors, projects, and entities.

''(b) CONTENT.—The program to be carried out under this section shall include research designed—

''(1) to identify the unique aspects and attributes of rail passenger service;

''(2) to develop more accurate models for evaluating the impact of rail passenger service, including the effects on highway and airport and airway congestion, environmental quality, and energy consumption;

''(3) to develop a better understanding of modal choice as it affects rail passenger transportation, including development of better models to predict utilization;

''(4) to recommend priorities for technology demonstration and development;

''(5) to meet additional priorities as determined by the advisory board established under subsection (c), including any recommendations made by the National Research Council;

''(6) to explore improvements in management, financing, and institutional structures;

''(7) to address rail capacity constraints that affect passenger rail service through a wide variety of options, ranging from operating improvements to dedicated new infrastructure, taking into account the impact of such options on operations;

''(8) to improve maintenance, operations, customer service, or other aspects of intercity rail passenger service;

''(9) to recommend objective methodologies for determining intercity passenger rail routes and services, including the establishment of new routes, the elimination of existing routes, and the contraction or expansion of services or frequencies over such routes;

''(10) to review the impact of equipment and operational safety standards on the further development of high speed passenger rail operations connected to or integrated with non-high speed freight or passenger rail operations; and

''(11) to recommend any legislative or regulatory changes necessary to foster further development and implementation of high speed passenger rail operations while ensuring the safety of such operations that are connected to or integrated with non-high speed freight or passenger rail operations.

''(c) ADVISORY BOARD.—

''(1) ESTABLISHMENT.—In consultation with the heads of appropriate Federal departments and agencies, the Secretary shall establish an advisory board to recommend research, technology, and technology transfer activities related to rail passenger and freight transportation.

''(2) MEMBERSHIP.—The advisory board shall include—

''(A) representatives of State transportation agencies;

''(B) transportation and environmental economists, scientists, and engineers; and

''(C) representatives of Amtrak, the Alaska Railroad, transit operating agencies, intercity rail passenger agencies, railway labor organizations, and environmental organizations.

''(d) NATIONAL ACADEMY OF SCIENCES.—The Secretary may make grants to, and enter into cooperative agreements with, the National Academy of Sciences to carry out such activities relating to the research, technology, and technology transfer activities described in subsection (b) as the Secretary deems appropriate.''.

(2) CLERICAL AMENDMENT.—The chapter analysis for chapter 249 is amended by adding at the end the following:

''24910. Rail cooperative research program''.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation $5,000,000 for each of fiscal years 2005 through 2010 to carry out the rail cooperative research program under section 24910 of title 49, United States Code.

Strike section 4601 and add the following after section 4662:

PART 4—AMTRAK AUTHORIZATIONS

SEC. 4681. NATIONAL RAILROAD PASSENGER TRANSPORTATION SYSTEM DEFINED.

(a) IN GENERAL.—Section 24102 is amended—

(1) by striking paragraph (2);

(2) by redesignating paragraphs (3), (4), and (5) as paragraphs (2), (3), and (4), respectively; and

(3) by inserting after paragraph (4) as so redesignated the following:

''(5) 'national rail passenger transportation system' means—

''(A) the segment of the Northeast Corridor between Boston, Massachusetts and Washington, D.C.;

''(B) rail corridors that have been designated by the Secretary of Transportation as high-speed corridors, but only after they have been improved to permit operation of high-speed service;

''(C) long-distance routes of more than 750 miles between endpoints operated by Amtrak as of the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004; and

''(D) short-distance corridors or routes operated by Amtrak.''.

(b) AMTRAK ROUTES WITH STATE FUNDING.—

(1) IN GENERAL.—Chapter 247 is amended by 1 inserting after section 24701 the following:

''24702. Transportation requested by States, authorities, and other persons

''(a) CONTRACTS FOR, TRANSPORTATION.—Amtrak and a State, a regional or local authority, or another person may enter into a contract for Amtrak to operate an intercity rail service or route not included in the national rail passenger transportation system upon such terms as the parties thereto may agree.

''(b) DISCONTINUANCE.—Upon termination of a contract entered into under this section, or the cessation of financial support under such a contract by either party, Amtrak may discontinue such service or route, notwithstanding any other provision of law.''.

(2) CONFORMING AMENDMENT.—The chapter analysis for chapter 247 is amended by inserting after the item relating to section 24701 the following:

''24702. Transportation requested by States, authorities, and other persons''.

(c) AMTRAK TO CONTINUE TO PROVIDE NON-HIGH-SPEED SERVICES.—Nothing in this subtitle is intended to preclude Amtrak from restoring, improving, or developing non-high-speed intercity passenger rail service.

SEC. 4682. REPAYMENT OF LOAN TO NATIONAL RAILROAD PASSENGER CORPORATION.

(a) IN GENERAL.—The Secretary of Transportation may not collect any payments of principal or interest for the direct loan made to the National Railroad Passenger Corporation under section 502 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 822). There are authorized to be appropriated to the Secretary for fiscal year 2005 $100,000,000 for the purpose of repaying that loan to the Secretary of the Treasury. The Secretary of Transportation shall waive any conditions imposed under the loan.

(b) CERTAIN CONDITIONS WAIVED.—Section 151 of the Transportation, Treasury, and Independent Agencies Appropriations Act, 2004, is repealed.

(c) FEDERAL RAILROAD ADMINISTRATION.—

(1) IN GENERAL—Section 11123 is amended—

(A) by striking ''failure of existing commuter rail passenger transportation operations caused by a cessation of service by the

National Railroad Passenger Corporation,'' in subsection (a);

(B) by inserting ''or'' after the semicolon in subsection (a)(3);

(C) by striking ''permits; or'' in subsection (a)(4) and inserting ''permits.'';

(D) by striking paragraph (5) of subsection (a);

(E) by striking ''(A) Except as provided in subparagraph (B), when'' in subsection (b)(3) and inserting ''When'';

(F) by striking subparagraph (B) of subsection (b)(3);

(G) by striking paragraph (4) of subsection (c); and

(H) by striking subsections (e) and (f).

(2) Section 24301(c) is amended by striking ''11123,''.

SEC. 4683. RESTRUCTURING OF LONG–TERM DEBT AND CAPITAL LEASES.

(a) IN GENERAL.—The Secretary of the Treasury shall work with the Secretary of Transportation and Amtrak to restructure Amtrak's indebtedness as of the date of enactment of this Act.

(b) NEW DEBT PROHIBITION.—Except as approved by the Secretary of Transportation, Amtrak may not enter into any obligation secured by assets of the Corporation after the date of enactment of this Act. This section does not prohibit unsecured lines of credit used by Amtrak or any subsidiary for working capital purposes.

(c) DEBT REDEMPTION.—The Secretary of Transportation, in consultation with the Secretary of the Treasury, shall enter into negotiations with the holders of Amtrak debt, including leases, that is outstanding on the date of enactment of this Act for the purpose of redeeming or restructuring that debt. The Secretary, in consultation with the Secretary of the Treasury, shall secure agreements for repayment on such terms as the Secretary deems favorable to the interests of the Government. Payments for such redemption may be made after October 1, 2005, in either a single payment or a series of payments, but in no case shall the repayment period extend beyond September 30, 2010.

(d) CRITERIA.—In redeeming or restructuring Amtrak's indebtedness, the Secretaries and Amtrak—

(1) shall ensure that the restructuring imposes the least practicable burden on taxpayers; and

(2) take into consideration repayment costs, the term of any loan or loans, and market conditions.

(e) AUTHORIZATION.—There are authorized to be appropriated to the Secretary such sums as may be necessary for fiscal years 2005 through 2010 to restructure or redeem Amtrak's secured debt.

(f) AMTRAK PRINCIPAL AND INTEREST PAYMENTS.—

(1) PRINCIPAL ON DEBT SERVICE.—Unless the Secretary of Transportation and the Secretary of the Treasury restructure in its entirety or redeem the debt, there are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak for retirement of principal on loans for capital equipment, or capital leases, not more than the following amounts:

(A) For fiscal year 2005, $109,500,000.
(B) For fiscal year 2006, $114,700,000.
(C) For fiscal year 2007, $202,900,000.
(D) For fiscal year 2008, $164,300,000.
(E) For fiscal year 2009, $155,800,000.
(F) For fiscal year 2010, $203,500,000.

(2) INTEREST ON DEBT.—Unless the Secretary of Transportation and the Secretary of the Treasury restructure or redeem the debt, there are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak for the payment of interest on loans for capital equipment, or capital leases, the following amounts:

(A) For fiscal year 2005, $151,300,000.
(B) For fiscal year 2006, $146,300,000.
(C) For fiscal year 2007, $137,500,000.
(D) For fiscal year 2008, $125,300,000.
(E) For fiscal year 2009, $117,100,000.
(F) For fiscal year 2010, $107,800,000.

(3) REDUCTIONS IN AUTHORIZATION ON LEVELS.—Whenever action taken by the Secretary of the Treasury under subsection (c) results in reductions in amounts of principle and interest that Amtrak must service on existing debt, Amtrak shall submit to the Senate Committee on Commerce, Science and Transportation, the House of Representatives Committee on Transportation and Infrastructure, the Senate Committee on Appropriations, and House of Representatives Committee on Appropriations revised requests for amounts authorized by paragraphs (1) and (2) that reflect the such reductions.

SEC. 4684. GENERAL AMTRAK AUTHORIZATIONS.

(a) REPEAL OF SELF-SUFFICIENCY REQUIREMENTS.

(1) TITLE 49 AMENDMENTS.—Chapter 241 is amended—

(A) by striking the last sentence of section 24101(d); and

(B) by striking the last sentence of section 24104(a).

(2) AMTRAK REFORM AND ACCOUNTABILITY ACT AMENDMENTS.—Title II of the Amtrak Reform and Accountability Act of 1997 (49 U.S.C. 24101 nt) is amended by striking sections 204 and 205.

(3) COMMON STOCK REDEMPTION DATE.—Section 415 of the Amtrak Reform and Accountability Act of 1997 (49 U.S.C. 24304 nt) is amended by striking subsection (b).

(b) LEASE ARRANGEMENTS.—Amtrak may obtain services from the Administrator of General Services, and the Administrator may provide services to Amtrak, under section 201(b) and 211(b) of the Federal Property and Administrative Service Act of 1949 (40 U.S.C. 481(b) and 491(b)) for each of fiscal years 2005 through 2009.

(c) FINANCIAL POWERS.—Section 415(d) of the Amtrak Reform and Accountability Act of 1997 by adding at the end the following:

''(3) This section does not affect the applicability of section 3729 of title 31, United States Code, to claims made against Amtrak.''.

(d) AMTRAK REPORTS.—Section 24315 is amended—

(1) by striking ''February 15'' in subsection (a) and inserting ''January 31st'';

(2) by striking subparagraph (B) of subsection (a)(1) and inserting the following:

''(B) the route profitability survey data, excluding interest and depreciation costs, or any other route cost allocation or profitability analysis that Amtrak develops;'';

(3) by striking subparagraph (D) of subsection (a)(1) and inserting the following:

''(D) the total revenue-to-total cost ratio;'';

(4) by striking subparagraphs (C), (F), and (G) of subsection (a)(1), and redesignating subparagraphs (D), (E), and (H) as subparagraphs (C), (D), and (E), respectively; and

(5) by striking ''February 15'' in subsection (b) and inserting ''January 31st''.

SEC. 4685. EXCESS RAILROAD RETIREMENT.

Beginning in fiscal year 2005, the Secretary of the Treasury each year shall pay to the Railroad Retirement Account an amount equal to the amount Amtrak must pay under section 3221 of the Internal Revenue Code of 1986 in fiscal years that is more than the amount needed for benefits for individuals who retire from Amtrak and for their beneficiaries. There are authorized to be appropriated such sums as may be necessary in each fiscal year beginning after fiscal year 2005 through 2010 for these payments.

SEC. 4686. AUTHORIZATIONS FOR ENVIRONMENTAL COMPLIANCE AND STATION IMPROVEMENTS.

(a) ENVIRONMENTAL COMPLIANCE.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak in order to comply with environmental regulations the following amounts:

(A) For fiscal year 2005, $18,800,000.
(B) For fiscal year 2006, $21,700,000.
(C) For fiscal year 2007, $22,300,000.
(D) For fiscal year 2008, $15,100,000.
(E) For fiscal year 2009, $15,900,000.
(F) For fiscal year 2010, $16,000,000.

(b) CAPITAL IMPROVEMENTS TO STATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak for capital improvements to stations, including an initial assessment of the full set of accessibility needs across the national rail passenger transportation system and improved accessibility for the elderly and people with disabilities and in Amtrak facilities and stations, the following amounts:

(A) For fiscal year 2005, $17,100,000.
(B) For fiscal year 2006, $19,800,000.
(C) For fiscal year 2007, $19,800,000.
(D) For fiscal year 2008, $19,000,000.
(E) For fiscal year 2009, $19,000,000.
(F) For fiscal year 2010, $19,000,000.

(2) STUDY OF COMPLIANCE REQUIREMENTS AT EXISTING INTERCITY RAIL STATIONS.—Amtrak shall evaluate the improvements necessary to make all existing stations it serves readily accessible to and usable by individuals with disabilities, as required by section 242(e)(2) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12162(e)(2)). The evaluation shall include the estimated cost of the improvements necessary, the identification of the responsible person (as defined in section 241(5) of that Act (42 U.S.C. 12161(5))), and the earliest practicable date when such improvements can be made. Amtrak shall submit the survey to the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Transportation and Infrastructure, and the National Council on Disability by September 30, 2005, along with recommendations for funding the necessary improvements.

SEC. 4687. TUNNEL LIFE SAFETY.

(a) LIFE SAFETY NEEDS.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak for fiscal year 2005:

(1) $677,000,000 for the 6 New York tunnels built in 1910 to provide ventilation, electrical, and fire safety technology upgrades, emergency communication and lighting systems, and emergency access and egress for passengers.

(2) $57,000,000 for the Baltimore & Potomac tunnel built in 1872 to provide adequate drainage, ventilation, communication, lighting, and passenger egress upgrades.

(3) $40,000,000 for the Washington, D.C., Union Station tunnels built in 1904 under the Supreme Court and House and Senate Office Buildings to improve ventilation, communication, lighting, and passenger egress upgrades.

(b) INFRASTRUCTURE UPGRADES.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak $3,000,000 for fiscal year 2005 for the preliminary design of options for a new tunnel on a different alignment to augment the capacity of the existing Baltimore tunnels.

(d) FINANCIAL CONTRIBUTION FROM OTHER TUNNEL USERS.—The Secretary shall, taking into account the need for the timely completion of all life safety portions of the tunnel projects described in subsection (a)—

(1) consider the extent to which rail carriers other than Amtrak use the tunnels;

(2) consider the feasibility of seeking a financial contribution from those other rail carriers toward the costs of the projects; and

(3) obtain financial contributions or commitments from such other rail carriers if feasible.

(e) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to this section shall remain available until expended.

SEC. 4688. AUTHORIZATION FOR CAPITAL AND OPERATING EXPENSES.

(a) OPERATING EXPENSES.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak for operating costs the following amounts:

(1) For fiscal year 2005, $581,400,000.
(2) For fiscal year 2006, $566,700,000.
(3) For fiscal year 2007, $557,700,000.
(4) For fiscal year 2008; $528,500,000.
(5) For fiscal year 2009, $522,000,000.
(6) For fiscal year 2010, $522,000,000.

(b) CAPITAL BACKLOG AND UPGRADES.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak for capital expenses, the following amounts:

(1) For fiscal year 2005, $741,500,000.
(2) For fiscal year 2006, $835,200,000.
(3) For fiscal year 2007, $760,800,000.
(4) For fiscal year 2008, $733,600,000.
(5) For fiscal year 2009, $774,300,000.
(6) For fiscal year 2010, $874,300,000.

(c) REPLACEMENT EQUIPMENT.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak for the purchase of replacement passenger rail equipment the following amounts:

(1) For fiscal year 2006, $250,000,000.
(2) For fiscal year 2007, $250,000,000.
(3) For fiscal year 2008, $350,000,000.
(4) For fiscal year 2009, $350,000,000.
(5) For fiscal year 2010, $350,000,000.

SEC. 4689. GRANTS NOT CONSIDERED TO REPLACE FEDERAL OPERATING OR CAPITAL SUPPORT.

Grants or assistance provided directly to a State or group of States by the Secretary under this title for rail infrastructure investments shall not be considered to reduce or replace the authorizations or the need for annual Federal appropriations for the National Railroad Passenger Corporation.

SEC. 4690. ESTABLISHMENT OF GRANT PROCESS.

(a) GRANT REQUESTS.—Amtrak shall submit grant requests to the Secretary of Transportation for funds authorized to be appropriated to the Secretary for the use of Amtrak under sections 686, 687, and 688.

(b) PROCEDURES FOR GRANT REQUESTS.—The Secretary shall establish substantive and procedural requirements, including schedules, for grant requests under this section not later than 30 days after the date of enactment of this Act and shall transmit copies to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure.

(c) REVIEW AND APPROVAL.—

(1) 30-DAY PROCESS.—The Secretary shall complete the review of a grant request and approve or disapprove the request within 30 days after the date on which Amtrak submits the grant request.

(2) INCOMPLETE OR DEFICIENT REQUESTS.—If the Secretary disapproves the request or determines that the request is incomplete or deficient, the Secretary shall immediately notify Amtrak of the reason for disapproval or the incomplete items or deficiencies. Within 15 days after receiving notification from the Secretary under the preceding sentence, Amtrak shall submit a modified request for the Secretary's review.

(3) REVISED REQUESTS.—Within 15 days after receiving a modified request from Amtrak, the Secretary shall either approve the modified request, or, if the Secretary finds that the request is still incomplete or deficient, the Secretary shall identify in writing to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure the remaining deficiencies and recommend a process for resolving the outstanding portions of the request.

SEC. 4691. STATE-SUPPORTED ROUTES.

The Board of Directors of Amtrak, in consultation with the Secretary of Transportation and the chief executive officer of each State and the District of Columbia, shall develop a formula for funding the operating costs of trains operating on routes not in excess of 750 miles in length that—

(1) is equitable and fair; and

(2) ensures, within 5 years after the date of enactment of this Act, equal treatment of all States (and the District of Columbia) and groups of States (including the District of Columbia).

SEC. 4692. RE-ESTABLISHMENT OF NORTHEAST CORRIDOR SAFETY COMMITTEE.

(a) RE-ESTABLISHMENT OF NORTHEAST CORRIDOR SAFETY COMMITTEE.—The Secretary of Transportation shall re-establish the Northeast Corridor Safety Committee authorized by section 24905(b) of title 49, United States Code.

(b) TERMINATION DATE.—Section 24905(b)(4) is amended by striking ''January 1, 1999,'' and inserting ''January 1, 2009,''.

SEC. 4693. AMTRAK BOARD OF DIRECTORS.

Section 24302 is amended to read as follows:

"§ 24302. Board of directors

''(a) COMPOSITION AND TERMS.—

''(1) The board of directors of Amtrak is composed of the following 9 directors, each of whom must be a citizen of the United States:

''(A) The President of Amtrak.

''(B) The Secretary of Transportation.

''(C) 7 individuals appointed by the President of the United States, by and with the advice and consent of the Senate, with experience and qualifications in or directly related to rail transportation, including representatives of freight and passenger rail transportation, travel, hospitality, cruise line, and passenger air transportation businesses, consumers of passenger rail transportation, and State government.

''(2) In selecting individuals described in paragraph (1) for nominations for appointments to the Board, the President shall consult with the Speaker of the House of Representatives, the Minority Leader of the House of Representatives, the Majority Leader of the Senate, and the Minority Leader of the Senate and should ensure adequate and balanced representation of the major geographic regions of the United States.

''(3) Each member shall be appointed for a term of 5 years and until the individual's successor is appointed and qualified. Not more than 4 individuals appointed under paragraph (1)(C) may be members of the same political party.

''(4) The board shall elect a chairman and a vice chairman from among its membership. The vice chairman shall serve as chairman in the absence of the chairman.

''(5) The Secretary may be represented at board meetings by the Secretary's designee.

''(b) PAY AND EXPENSES.—Each director not employed by the United States Government is entitled to $300 a day when performing board duties and powers. Each director is entitled to reimbursement for necessary travel, reasonable secretarial and professional staff support, and subsistence expenses incurred in attending board meetings.

''(c) VACANCIES.—A vacancy on the board is filled in the same way as the original selection, except that an individual appointed by the President of the United States under subsection (a)(1)(C) of this section to fill a vacancy occurring before the end of the term for which the predecessor of that individual was appointed is appointed for the remainder of that term. A vacancy required to be filled by appointment under subsection (a)(1)(C) must be filled not later than 120 days after the vacancy occurs.

''(d) BYLAWS.—The board may adopt and amend bylaws governing the operation of Amtrak. The bylaws shall be consistent with this part and the articles of incorporation.''.

SEC. 4694. ESTABLISHMENT OF FINANCIAL ACCOUNTING SYSTEM FOR AMTRAK OPERATIONS BY INDEPENDENT AUDITOR.

(a) IN GENERAL.—The Inspector General of the Department of Transportation shall employ an independent financial consultant with experience in railroad accounting—

(1) to assess Amtrak's financial accounting and reporting system and practices;

(2) to design and assist Amtrak in implementing a modern financial accounting and reporting system, on the basis of the assessment, that will produce accurate and timely financial information in sufficient detail—

(A) to enable Amtrak to assign revenues and expenses appropriately to each of its lines of business and to each major activity within each line of business activity, including train operations, equipment maintenance, ticketing, and reservations;

(B) to aggregate expenses and revenues related to infrastructure and distinguish them from expenses and revenues related to rail operations; and

(C) to provide ticketing and reservation information on a real-time basis.

(b) VERIFICATION OF SYSTEM; REPORT.—The Inspector General of the Department of Transportation shall review the accounting system designed and implemented under subsection (a) to ensure that it accomplishes the purposes for which it is intended. The Inspector General shall report his findings and conclusions, together with any recommendations, to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation $2,500,000 for fiscal year 2005 to carry out subsection (a), such sums to remain available until expended.

SEC. 4695. DEVELOPMENT OF 5-YEAR FINANCIAL PLAN.

(a) DEVELOPMENT OF 5-YEAR, FINANCIAL PLAN.—The Amtrak board of directors shall submit an annual budget for Amtrak, and a 5-year financial plan for the fiscal year to which that budget relates and the subsequent 4 years, prepared in accordance with this section, to the Secretary of Transportation and the Inspector General of the Department of Transportation no later than—

(1) the first day of each fiscal year beginning after the date of enactment of this Act; or

(2) the date that is 60 days after the date of enactment of an appropriation Act for the fiscal year, if later.

(b) CONTENTS OF 5-YEAR FINANCIAL PLAN.—The 5-year financial plan for Amtrak shall include, at a minimum—

(1) all projected revenues and expenditures for Amtrak, including governmental funding sources;

(2) projected ridership levels for all Amtrak passenger operations;

(3) revenue and expenditure forecasts for nonpassenger operations;

(4) capital funding requirements and expenditures necessary to maintain passenger service which will accommodate predicted ridership levels and predicted sources of capital funding;

(5) operational funding needs, if any, to maintain current and projected levels of passenger service, including state-supported routes and predicted funding sources;

(6) projected capital and operating requirements, ridership, and revenue for any new passenger service operations or service expansions;

(7) an assessment of the continuing financial stability of Amtrak, as indicated by factors such as: the ability of the federal government to adequately meet capital and operating requirements, Amtrak's access to long-term and short-term capital markets, Amtrak's ability to efficiently manage its workforce, and Amtrak's ability to effectively provide passenger train service;

(8) lump sum expenditures of $10,000,000 or more and sources of funding;

(9) estimates of long-term and short-term debt and associated principle and interest payments (both current and anticipated);

(10) annual cash flow forecasts; and

(11) a statement describing methods of estimation and significant assumptions.

(c) STANDARDS TO PROMOTE FINANCIAL STABILITY.—In meeting the requirements of subsection (b) with respect to a 5-year financial plan, Amtrak shall—

(1) apply sound budgetary practices, including reducing costs and other expenditures, improving productivity, increasing revenues, or combinations of such practices; and

(2) use the categories specified in the financial accounting and reporting system developed under section 4652 when preparing its 5-year financial plan.

(d) ASSESSMENT BY DOT INSPECTOR GENERAL.—

(1) IN GENERAL.—The Inspector General of the Department of Transportation shall assess the 5-year financial plans prepared by Amtrak under this section to determine whether they meet the requirements of subsection (b), and may suggest revisions to any components thereof that do not meet those requirements.

(2) ASSESSMENT TO BE FURNISHED TO THE CONGRESS.—The Inspector General shall furnish to the House of Representatives Committee on Appropriations, the Senate Committee on Appropriations, the House of Representatives Committee on Transportation and Infrastructure, and the Senate Committee on Commerce, Science, and Transportation—

(A) an assessment of the annual budget within 90 days after receiving it from Amtrak; and

(B) an assessment of the remaining 4 years of the 5–year financial plan within 180 days after receiving it from Amtrak.

SEC. 4696. INDEPENDENT AUDITOR TO ESTABLISH METHODOLOGIES FOR AMTRAK ROUTE AND SERVICE PLANNING DECISIONS.

(a) REVIEW.—The Secretary of Transportation shall, in consultation with the Federal Railroad Administration, execute a contract to obtain the services of an independent auditor or consultant to research and define Amtrak's past and current methodologies for determining intercity passenger rail routes and services.

(b) RECOMMENDATIONS.—The independent auditor or consultant shall recommend objective methodologies for determining such routes and services, including the establishment of new routes, the elimination of existing routes, and the contraction or expansion of services or frequencies over such routes.

(c) SUBMITTAL TO CONGRESS.—The Secretary shall submit recommendations received under subsection (b) to Amtrak, the House of Representatives Committee on Transportation and Infrastructure, and the Senate Committee on Commerce, Science, and Transportation.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be made available to the Secretary of Transportation, out of any amounts authorized by this title to be appropriated for the benefit of Amtrak and not otherwise obligated or expended, such sums as may be necessary to carry out this section.

SEC. 4697. METRICS AND STANDARDS.

The Administrator of the Federal Railroad Administration shall, in consultation with Amtrak and host railroads, develop new or improve existing metrics and minimum standards for measuring the service quality of intercity train operations, including on-time performance, onboard services, stations, facilities, equipment, and other services.

SEC. 4698. ON-TIME PERFORMANCE.

Section 24308 is amended by adding at the end the following:

''(f) ON-TIME PERFORMANCE AND OTHER STANDARDS.—If the on-time performance of any intercity passenger train averages less than 80 percent for any consecutive 6-month period, or the service quality of intercity train operations for which minimum standards are established under section 4697 of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 Act fails to meet those standards, Amtrak may petition the Surface Transportation Board to investigate whether, and to what extent, delays or failure to achieve minimum standards are due to causes that could reasonably be addressed by a rail carrier over the tracks of which the intercity passenger train operates, or by a regional authority providing commuter service, if any. In carrying out such an investigation, the Surface Transportation Board shall obtain information from all parties involved and make recommendations regarding reasonable measures to improve the service, quality, and on-time performance of the train.''.

SEC. 4699. RAIL COOPERATIVE RESEARCH PROGRAM.

(a) REQUIREMENT FOR PROGRAM.—

(1) ESTABLISHMENT AND CONTENT.—Chapter 249 is amended by adding at the end the following:

''24910. Rail cooperative research program

''(a) IN GENERAL.—The Secretary shall establish and carry out a rail cooperative research program. The program shall—

''(1) address, among other matters, intercity rail passenger services, including existing rail passenger technologies and speeds, incrementally enhanced rail systems and infrastructure, and new high-speed wheel-on-rail systems and rail security;

''(2) consider research on the interconnectedness of commuter rail, passenger rail, and other rail networks; and

''(3) give consideration to regional concerns regarding rail passenger transportation, including meeting research needs common to designated high speed corridors, long-distance rail services, and regional intercity rail corridors, projects, and entities.

''(b) CONTENT.—The program to be carried out finder this section shall include research designed—

''(1) to identify the unique aspects and attributes of rail passenger service;

''(2) to develop more accurate models for evaluating the impact of rail passenger service, including the effects on highway and airport and airway congestion, environmental quality, and energy consumption;

''(3) to develop a better understanding of modal choice as it affects rail passenger transportation, including development of better models to predict utilization;

''(4) to recommend priorities for technology demonstration and development;

''(5) to meet additional priorities as determined by the advisory board established under subsection (c), including any recommendations made by the National Research Council;

''(6) to explore improvements in management, financing, and institutional structures;

''(7) to address rail capacity constraints that affect passenger rail service through a wide variety of options, ranging from operating improvements to dedicated new infrastructure, taking into account the impact of such options on operations;

''(8) to improve maintenance, operations, customer service, or other aspects of intercity rail passenger service;

''(9) to recommend objective methodologies for determining intercity passenger rail routes and services, including the establishment of new routes, the elimination of existing routes, and the contraction or expansion of services or frequencies over such routes;

''(10) to review the impact of equipment and operational safety standards on the further development of high speed passenger rail operations connected to or integrated with non-high speed freight or passenger rail operations; and

''(11) to recommend any legislative or regulatory changes necessary to foster further development and implementation of high speed passenger rail operations while ensuring the safety of such operations that are connected to or integrated with non-high speed freight or passenger rail operations.

''(c) ADVISORY BOARD.—

''(1) ESTABLISHMENT.—In consultation with the heads of appropriate Federal departments and agencies, the Secretary shall establish an advisory board to recommend research, technology, and technology transfer activities related to rail passenger and freight transportation.

''(2) MEMBERSHIP.—The advisory board shall include—

''(A) representatives of State transportation agencies;

''(B) transportation and environmental economists, scientists, and engineers; and

''(C) representatives of Amtrak, the Alaska Railroad, transit operating agencies, intercity rail passenger agencies, railway labor organizations, and environmental organizations.

''(d) NATIONAL ACADEMY OF SCIENCES.—The Secretary may make grants to, and enter into cooperative agreements with, the National Academy of Sciences to carry out such activities relating to the research, technology, and technology transfer activities described in subsection (b) as the Secretary deems appropriate.''.

(2) CLERICAL AMENDMENT.—The chapter analysis for chapter 249 is amended by adding at the end the following:

''24910. Rail cooperative research program''.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation $5,000,000 for each of fiscal years 2005 through 2010 to carry out the rail cooperative research program under section 24910 of title 49, United States Code.

SA 2531. Mr. CRAPO (for himself, Mr. THOMAS, and Mr. ENZI) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 51, between lines 20 and 21, insert the following:

(d) FLEXIBILITY IN MEETING SET ASIDE REQUIREMENTS.—Section 104(b) of title 23,

United States Code (as amended by section 1401(b)(2)), is amended by adding at the end the following:

''(6) FLEXIBILITY IN MEETING SET ASIDE REQUIREMENTS.—

''(A) IN GENERAL.—Subject to subparagraph (B), any provision of this title that establishes a requirement on or after the date of enactment of this paragraph that a portion of funds apportioned to a State under paragraph (1), (3), or (4) be reserved or obligated for a particular purpose, on an annual basis, shall be considered satisfied if the State sets aside or obligates, as applicable, over the 6-year period of fiscal years 2004 through 2009, the sum of the individual annual requirements over the 6-year period.

''(B) REQUIREMENT.—The flexibility provided by subparagraph (A) does not permit a State to have set aside or obligated, as of the end of a fiscal year, with respect to a requirement, an amount less than—

''(i) the sum of the individual annual requirements for each of fiscal years 2004 through the fiscal year; less

''(ii) the sum obtained by adding the individual requirement for fiscal year 2004 and an amount equal to 50 percent of the requirement for fiscal year 2005.''.

SA 2532. Mr. SHELBY submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows;

At the appropriate place, insert:

''SEC. . THE DELTA REGIONAL AUTHORITY.

(1) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1814(a), is amended by adding at the end the following:

''178. Delta Region transportation development program

''(a) IN GENERAL.—The Secretary shall carry out a program to—

''(1) support and encourage multistate transportation planning and corridor development;

''(2) provide for transportation project development;

''(3) facilitate transportation decisionmaking; and

''(4) support transportation construction.

''(b) ELIGIBLE RECIPIENTS.—A State transportation department or metropolitan planning organization may receive and administer funds provided under the program.

''(c) ELIGIBLE ACTIVITIES.—The Secretary shall make allocations under the program for multistate highway and transit planning, development, and construction projects.

''(d) OTHER PROVISIONS REGARDING ELIGIBILITY.—All activities funded under this program shall be consistent with the continuing, cooperative, and comprehensive planning processes required by section 134 and 135.

''(e) SELECTION CRITERIA.—The Secretary shall select projects to be carried out under the program based on—

''(1) whether the project is located—

''(A) in an area that is part of the Delta Regional Authority; and

''(B) on the Federal-aid system;

''(2) endorsement of the project by the State department of transportation; and

''(3) evidence of the ability to complete the project.

''(f) PROGRAM PRIORITIES.—In administering the program, the Secretary shall—

''(1) encourage State and local officials to work together to develop plans for multimodal and multijurisdictional transportation decisionmaking; and

''(2) give priority to projects that emphasize multimodal planning, including planning for operational improvements that—

''(A) increase the mobility of people and goods;

''(B) improve the safety of the transportation system with respect to catastrophic—

''(i) natural disasters; or

''(ii) disasters caused by human activity; and

''(C) contribute to the economic vitality of the area in which the project is being carried out.

''(g) FEDERAL SHARE.—Amounts provided by the Delta Regional Authority to carry out a project under this section shall be applied to the non-Federal share required by section 120.

''(h) AVAILABILITY OF FUNDS.—Amounts made available to carry out this section shall remain available until expended.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter I of title 23, United States Code (as amended by section 1841(b)), is amended by adding at the end the following:

''178. Delta Region transportation development program.''.''

On page 678, after line 5, insert:

(16) DELTA REGION TRANSPORTATION DEVELOPMENT PROGRAM.—For planning and construction activities authorized under the Delta Regional Authority, $400,000,000 for each of fiscal years 2004 through 2009.

SA 2533. Mr. SHELBY submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

SEC. . Section 201(b) of the Appalachian Regional Development Act of 1965 is amended by striking ''and'' before (4) and inserting after ''section'' the following:

'', and an estimate of the cost to construct highways and access roads for the Appalachian development highway system every 24 months.''

SA 2534. Mr. SHELBY submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 930, line 6 insert the following:

''(3) COST TO COMPLETE STUDY.—The Appalachian Regional Commission shall prepare an estimate of the cost to construct highways and access roads for the Appalachian development highway system every 24 months.''

SA 2535. Ms. CANTWELL submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 255, strike line 18 and insert the following:

(c) PAY-AS-YOU-DRIVE-AND-YOU-SAVE (PAYDAYS) GRANT PROGRAM.—Section 129 of title 23, United States Code (as amended by subsection (b)), is amended by adding at the end the following:

''(f) PAY-AS-YOU-DRIVE-AND-YOU-SAVE (PAYDAYS) GRANT PROGRAM.—

''(1) ESTABLISHMENT.—The Secretary shall establish a Pay-As-You-Drive-And-You-Save (PAYDAYS) grant program to fund pilot and related activities that convert fixed driving costs and general taxes that support transportation to vehicle use charges.

''(2) SPECIAL REQUIREMENTS.—

''(A) IN GENERAL.—Beginning not later than 60 days after the date of enactment of this subsection and continuing each October 1 (or first subsequent business day) of each of fiscal years 2004 through 2009, a $10,000,000 grant in the form of a single payment shall be made by the Secretary to 1 designated university or other institutional partner (referred to in this subsection as the 'designated partner').

''(B) GRANT PURPOSE.—A grant under subparagraph (A) shall be available for soliciting and underwriting applications from governmental, university, and other institutional entities, and public-private partnerships to—

''(i) design, test, implement, and evaluate innovative mileage and parking pricing strategies; and

''(ii) forge partnerships between private sector entities and consumers to offer innovative mileage and variable parking pricing products.

''(C) SUBGRANTS, LOANS, AND REVENUE AND LOSS GUARANTEES.—In consultation with the Secretary, the designated partner shall, using at least 92.5 percent of the funding made available for the grant, provide subgrants, loans, and revenue and loss guarantees to, and enter into contracts with, the governmental, university, and other institutional entities, and public-private partnerships to meet the objectives of this section.

''(D) LIMITATION ON USE.—Not more than 7.5 percent of the grant funds provided for the program shall be available to be spent directly by the designated partner to—

''(i) solicit applications;

''(ii) oversee grant activities; and

''(iii) conduct research and outreach.

''(E) FEDERAL SHARE.—

''(i) IN GENERAL.—The Federal share of the costs of activities carried out with a grant to the designated partner under this section shall be 100 percent.

''(ii) MATCHING FUNDS.—The designated partner shall require a subgrantee to provide matching funds.

''(F) MINIMUM FUNDING GUARANTEES.—Funds provided under this section shall be excluded when calculating minimum funding guarantees under section 105.

''(3) REPORTING.—

''(A) IN GENERAL.—The designated partner, in cooperation with the Secretary and subgrant recipients, shall—

''(i) publish performance goals for the PAYDAYS grant program and for each project; and

''(ii) monitor and, at least every 2 years after the enactment of this subsection, submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that assesses the effects of projects on the achievement of those goals.

''(B) PERFORMANCE GOALS.—Performance goals shall include—

''(i) traffic volumes and congestion;

''(ii) air quality;

''(iii) safety;

''(iv) use of alternative transportation modes; and

''(v) equity.

''(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection $10,000,000 in contract authority

funding for each of fiscal years 2004 through 2009, not subject to obligation limitations.''.

(d) CONFORMING AMENDMENTS.—

SA 2536. Ms. CANTWELL submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 255, strike line 18 and insert the following:

(c) PAY-AS-YOU-DRIVE-AND-YOU-SAVE (PAYDAYS) GRANT PROGRAM.—Section 129 of title 23, United States Code (as amended by subsection (b)), is amended by adding at the end the following:

''(f) PAY-AS-YOU-DRIVE-AND-YOU-SAVE (PAYDAYS) GRANT PROGRAM.—

''(1) ESTABLISHMENT.—The Secretary shall establish a Pay-As-You-Drive-And-You-Save (PAYDAYS) grant program to fund pilot and related activities that convert fixed driving costs and general taxes that support transportation to vehicle use charges.

''(2) SPECIAL REQUIREMENTS.—

''(A) IN GENERAL.—Beginning not later than 60 days after the date of enactment of this subsection and continuing each October 1 (or first subsequent business day) of each of fiscal years 2004 through 2009, a $10,000,000 grant in the form of a single payment shall be made by the Secretary to 1 designated university or other institutional partner (referred to in this subsection as the 'designated partner').

''(B) GRANT PURPOSE.—A grant under subparagraph (A) shall be available for soliciting and underwriting applications from governmental, university, and other institutional entities, and public-private partnerships to—

''(i) design, test, implement, and evaluate innovative mileage and parking pricing strategies; and

''(ii) forge partnerships between private sector entities and consumers to offer innovative mileage and variable parking pricing products.

''(C) SUBGRANTS, LOANS, AND REVENUE AND LOSS GUARANTEES.—In consultation with the Secretary, the designated partner shall, using at least 92.5 percent of the funding made available for the grant, provide subgrants, loans, and revenue and loss guarantees to, and enter into contracts with, the governmental, university, and other institutional entities, and public-private partnerships to meet the objectives of this section.

''(D) LIMITATION ON USE.—Not more than 7.5 percent of the grant funds provided for the program shall be available to be spent directly by the designated partner to—

''(i) solicit applications;

''(ii) oversee grant activities; and

''(iii) conduct research and outreach.

''(E) FEDERAL SHARE.—

''(i) IN GENERAL.—The Federal share of the costs of activities carried out with a grant to the designated partner under this section shall be 100 percent.

''(ii) MATCHING FUNDS.—The designated partner shall require a subgrantee to provide matching funds.

''(F) MINIMUM FUNDING GUARANTEES.—Funds provided under this section shall be excluded when calculating minimum funding guarantees under section 105.

''(3) REPORTING.—

''(A) IN GENERAL.—The designated partner, in cooperation with the Secretary and subgrant recipients, shall—

''(i) publish performance goals for the PAYDAYS grant program and for each project; and

''(ii) monitor and, at least every 2 years after the enactment of this subsection, submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that assesses the effects of projects on the achievement of those goals.

''(B) PERFORMANCE GOALS.—Performance goals shall include—

''(i) traffic volumes and congestion;

''(ii) air quality;

''(iii) safety;

''(iv) use of alternative transportation modes; and

''(v) equity.

''(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection $10,000,000 in contract authority funding for each of fiscal years 2004 through 2009, not subject to obligation limitations.''.

(d) CONFORMING AMENDMENTS.—

SA 2537. Ms. CANTWELL submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 255, strike line 18 and insert the following:

(c) PAY-AS-YOU-DRIVE-AND-YOU-SAVE (PAYDAYS) GRANT PROGRAM.—Section 129 of title 23, United States Code (as amended by subsection (b)), is amended by adding at the end the following:

''(f) PAY-AS-YOU-DRIVE-AND-YOU-SAVE (PAYDAYS) GRANT PROGRAM.—

''(1) ESTABLISHMENT.—The Secretary shall establish a Pay-As-You-Drive-And-You-Save (PAYDAYS) grant program to fund pilot and related activities that convert fixed driving costs and general taxes that support transportation to vehicle use charges.

''(2) SPECIAL REQUIREMENTS.—

''(A) IN GENERAL.—Beginning not later than 60 days after the date of enactment of this subsection and continuing each October 1 (or first subsequent business day) of each of fiscal years 2004 through 2009, a $10,000,000 grant in the form of a single payment shall be made by the Secretary to 1 designated university or other institutional partner (referred to in this subsection as the 'designated partner').

''(B) GRANT PURPOSE.—A grant under subparagraph (A) shall be available for soliciting and underwriting applications from governmental, university, and other institutional entities, and public-private partnerships to—

''(i) design, test, implement, and evaluate innovative mileage and parking pricing strategies; and

''(ii) forge partnerships between private sector entities and consumers to offer innovative mileage and variable parking pricing products.

''(C) SUBGRANTS, LOANS, AND REVENUE AND LOSS GUARANTEES.—In consultation with the Secretary, the designated partner shall, using at least 92.5 percent of the funding made available for the grant, provide subgrants, loans, and revenue and loss guarantees to, and enter into contracts with, the governmental, university, and other institutional entities, and public-private partnerships to meet the objectives of this section.

''(D) LIMITATION ON USE.—Not more than 7.5 percent of the grant funds provided for the program shall be available to be spent directly by the designated partner to—

''(i) solicit applications;

''(ii) oversee grant activities; and

''(iii) conduct research and outreach.

''(E) FEDERAL SHARE.—

''(i) IN GENERAL.—The Federal share of the costs of activities carried out with a grant to the designated partner under this section shall be 100 percent.

''(ii) MATCHING FUNDS.—The designated partner shall require a subgrantee to provide matching funds.

''(F) MINIMUM FUNDING GUARANTEES.—Funds provided under this section shall be excluded when calculating minimum funding guarantees under section 105.

''(3) REPORTING.—

''(A) IN GENERAL.—The designated partner, in cooperation with the Secretary and subgrant recipients, shall—

''(i) publish performance goals for the PAYDAYS grant program and for each project; and

''(ii) monitor and, at least every 2 years after the enactment of this subsection, submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that assesses the effects of projects on the achievement of those goals.

''(B) PERFORMANCE GOALS.—Performance goals shall include—

''(i) traffic volumes and congestion;

''(ii) air quality;

''(iii) safety;

''(iv) use of alternative transportation modes; and

''(v) equity.

''(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection $10,000,000 in contract authority funding for each of fiscal years 2004 through 2009, not subject to obligation limitations.''.

(d) CONFORMING AMENDMENTS.—

SA 2538. Ms. CANTWELL submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 638, before line 16, insert the following:

(c) NATIONAL TECHNICAL ASSISTANCE CENTER FOR SENIOR TRANSPORTATION.—Section 5314 is amended by adding at the end the following:

''(c) NATIONAL TECHNICAL ASSISTANCE CENTER FOR SENIOR TRANSPORTATION.—

''(1) ESTABLISHMENT.—The Secretary, in consultation with the Federal Transit Administration, shall award a grant of $2,500,000 to a national not-for-profit organization for the establishment and maintenance of a national technical assistance center.

''(2) ELIGIBILITY.—An organization shall be eligible to receive the grant under paragraph (1) if the organization—

''(A) focuses significantly on serving the needs of the elderly;

''(B) has demonstrated knowledge and expertise in senior transportation policy and planning issues;

''(C) has affiliates in a majority of the States;

''(D) has the capacity to convene local groups to consult on operation and development of senior transportation programs; and

''(E) has established close working relationships with the Federal Transit Administration and the Administration on Aging.

''(3) USE OF FUNDS.—The national technical assistance center established under this section shall—

''(A) gather best practices from throughout the country and provide such practices to local communities that are implementing senior transportation programs;

''(B) work with teams from local communities to identify how they are successfully meeting the transportation needs of senior and any gaps in services in order to create a plan for an integrated senior transportation program;

''(C) provide resources on ways to pay for senior transportation services;

''(D) create a web site to publicize and circulate information on senior transportation programs;

''(E) establish a clearinghouse for print, video, and audio resources on senior mobility; and

''(F) administer the demonstration grant program established under paragraph (4).

''(4) GRANTS AUTHORIZED.—

''(A) IN GENERAL.—The national technical assistance center established under this section, in consultation with the Federal Transit Administration, shall award senior transportation demonstration grants to—

''(i) local transportation organizations;

''(ii) State agencies;

''(iii) units of local government; and

''(iv) nonprofit organizations.

''(B) USE OF FUNDS.—Grant funds received pursuant to subparagraph (A) may be used to create model programs to—

''(i) provide direct transportation services to senior citizens; and

''(ii) demonstrate effective mechanisms for establishing community-based plans for senior transportation.

''(5) ALLOCATIONS.—From the funds made available for each fiscal year under subsections (a)(5)(C)(iv) and (b)(2)(G)(iv) of section 5338—

''(A) $2,500,000 shall be allocated to carry out the provisions of paragraphs (1) through (3); and

''(B) $2,500,000 shall be allocated to carry out the provisions of paragraph (4).''.

SA 2539. Ms. CANTWELL submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 638, before line 16, insert the following:

(c) NATIONAL TECHNICAL ASSISTANCE CENTER FOR SENIOR TRANSPORTATION.—Section 5314 is amended by adding at the end the following:

''(c) NATIONAL TECHNICAL ASSISTANCE CENTER FOR SENIOR TRANSPORTATION.—

''(1) ESTABLISHMENT.—The Secretary, in consultation with the Federal Transit Administration, shall award a grant of $2,500,000 to a national not-for-profit organization for the establishment and maintenance of a national technical assistance center.

''(2) ELIGIBILITY.—An organization shall be eligible to receive the grant under paragraph (1) if the organization—

''(A) focuses significantly on serving the needs of the elderly;

''(B) has demonstrated knowledge and expertise in senior transportation policy and planning issues;

''(C) has affiliates in a majority of the States;

''(D) has the capacity to convene local groups to consult on operation and development of senior transportation programs; and

''(E) has established close working relationships with the Federal Transit Administration and the Administration on Aging.

''(3) USE OF FUNDS.—The national technical assistance center established under this section shall—

''(A) gather best practices from throughout the country and provide such practices to local communities that are implementing senior transportation programs;

''(B) work with teams from local communities to identify how they are successfully meeting the transportation needs of senior and any gaps in services in order to create a plan for an integrated senior transportation program;

''(C) provide resources on ways to pay for senior transportation services;

''(D) create a web site to publicize and circulate information on senior transportation programs;

''(E) establish a clearinghouse for print, video, and audio resources on senior mobility; and

''(F) administer the demonstration grant program established under paragraph (4).

''(4) GRANTS AUTHORIZED.—

''(A) IN GENERAL.—The national technical assistance center established under this section, in consultation with the Federal Transit Administration, shall award senior transportation demonstration grants to—

''(i) local transportation organizations;

''(ii) State agencies;

''(iii) units of local government; and

''(iv) nonprofit organizations.

''(B) USE OF FUNDS.—Grant funds received pursuant to subparagraph (A) may be used to create model programs to—

''(i) provide direct transportation services to senior citizens; and

''(ii) demonstrate effective mechanisms for establishing community-based plans for senior transportation.

''(5) ALLOCATIONS.—From the funds made available for each fiscal year under subsections (a)(5)(C)(iv) and (b)(2)(G)(iv) of section 5338—

''(A) $2,500,000 shall be allocated to carry out the provisions of paragraphs (1) through (3); and

''(B) $2,500,000 shall be allocated to carry out the provisions of paragraph (4).''.

SA 2540. Ms. CANTWELL submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 638, before line 16, insert the following:

(c) NATIONAL TECHNICAL ASSISTANCE CENTER FOR SENIOR TRANSPORTATION.—Section 5314 is amended by adding at the end the following:

''(c) NATIONAL TECHNICAL ASSISTANCE CENTER FOR SENIOR TRANSPORTATION.—

''(1) ESTABLISHMENT.—The Secretary, in consultation with the Federal Transit Administration, shall award a grant of $2,500,000 to a national not-for-profit organization for the establishment and maintenance of a national technical assistance center.

''(2) ELIGIBILITY.—An organization shall be eligible to receive the grant under paragraph (1) if the organization—

''(A) focuses significantly on serving the needs of the elderly;

''(B) has demonstrated knowledge and expertise in senior transportation policy and planning issues;

''(C) has affiliates in a majority of the States;

''(D) has the capacity to convene local groups to consult on operation and development of senior transportation programs; and

''(E) has established close working relationships with the Federal Transit Administration and the Administration on Aging.

''(3) USE OF FUNDS.—The national technical assistance center established under this section shall—

''(A) gather best practices from throughout the country and provide such practices to local communities that are implementing senior transportation programs;

''(B) work with teams from local communities to identify how they are successfully meeting the transportation needs of senior and any gaps in services in order to create a plan for an integrated senior transportation program;

''(C) provide resources on ways to pay for senior transportation services;

''(D) create a web site to publicize and circulate information on senior transportation programs;

''(E) establish a clearinghouse for print, video, and audio resources on senior mobility; and

''(F) administer the demonstration grant program established under paragraph (4).

''(4) GRANTS AUTHORIZED.—

''(A) IN GENERAL.—The national technical assistance center established under this section, in consultation with the Federal Transit Administration, shall award senior transportation demonstration grants to—

''(i) local transportation organizations;

''(ii) State agencies;

''(iii) units of local government; and

''(iv) nonprofit organizations.

''(B) USE OF FUNDS.—Grant funds received pursuant to subparagraph (A) may be used to create model programs to—

''(i) provide direct transportation services to senior citizens; and

''(ii) demonstrate effective mechanisms for establishing community-based plans for senior transportation.

''(5) ALLOCATIONS.—From the funds made available for each fiscal year under subsections (a)(5)(C)(iv) and (b)(2)(G)(iv) of section 5338—

''(A) $2,500,000 shall be allocated to carry out the provisions of paragraphs (1) through (3); and

''(B) $2,500,000 shall be allocated to carry out the provisions of paragraph (4).''.

SA 2541. Mr. SMITH submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 619, strike line 1 and all that follows through page 621, line 8, and insert the following:

''(1) AUTHORIZATION.—The Secretary may award grants to a State for public transportation capital projects, and operating costs associated with public transportation capital projects, that are planned, designed, and carried out to meet the needs of elderly individuals and individuals with disabilities, with priority given to the needs of these individuals to access necessary health care.

''(2) ACQUISITION OF PUBLIC TRANSPORTATION SERVICES.—A capital public transportation

project under this section may include acquiring public transportation services as an eligible capital expense.

''(3) ADMINISTRATIVE COSTS.—A State may use not more than 15 percent of the amounts received under this section to administer, plan, and provide technical assistance for a project funded under this section.

''(b) ALLOTMENTS AMONG STATES.—

''(1) IN GENERAL.—From amounts made available or appropriated in each fiscal year under subsections (a)(1)(C)(iv) and (b)(2)(D) of section 5338 for grants under this section, the Secretary shall allot amounts to each State under a formula based on the number of elderly individuals and individuals with disabilities in each State.

''(2) TRANSFER OF FUNDS.—Any funds allotted to a State under paragraph (1) may be transferred by the State to the apportionments made under sections 5311(c) and 5336 if such funds are only used for eligible projects selected under this section.

''(3) REALLOCATION OF FUNDS.—A State receiving a grant under this section may reallocate such grant funds to—

''(A) a private nonprofit organization;

''(B) a public transportation agency or authority; or

''(C) a governmental authority that—

''(i) has been approved by the State to coordinate services for elderly individuals and individuals with disabilities;

''(ii) certifies that nonprofit organizations are not readily available in the area that can provide the services described under this subsection; or

''(iii) will provide services to persons with disabilities that exceed those services required by the Americans with Disabilities Act.

''(c) FEDERAL SHARE.—

''(1) MAXIMUM.—

''(A) CAPITAL PROJECTS.—A grant for a capital project under this section may not exceed 80 percent of the net capital costs of the project, as determined by the Secretary.

''(B) EXCEPTION.—A State described in section 120(d) of title 23 shall receive an increased Federal share in accordance with the formula under that section.

''(C) OPERATING COSTS.—Grant funds for operating costs under this section may not exceed 50 percent of the net operating costs of the project, as determined by the Secretary.''

SA 2542. Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Insert the following before equipment in Section 148(a)(2)(B)(xiv): ''integrated, interoperable emergency communications''.

SA 2543. Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Insert the following after elements in Section 148(a)(5)(C): '', including integrated, interoperable emergency communications,''.

SA 2544. Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Insert the following before communications in Section 501(2): ''integrated, interoperable emergency''.

SA 2545. Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Insert the following before communications in Section 501(2)(C): ''integrated, interoperable emergency''.

SA 2546. Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Strike enhanced and insert the following in Section 502(h)(2)(iii): ''integrated, interoperable emergency''.

SA 2547. Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Add new paragraph (7) to Section 149(b): ''If the project or program involves the purchase of integrated, interoperable emergency communications equipment.''

SA 2548. Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Insert the following before reliability in Section 503(a)(3)(B): '', mobile communications,''.

SA 2549. Mr. GRASSLEY (for himself and Mr. BAUCUS) submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 1027, strike lines 3 through 13, and insert the following:

(g) PROHIBITION ON USE OF HIGHWAY ACCOUNT FOR RAIL PROJECTS UNDER NEW PROGRAMS.—Section 9503(c) (relating to transfers from Highway Trust Fund for certain repayments and credits) is amended by adding at the end the following new paragraph:

''(6) PROHIBITION ON USE OF HIGHWAY ACCOUNT FOR CERTAIN RAIL PROJECTS.—With respect to rail projects under programs beginning after the date of the enactment of this paragraph, no amount shall be available from the Highway Account (as defined in subsection (e)(5)(B)).''.

SA 2550. Mr. THOMAS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

(a) Amendment to 23 U.S.C. 306.—Section 23 U.S.C. 306 is amended as follows:

SEC. 306.—MAPPING.

(a) In General.——

In carrying out the provisions of this title, the Secretary may, wherever practicable, authorize the use of photogrammetric methods in mapping, and the utilization of commercial enterprise for such services.

(b) Regulations.—

The Secretary shall issue regulations to require States to utilize, to the maximum extent practicable, private sector sources for surveying and mapping services for projects under this title. In carrying out this subsection, the Secretary shall recommend appropraite roles for States and private mapping and surveying activities, including—

(1) State participation in—

(i) Preparation of standards and specifications;

(ii) research in surveying and mapping instrumentation and procedures and technology transfer to the private sector; and

(iii) providing technical guidance, coordination, and administration of State surveying and mapping activities; and

(2) private sector participations in—

(i) performance of surveying and mapping activities, to include but not be limited to such activities as measuring, locating and preparing maps, charts, surveys, aerial photographs, satellite images, or other graphical or digital presentations depicting natural or manmade physical features, phenomena, and legal boundaries of the Earth.

(c) The Secretary shall implement a program to assure that States implement this section in such a manner as to assure that government agencies do not complete with its citizens and that such agencies not start or carry on any activity to provide a commercial surveying and mapping product or service if the product or service can be procured more economically from the commercial sources to supply the surveying and mapping products and services the government needs.

SA 2551. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title IV, add the following:

Subtitle G—Immigration Related Provisions

SEC. 4701. PROHIBITION OF ISSUANCE OF DRIVER'S LICENSES TO ILLEGAL ALIENS.

(a) WITHHOLDING OF FUNDS FOR NONCOMPLIANCE.—The Secretary of Transportation shall withhold 10 per cent of the amount required to be apportioned to any State under this Act on the first day of each fiscal year after the second fiscal year beginning after September 30, 2004, if such State permits by statute, regulation, or executive order the issuance of a State Driver's license or identification card to aliens who do not present valid documentation of lawful presence in the United States as determined by the Immigration and Nationality Act (8 U.S.C. 1101).

(b) EFFECT OF WITHHOLDING OF FUNDS.—Any funds recovered due to a reduction in State funding in accordance with subsection (a) shall be redistributed amongst the States that are in compliance with this section in accordance with the formulas set forth in this Act, calculated without taking into account the States that have violated this section.

(c) The Bureau of Immigration and Customs Enforcement of the Department of Homeland Security shall issue a list of documents or combinations of documents establishing legal presence in the United States by September 30, 2004. The Secretary shall utilize such list for the purpose of determinations of compliance with subsection (a).

SA 2552. Mr. WYDEN (for himself and Mr. TALENT) submitted an amendment intended to be proposed to amendment SA 2341 submitted by Mr. TALENT (for himself and Mr. WYDEN) and intended to be proposed to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Strike all after the first word and insert the following:

4602. ESTABLISHMENT OF BUILD AMERICA CORPORATION.

There is established a nonprofit corporation, to be known as the ''Build America Corporation''. The Build America Corporation is not an agency or establishment of the United States Government. The purpose of the Corporation is to support qualified projects described in section 4603(c)(2) through the issuance of Build America bonds. The Corporation shall be subject, to the extent consistent with this section, to the laws of the State of Delaware applicable to corporations not for profit.

SEC. 4603. FEDERAL BONDS FOR TRANSPORTATION INFRASTRUCTURE.

(a) USE OF BOND PROCEEDS.—The proceeds from the sale of—

(1) any bonds authorized, issued, or guaranteed by the Federal Government that are available to fund passenger rail projects pursuant to any Federal law (enacted before, on, or after the date of the enactment of this Act), and

(2) any Build America bonds issued by the Build America Corporation as authorized by section 4602,

may be used to fund a qualified project if the Secretary of Transportation determines that the qualified project is a cost-effective alternative for efficiently maximizing mobility of individuals and goods.

(b) COMPLIANCE OF BENEFICIARIES WITH CERTAIN STANDARDS.—A recipient of proceeds of a grant, loan, Federal tax-credit bonds, or any other form of financial assistance provided under this title shall comply with the standards described in section 24312 of title 49, United States Code, as in effect on June 25, 2003, with respect to any qualified project described in subsection (c)(1) in the same manner that the National Passenger Railroad Corporation is required to comply with such standards for construction work financed under an agreement entered into under section 24308(a) of such title.

(c) QUALIFIED PROJECT DEFINED.—In this section—

(1) IN GENERAL.—Except as provided in paragraph (2), the term ''qualified project'' means any transportation infrastructure project of any governmental unit or other person that is proposed by a State, including a highway project, a transit system project, a railroad project, an airport project, a port project, and an inland waterways project.

(2) BUILD AMERICA CORPORATION PROJECTS.—

(A) IN GENERAL.—With respect to any Build America bonds issued by the Build America Corporation as authorized by section 4602, the term ''qualified project'' means any—

(i) qualified highway project,

(ii) qualified public transportation project, and

(iii) congestion relief project,

proposed by 1 or more States and approved by the Build America Corporation, which meets the requirements under clauses (i), (ii), and (iii) of subparagraph (D).

(B) QUALIFIED HIGHWAY PROJECT.—The term ''qualified highway project'' means a project for highway facilities or other facilities which are eligible for assistance under title 23, United States Code.

(C) QUALIFIED PUBLIC TRANSPORTATION PROJECT.—The term ''qualified public transportation project'' means a project for public transportation facilities or other facilities which are eligible for assistance under chapter 53 of title 49, United States Code.

(D) CONGESTION RELIEF PROJECT.—The term ''congestion relief project'' means an intermodal freight transfer facility, freight rail facility, freight movement corridor, intercity passenger rail or facility, intercity bus vehicle or facility, border crossing facility, or other public or private facility approved as a congestion relief project by the Secretary of Transportation. In making such approvals, the Secretary of Transportation shall—

(i) consider the economic, environmental, mobility, and national security improvements to be realized through the project, and

(ii) give preference to projects with national or regional significance, including any projects sponsored by a coalition of States or a combination of States and private sector entities, in terms of generating economic benefits, supporting international commerce, or otherwise enhancing the national transportation system.

(D) ADDITIONAL REQUIREMENTS FOR QUALIFIED PROJECTS.—For purposes of subparagraph (A)—

(i) COSTS OF QUALIFIED PROJECTS.—The requirement of this clause is met if the costs of the qualified project funded by Build America bonds only relate to capital investments in depreciable assets and do not include any costs relating to operations, maintenance, or rolling stock.

(ii) APPLICABILITY OF FEDERAL LAW.—The requirement of this clause is met if the requirements of any Federal law, including titles 23, 40, and 49 of the United States Code, which would otherwise apply to projects to which the United States is a party or to funds made available under such law and projects assisted with those funds are applied to—

(I) funds made available under Build America bonds for similar qualified projects, and

(II) similar qualified projects assisted by the Build America Corporation through the use of such funds.

(iii) UTILIZATION OF UPDATED CONSTRUCTION TECHNOLOGY FOR QUALIFIED PROJECTS.—The requirement of this clause is met if the appropriate State agency relating to the qualified project has updated its accepted construction technologies to match a list prescribed by the Secretary of Transportation and in effect on the date of the approval of the project as a qualified project.

PART 2—RAILROAD TRACK MODERNIZATION

SEC. 4631. SHORT TITLE.

This part may be cited as the ''Railroad Track Modernization Act of 2004''.

SEC. 4632. CAPITAL GRANTS FOR RAILROAD TRACK.

(a) AUTHORITY.—Chapter 223 of title 49, United States Code, is amended to read as follows:

"CHAPTER 223—CAPITAL GRANTS FOR RAILROAD TRACK

''Sec.

''22301. Capital grants for railroad track.

"§ 22301. Capital grants for railroad track

''(a) ESTABLISHMENT OF PROGRAM.—

''(1) ESTABLISHMENT.—The Secretary of Transportation shall establish a program of capital grants for the rehabilitation, preservation, or improvement of railroad track (including roadbed, bridges, and related track structures) of class II and class III railroads. Such grants shall be for rehabilitating, preserving, or improving track used primarily for freight transportation to a standard ensuring that the track can be operated safely and efficiently, including grants for rehabilitating, preserving, or improving track to handle 286,000 pound rail cars. Grants may be provided under this chapter—

''(A) directly to the class II or class III railroad; or

''(B) with the concurrence of the class II or class III railroad, to a State or local government.

''(2) STATE COOPERATION.—Class II and class III railroad applicants for a grant under this chapter are encouraged to utilize the expertise and assistance of State transportation agencies in applying for and administering such grants. State transportation agencies are encouraged to provide such expertise and assistance to such railroads.

''(3) REGULATIONS.—

''(A) IN GENERAL.—The Secretary shall prescribe regulations to carry out the program under this section.

''(B) CRITERIA.—In developing the regulations, the Secretary shall establish criteria that—

''(i) condition the award of a grant to a railroad on reasonable assurances by the railroad that the facilities to be rehabilitated and improved will be economically and efficiently utilized;

''(ii) ensure that the award of a grant is justified by present and probable future demand for rail services by the railroad to which the grant is to be awarded;

''(iii) ensure that consideration is given to projects that are part of a State-sponsored rail plan; and

''(iv) ensure that all such grants are awarded on a competitive basis.

''(b) MAXIMUM FEDERAL SHARE.—The maximum Federal share for carrying out a project under this section shall be 80 percent of the project cost. The non-Federal share may be provided by any non-Federal source in cash, equipment, or supplies. Other in-kind contributions may be approved by the Secretary on a case by case basis consistent with this chapter.

''(c) PROJECT ELIGIBILITY.—For a project to be eligible for assistance under this section the track must have been operated or owned by a class II or class III railroad as of the date of the enactment of the Railroad Track Modernization Act of 2004.

''(d) USE OF FUNDS.—Grants provided under this section shall be used to implement track capital projects as soon as possible. In no event shall grant funds be contractually obligated for a project later than the end of the third Federal fiscal year following the year in which the grant was awarded. Any funds not so obligated by the end of such fiscal year shall be returned to the Secretary for reallocation.

''(e) ADDITIONAL PURPOSE.—In addition to making grants for projects as provided in subsection (a), the Secretary may also make

grants to supplement direct loans or loan guarantees made under title V of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 822(d)), for projects described in the last sentence of section 502(d) of such title. Grants made under this subsection may be used, in whole or in part, for paying credit risk premiums, lowering rates of interest, or providing for a holiday on principal payments.

''(f) EMPLOYEE PROTECTION.—The Secretary shall require as a condition of any grant made under this section that the recipient railroad provide a fair arrangement at least as protective of the interests of employees who are affected by the project to be funded with the grant as the terms imposed under section 11326(a), as in effect on the date of the enactment of the Railroad Track Modernization Act of 2001.

''(g) LABOR STANDARDS.—

''(1) PREVAILING WAGES.—The Secretary shall ensure that laborers and mechanics employed by contractors and subcontractors in construction work financed by a grant made under this section will be paid wages not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor under the Act of March 3, 1931 (known as the Davis-Bacon Act; 40 U.S.C. 276a et seq.). The Secretary shall make a grant under this section only after being assured that required labor standards will be maintained on the construction work.

''(2) WAGE RATES.—Wage rates in a collective bargaining agreement negotiated under the Railway Labor Act (45 U.S.C. 151 et seq.) are deemed for purposes of this subsection to comply with the Act of March 3, 1931 (known as the Davis-Bacon Act; 40 U.S.C. 276a et seq.).''.

(b) CONFORMING AMENDMENT.—The item relating to chapter 223 in the table of chapters of subtitle V of title 49, United States Code, is amended to read as follows:

''223. Capital grants for railroad track ..... 22301''.

SEC. 4633. REGULATIONS.

(a) REGULATIONS.—The Secretary of Transporation shall prescribe under subsection (a)(3) of section 22301 of title 49, United States Code (as added by section 4601), interim and final regulations for the administration of the grant program under such section as follows:

(1) INTERIM REGULATIONS.—The Secretary shall prescribe the interim regulations to implement the program not later than December 31, 2003.

(2) FINAL REGULATIONS.—The Secretary shall prescribe the final regulations not later than October 1, 2004.

(b) INAPPLICABILITY OF RULEMAKING PROCEDURE TO INTERIM REGULATIONS.—Subchapter II of chapter 5 of title 5, United States Code, shall not apply to the issuance of an interim regulation or to any amendment of such an interim regulation.

(c) CRITERIA.—The requirement for the establishment of criteria under subparagraph (B) of section 22301(a)(3) of title 49, United States Code, applies to the interim regulations as well as to the final regulations.

SEC. 4634. STUDY OF GRANT-FUNDED PROJECTS.

(a) REQUIREMENT FOR STUDY.—The Secretary of Transportation shall conduct a study of the projects carried out with grant assistance under section 22301 of title 49, United States Code (as added by section 4601), to determine the public interest benefits associated with the light density railroad networks in the States and their contribution to a multimodal transportation system.

(b) REPORT.—Not later than March 31, 2004, the Secretary shall submit to Congress a report on the results of the study under subsection (a). The report shall include any recommendations that the Secretary considers appropriate regarding the eligibility of light density rail networks for Federal infrastructure financing.

SEC. 4635. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary of Transportation $350,000,000 for each of fiscal years 2004, 2005, and 2006 for carrying out section 22301 of title 49, United States Code (as added by section 4601).

PART 3—OTHER RAIL TRANSPORTATION-RELATED PROVISIONS

SEC. 4661. CAPITAL GRANTS FOR RAIL LINE RELOCATION PROJECTS.

(a) ESTABLISHMENT OF PROGRAM.—

(1) PROGRAM REQUIREMENTS.—Chapter 201 of title 49, United States Code, is amended by adding at the end of subchapter II the following:

''§ 20154. Capital grants for rail line relocation projects

''(a) ESTABLISHMENT OF PROGRAM.—The Secretary of Transportation shall carry out a grant program to provide financial assistance for local rail line relocation projects.

''(b) ELIGIBILITY.—A State is eligible for a grant under this section for any project for the improvement of the route or structure of a rail line passing through a municipality of the State that—

''(1) is carried out for the purpose of mitigating the adverse effects of rail traffic on safety, motor vehicle traffic flow, or economic development in the municipality;

''(2) involves a lateral or vertical relocation of any portion of the rail line within the municipality to avoid a closing of a grade crossing or the construction of a road underpass or overpass; and

''(3) meets the costs-benefits requirement set forth in subsection (c).

''(c) COSTS-BENEFITS REQUIREMENT.—A grant may be awarded under this section for a project for the relocation of a rail line only if the benefits of the project for the period equal to the estimated economic life of the relocated rail line exceed the costs of the project for that period, as determined by the Secretary considering the following factors:

''(1) The effects of the rail line and the rail traffic on motor vehicle and pedestrian traffic, safety, and area commerce if the rail line were not so relocated.

''(2) The effects of the rail line, relocated as proposed, on motor vehicle and pedestrian traffic, safety, and area commerce.

''(3) The effects of the rail line, relocated as proposed, on the freight and passenger rail operations on the rail line.

''(d) CONSIDERATIONS FOR APPROVAL OF GRANT APPLICATIONS.—In addition to considering the relationship of benefits to costs in determining whether to award a grant to an eligible State under this section, the Secretary shall consider the following factors:

''(1) The capability of the State to fund the rail line relocation project without Federal grant funding.

''(2) The requirement and limitation relating to allocation of grant funds provided in subsection (e).

''(3) Equitable treatment of the various regions of the United States.

''(e) ALLOCATION REQUIREMENTS.—

''(1) GRANTS NOT GREATER THAN $20,000,000.—At least 50 percent of all grant funds awarded under this section out of funds appropriated for a fiscal year shall be provided as grant awards of not more than $20,000,000 each.

''(2) LIMITATION PER PROJECT.—Not more than 25 percent of the total amount available for carrying out this section for a fiscal year may be provided for any 1 project in that fiscal year.

''(f) FEDERAL SHARE.—The total amount of a grant awarded under this section for a rail line relocation project shall be 90 percent of the shared costs of the project, as determined under subsection (g)(4).

''(g) STATE SHARE.—

''(1) PERCENTAGE.—A State shall pay 10 percent of the shared costs of a project that is funded in part by a grant awarded under this section.

''(2) FORMS OF CONTRIBUTIONS.—The share required by paragraph (1) may be paid in cash or in kind.

''(3) IN-KIND CONTRIBUTIONS.—The in-kind contributions that are permitted to be counted under paragraph (2) for a project for a State are as follows:

''(A) A contribution of real property or tangible personal property (whether provided by the State or a person for the State).

''(B) A contribution of the services of employees of the State, calculated on the basis of costs incurred by the State for the pay and benefits of the employees, but excluding overhead and general administrative costs.

''(C) A payment of any costs that were incurred for the project before the filing of an application for a grant for the project under this section, and any in-kind contributions that were made for the project before the filing of the application, if and to the extent that the costs were incurred or in-kind contributions were made, as the case may be, to comply with a provision of a statute required to be satisfied in order to carry out the project.

''(4) COSTS NOT SHARED.—

''(A) IN GENERAL.—For the purposes of subsection (f) and this subsection, the shared costs of a project in a municipality do not include any cost that is defrayed with any funds or in-kind contribution that a source other than the municipality makes available for the use of the municipality without imposing at least 1 of the following conditions:

''(i) The condition that the municipality use the funds or contribution only for the project.

''(ii) The condition that the availability of the funds or contribution to the municipality is contingent on the execution of the project.

''(B) DETERMINATIONS OF THE SECRETARY.—The Secretary shall determine the amount of the costs, if any, that are not shared costs under this paragraph and the total amount of the shared costs. A determination of the Secretary shall be final.

''(h) MULTISTATE AGREEMENTS TO COMBINE AMOUNTS.—Two or more States (not including political subdivisions of States) may, pursuant to an agreement entered into by the States, combine any part of the amounts provided through grants for a project under this section if—

''(1) the project will benefit each of the States entering into the agreement; and

''(2) the agreement is not a violation of a law of any such State.

''(i) REGULATIONS.—The Secretary shall prescribe regulations for carrying out this section.

''(j) STATE DEFINED.—In this section, the term 'State' includes, except as otherwise specifically provided, a political subdivision of a State.

''(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for use in carrying out this section $350,000,000 for each of the fiscal years 2004 through 2008.''.

(2) CLERICAL AMENDMENT.—The chapter analysis for such chapter is amended by adding at the end the following:

''20154. Capital grants for rail line relocation projects.''.

(b) REGULATIONS.—

(1) INTERIM REGULATIONS.—Not later than October 1, 2003, the Secretary of Transportation shall issue temporary regulations to implement the grant program under section 20154 of title 49, United States Code, as added by subsection (a). Subchapter II of chapter 5 of title 5, United States Code, shall not apply to the issuance of a temporary regulation under this subsection or of any amendment of such a temporary regulation.

(2) FINAL REGULATIONS.—Not later than March 31, 2004, the Secretary shall issue final regulations implementing the program.

SA 2553. Mr. WYDEN (for himself and Mr. TALENT) submitted an amendment intended to be proposed to amendment SA 2340 submitted by Mr. TALENT (for himself, Mr. WYDEN, Mr. CORZINE, and Mr. COLEMAN) and intended to be proposed to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Strike all after the first word and insert the following:

Subtitle H—Build America Bonds

SEC. 5671. SHORT TITLE; ETC.

(a) SHORT TITLE.—This subtitle may be cited as the ''Build America Bonds Act of 2004''.

(b) REFERENCES TO INTERNAL REVENUE CODE OF 1986.—Except as otherwise expressly provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 5672. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds the following:

(1) Our Nation's highways, public transportation systems, and rail systems drive our economy, enabling all industries to achieve growth and productivity that makes America strong and prosperous.

(2) The establishment, maintenance, and improvement of the national transportation network is a national priority, for economic, environmental, energy, security, and other reasons.

(3) The ability to move people and goods is critical to maintaining State, metropolitan, rural, and local economies.

(4) The construction of infrastructure requires the skills of numerous occupations, including those in the contracting, engineering, planning and design, materials supply, manufacturing, distribution, and safety industries.

(5) Investing in transportation infrastructure creates long-term capital assets for the Nation that will help the United States address its enormous infrastructure needs and improve its economic productivity.

(6) Investment in transportation infrastructure creates jobs and spurs economic activity to put people back to work and stimulate the economy.

(7) Every billion dollars in transportation investment has the potential to create up to 47,500 jobs.

(8) Every dollar invested in the Nation's transportation infrastructure yields at least $5.70 in economic benefits because of reduced delays, improved safety, and reduced vehicle operating costs.

(9) The proposed increases to the Transportation Equity Act for the 21st Century (TEA–21) will not be sufficient to compensate for the Nation's transportation infrastructure deficit.

(b) PURPOSE.—The purpose of this subtitle is to provide financing for long-term infrastructure capital investments that are not currently being met by existing transportation and infrastructure investment programs, including mega-projects, projects of national significance and high priority projects, multi-State transportation corridors, intermodal transportation facilities, replacement and reconstruction of deficient and obsolete bridges, interstate highways, public transportation systems, and rail systems.

SEC. 5673. CREDIT TO HOLDERS OF BUILD AMERICA BONDS.

(a) IN GENERAL.—Part IV of subchapter A of chapter 1 (relating to credits against tax) is amended by adding at the end the following new subpart:

"Subpart H—Nonrefundable Credit for Holders of Build America Bonds

''Sec. 54. Credit to holders of Build America bonds.

"SEC. 54. CREDIT TO HOLDERS OF BUILD AMERICA BONDS.

''(a) ALLOWANCE OF CREDIT.—In the case of a taxpayer who holds a Build America bond on a credit allowance date of such bond which occurs during the taxable year, there shall be allowed as a credit against the tax imposed by this chapter for such taxable year an amount equal to the sum of the credits determined under subsection (b) with respect to credit allowance dates during such year on which the taxpayer holds such bond.

''(b) AMOUNT OF CREDIT.—

''(1) IN GENERAL.—The amount of the credit determined under this subsection with respect to any credit allowance date for a Build America bond is 25 percent of the annual credit determined with respect to such bond.

''(2) ANNUAL CREDIT.—The annual credit determined with respect to any Build America bond is the product of—

''(A) the applicable credit rate, multiplied by

''(B) the outstanding face amount of the bond.

''(3) APPLICABLE CREDIT RATE.—For purposes of paragraph (2), the applicable credit rate with respect to an issue is the rate equal to an average market yield (as of the day before the date of sale of the issue) on outstanding long-term corporate debt obligations (determined in such manner as the Secretary prescribes).

''(4) CREDIT ALLOWANCE DATE.—For purposes of this section, the term 'credit allowance date' means—

''(A) March 15,

''(B) June 15,

''(C) September 15, and

''(D) December 15.

Such term includes the last day on which the bond is outstanding.

''(5) SPECIAL RULE FOR ISSUANCE AND REDEMPTION.—In the case of a bond which is issued during the 3-month period ending on a credit allowance date, the amount of the credit determined under this subsection with respect to such credit allowance date shall be a ratable portion of the credit otherwise determined based on the portion of the 3-month period during which the bond is outstanding. A similar rule shall apply when the bond is redeemed.

''(c) LIMITATION BASED ON AMOUNT OF TAX.—

''(1) IN GENERAL.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess of—

''(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(B) the sum of the credits allowable under this part (other than this subpart and subpart C).

''(2) CARRYOVER OF UNUSED CREDIT.—If the credit allowable under subsection (a) exceeds the limitation imposed by paragraph (1) for such taxable year, such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such taxable year.

''(d) CREDIT INCLUDED IN GROSS INCOME.—Gross income includes the amount of the credit allowed to the taxpayer under this section (determined without regard to subsection (c)) and the amount so included shall be treated as interest income.

''(e) BUILD AMERICA BOND.—For purposes of this part, the term 'Build America bond' means any bond issued as part of an issue if—

''(1) the net spendable proceeds from the sale of such issue are to be used—

''(A) for expenditures incurred after the date of the enactment of this section for any qualified project, or

''(B) for deposit in the Build America Trust Account for repayment of Build America bonds at maturity,

''(2) the bond is issued by the Transportation Finance Corporation, is in registered form, and meets the Build America bond limitation requirements under subsection (g),

''(3) the Transportation Finance Corporation certifies that it meets the State contribution requirement of subsection (k) with respect to such project, as in effect on the date of issuance,

''(4) the Transportation Finance Corporation certifies that the State in which an approved qualified project is located meets the requirement described in subsection (l),

''(5) except for bonds issued in accordance with subsection (g)(6), the term of each bond which is part of such issue does not exceed 30 years,

''(6) the payment of principal with respect to such bond is the obligation of the Transportation Finance Corporation, and

''(7) with respect to bonds described in paragraph (1)(A), the issue meets the requirements of subsection (h) (relating to arbitrage).

''(f) QUALIFIED PROJECT.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified project' means any—

''(A) qualified highway project,

''(B) qualified public transportation project, and

''(C) congestion relief project,

proposed by 1 or more States and approved by the Transportation Finance Corporation.

''(2) QUALIFIED HIGHWAY PROJECT.—The term 'qualified highway project' means a project for highway facilities or other facilities which are eligible for assistance under title 23, United States Code.

''(3) QUALIFIED PUBLIC TRANSPORTATION PROJECT.—The term 'qualified public transportation project' means a project for public transportation facilities or other facilities which are eligible for assistance under chapter 53 of title 49, United States Code.

''(4) CONGESTION RELIEF PROJECT.—The term 'congestion relief project' means an intermodal freight transfer facility, freight rail facility, freight movement corridor, intercity passenger rail or facility, intercity bus vehicle or facility, border crossing facility, or other public or private facility approved as a congestion relief project by the Secretary of Transportation. In making such approvals, the Secretary of Transportation shall—

''(A) consider the economic, environmental, mobility, and national security improvements to be realized through the project, and

''(B) give preference to projects with national or regional significance, including any

projects sponsored by a coalition of States or a combination of States and private sector entities, in terms of generating economic benefits, supporting international commerce, or otherwise enhancing the national transportation system.

''(g) LIMITATION ON AMOUNT OF BONDS DESIGNATED; ALLOCATION OF BOND PROCEEDS.—

''(1) NATIONAL LIMITATION.—There is a Build America bond limitation for each calendar year. Such limitation is—

''(A) with respect to bonds described in subsection (e)(1)(A),

''(i) $11,000,000,000 for 2004,

''(ii) $16,000,000,000 for 2005,

''(iii) $16,000,000,000 for 2006,

''(iv) $6,000,000,000 for 2007,

''(v) $3,500,000,000 for 2008,

''(vi) $3,500,000,000 for 2009, and

''(vii) except as provided in paragraph (5), zero thereafter, plus

''(B) with respect to bonds described in subsection (e)(1)(B), such amount each calendar year as determined necessary by the Transportation Finance Corporation to provide funds in the Build America Trust Account for the repayment of Build America bonds at maturity.

''(2) CONGESTION RELIEF PROJECTS.—From Build America bonds issued under the annual limitation in paragraph (1)(A), $1,000,000,000 of net spendable proceeds shall be reserved for each of the calendar years 2004, 2005, 2006, 2007, 2008, and 2009 for allocation to congestion relief projects.

''(3) ALLOCATION OF BONDS FOR HIGHWAY AND PUBLIC TRANSPORTATION PURPOSES.—Except with respect to qualified projects described in subsection (j)(3), and subject to paragraphs (2) and (4)—

''(A) QUALIFIED HIGHWAY PROJECTS.—From Build America bonds issued under the annual limitation in paragraph (1)(A), the Transportation Finance Corporation shall allocate 80 percent of the net spendable proceeds to the States for qualified highway projects in the following manner:

''(i) 50 percent of such allocation shall be in accordance with the formulas for apportioning funds under sections 104(b) and 144 of title 23, United States Code.

''(ii) 50 percent of such allocation shall be for projects, including projects of national significance and high priority projects, designated by law.

''(B) QUALIFIED PUBLIC TRANSPORTATION PROJECTS.—From Build America bonds issued under the annual limitation in paragraph (1)(A), the Transportation Finance Corporation shall allocate 20 percent of the net spendable proceeds to the States for qualified public transportation projects in the following manner:

''(i) 50 percent of such allocation shall be in accordance with the distribution of public transportation formula grants under sections 5307, 5308, 5310, 5311, and 5327 of title 49, United States Code.

''(ii) 50 percent of such allocation shall be for projects, including projects of national significance and high priority projects, designated by law.

''(4) MINIMUM ALLOCATIONS TO STATES.—In making allocations for each calendar year under paragraph (3), the Transportation Finance Corporation shall ensure that the amount allocated for qualified projects located in each State for such calendar year is not less than 1 percent of the total amount allocated for such year.

''(5) CARRYOVER OF UNUSED ISSUANCE LIMITATION.—If for any calendar year the limitation amount imposed by paragraph (1) exceeds the amount of Build America bonds issued during such year, such excess shall be carried forward to one or more succeeding calendar years as an addition to the limitation imposed by paragraph (1) and until used by issuance of Build America bonds.

''(6) ISSUANCE OF SMALL DENOMINATION BONDS.—From the Build America bond limitation for each year, the Transportation Finance Corporation shall issue a limited quantity of Build America bonds in small denominations suitable for purchase as gifts by individual investors wishing to show their support for investing in America's infrastructure.

''(h) SPECIAL RULES RELATING TO ARBITRAGE.—

''(1) IN GENERAL.—Subject to paragraph (2), an issue shall be treated as meeting the requirements of this subsection if as of the date of issuance, the Transportation Finance Corporation reasonably expects—

''(A) to spend at least 85 percent of the net spendable proceeds from the sale of the issue for 1 or more qualified projects within the 5-year period beginning on such date,

''(B) to incur a binding commitment with a third party to spend at least 10 percent of the net spendable proceeds from the sale of the issue, or to commence construction, with respect to such projects within the 12-month period beginning on such date, and

''(C) to proceed with due diligence to complete such projects and to spend the net spendable proceeds from the sale of the issue.

''(2) SPENT PROCEEDS.—Net spendable proceeds are considered spent by the Transportation Finance Corporation when a sponsor of a qualified project obtains a reimbursement from the Transportation Finance Corporation for eligible project costs.

''(3) RULES REGARDING CONTINUING COMPLIANCE AFTER 5-YEAR DETERMINATION.—If at least 85 percent of the net spendable proceeds from the sale of the issue is not expended for 1 or more qualified projects within the 5-year period beginning on the date of issuance, but the requirements of paragraph (1) are otherwise met, an issue shall be treated as continuing to meet the requirements of this subsection if the Transportation Finance Corporation uses all unspent net spendable proceeds from the sale of the issue to redeem bonds of the issue within 90 days after the end of such 5-year period.

''(4) REALLOCATION.—In the event the recipient of an allocation under subsection (g) fails to demonstrate to the satisfaction of the Transportation Finance Corporation that its actions will allow the Transportation Finance Corporation to meet the requirements under this subsection, the Transportation Finance Corporation may redistribute the allocation meant for such recipient to other recipients.

''(i) RECAPTURE OF PORTION OF CREDIT WHERE CESSATION OF COMPLIANCE.—

''(1) IN GENERAL.—If any bond which when issued purported to be a Build America bond ceases to be such a qualified bond, the Transportation Finance Corporation shall pay to the United States (at the time required by the Secretary) an amount equal to the sum of—

''(A) the aggregate of the credits allowable under this section with respect to such bond (determined without regard to subsection (c)) for taxable years ending during the calendar year in which such cessation occurs and the 2 preceding calendar years, and

''(B) interest at the underpayment rate under section 6621 on the amount determined under subparagraph (A) for each calendar year for the period beginning on the first day of such calendar year.

''(2) FAILURE TO PAY.—If the Transportation Finance Corporation fails to timely pay the amount required by paragraph (1) with respect to such bond, the tax imposed by this chapter on each holder of any such bond which is part of such issue shall be increased (for the taxable year of the holder in which such cessation occurs) by the aggregate decrease in the credits allowed under this section to such holder for taxable years beginning in such 3 calendar years which would have resulted solely from denying any credit under this section with respect to such issue for such taxable years.

''(3) SPECIAL RULES.—

''(A) TAX BENEFIT RULE.—The tax for the taxable year shall be increased under paragraph (2) only with respect to credits allowed by reason of this section which were used to reduce tax liability. In the case of credits not so used to reduce tax liability, the carryforwards and carrybacks under section 39 shall be appropriately adjusted.

''(B) NO CREDITS AGAINST TAX.—Any increase in tax under paragraph (2) shall not be treated as a tax imposed by this chapter for purposes of determining—

''(i) the amount of any credit allowable under this part, or

''(ii) the amount of the tax imposed by section 55.

''(j) BUILD AMERICA TRUST ACCOUNT.—

''(1) IN GENERAL.—The following amounts shall be held in a Build America Trust Account by the Transportation Finance Corporation:

''(A) The proceeds from the sale of all bonds issued under this section.

''(B) The amount of any matching contributions with respect to such bonds.

''(C) The investment earnings on proceeds from the sale of such bonds.

''(D) Any earnings on any amounts described in subparagraph (A), (B), or (C).

''(2) USE OF FUNDS.—Amounts in the Build America Trust Account may be used only to pay costs of qualified projects, redeem Build America bonds, and fund the operations of the Transportation Finance Corporation, except that amounts withdrawn from the Build America Trust Account to pay costs of qualified projects may not exceed the aggregate proceeds from the sale of Build America bonds described in subsection (e)(1)(A).

''(3) USE OF REMAINING FUNDS IN BUILD AMERICA TRUST ACCOUNT.—Upon the redemption of all Build America bonds issued under this section, any remaining amounts in the Build America Trust Account shall be available to the Transportation Finance Corporation to pay the costs of any qualified project.

''(4) COSTS OF QUALIFIED PROJECTS.—For purposes of this section, the costs of qualified projects which may be funded by amounts in the Build America Trust Account may only relate to capital investments in depreciable assets and may not include any costs relating to operations, maintenance, or rolling stock.

''(5) APPLICABILITY OF FEDERAL LAW.—The requirements of any Federal law, including titles 23, 40, and 49 of the United States Code, which would otherwise apply to projects to which the United States is a party or to funds made available under such law and projects assisted with those funds shall apply to—

''(A) funds made available under the Build America Trust Account for similar qualified projects, including contributions required under subsection (k), and

''(B) similar qualified projects assisted by the Transportation Finance Corporation through the use of such funds.

''(6) INVESTMENT.—It shall be the duty of the Transportation Finance Corporation to invest in investment grade obligations such portion of the Build America Trust Account as is not, in the judgment of the Board of Directors of the Transportation Finance Corporation, required to meet current withdrawals. Such investments may be made in State and local transportation bonds.

''(k) STATE CONTRIBUTION REQUIREMENTS.—

''(1) IN GENERAL.—For purposes of subsection (e)(3), the State contribution requirement of this subsection is met with respect to any qualified project if the Transportation Finance Corporation has received from 1 or more States, not later than the date of issuance of the bond, written commitments for matching contributions of not less than 20 percent of the cost of the qualified project.

''(2) STATE MATCHING CONTRIBUTIONS MAY NOT INCLUDE FEDERAL FUNDS.—For purposes of this subsection, State matching contributions shall not be derived, directly or indirectly, from Federal funds, including any transfers from the Highway Trust Fund under section 9503.

''(l) UTILIZATION OF UPDATED CONSTRUCTION TECHNOLOGY FOR QUALIFIED PROJECTS.—For purposes of subsection (e)(4), the requirement of this subsection is met if the appropriate State agency relating to the qualified project has updated its accepted construction technologies to match a list prescribed by the Secretary of Transportation and in effect on the date of the approval of the project as a qualified project.

''(m) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) ADMINISTRATIVE COSTS.—The term 'administrative costs' shall only include costs of issuance of Build America bonds and operation costs of the Transportation Corporation.

''(2) BOND.—The term 'bond' includes any obligation.

''(3) NET SPENDABLE PROCEEDS.—The term 'net spendable proceeds' means the proceeds from the sale of any Build America bond issued under this section reduced by not more than 5 percent of such proceeds for administrative costs.

''(4) STATE.—The term 'State' shall have the meaning given such term by section 101 of title 23, United States Code.

''(5) TREATMENT OF CHANGES IN USE.—For purposes of subsection (e)(1)(A), the net spendable proceeds from the sale of an issue shall not be treated as used for a qualified project to the extent that the Transportation Finance Corporation takes any action within its control which causes such proceeds not to be used for a qualified project. The Secretary shall specify remedial actions which may be taken (including conditions to taking such remedial actions) to prevent an action described in the preceding sentence from causing a bond to fail to be a Build America bond.

''(6) PARTNERSHIP; S CORPORATION; AND OTHER PASS-THRU ENTITIES.—In the case of a partnership, trust, S corporation, or other pass-thru entity, rules similar to the rules of section 41(g) shall apply with respect to the credit allowable under subsection (a).

''(7) BONDS HELD BY REGULATED INVESTMENT COMPANIES.—If any Build America bond is held by a regulated investment company, the credit determined under subsection (a) shall be allowed to shareholders of such company under procedures prescribed by the Secretary.

''(8) CREDITS MAY BE STRIPPED.—Under regulations prescribed by the Secretary—

''(A) IN GENERAL.—There may be a separation (including at issuance) of the ownership of a Build America bond and the entitlement to the credit under this section with respect to such bond. In case of any such separation, the credit under this section shall be allowed to the person who on the credit allowance date holds the instrument evidencing the entitlement to the credit and not to the holder of the bond.

''(B) CERTAIN RULES TO APPLY.—In the case of a separation described in subparagraph (A), the rules of section 1286 shall apply to the Build America bond as if it were a stripped bond and to the credit under this section as if it were a stripped coupon.

''(9) CREDITS MAY BE TRANSFERRED.—Nothing in any law or rule of law shall be construed to limit the transferability of the credit or bond allowed by this section through sale and repurchase agreements.

''(10) REPORTING.—The Transportation Finance Corporation shall submit reports similar to the reports required under section 149(e).

''(11) PROHIBITION ON USE OF HIGHWAY TRUST FUND.—Notwithstanding any other provision of law, no funds derived from the Highway Trust Fund established under section 9503 shall be used to pay costs associated with the Build America bonds issued under this section.''.

(b) AMENDMENTS TO OTHER CODE SECTIONS.—

(1) REPORTING.—Subsection (d) of section 6049 (relating to returns regarding payments of interest) is amended by adding at the end the following new paragraph:

''(8) REPORTING OF CREDIT ON BUILD AMERICA BONDS.—

''(A) IN GENERAL.—For purposes of subsection (a), the term 'interest' includes amounts includible in gross income under section 54(d) and such amounts shall be treated as paid on the credit allowance date (as defined in section 54(b)(4)).

''(B) REPORTING TO CORPORATIONS, ETC.—Except as otherwise provided in regulations, in the case of any interest described in subparagraph (A), subsection (b)(4) shall be applied without regard to subparagraphs (A), (H), (I), (J), (K), and (L)(i) of such subsection.

''(C) REGULATORY AUTHORITY.—The Secretary may prescribe such regulations as are necessary or appropriate to carry out the purposes of this paragraph, including regulations which require more frequent or more detailed reporting.''.

(2) TREATMENT FOR ESTIMATED TAX PURPOSES.—

(A) INDIVIDUAL.—Section 6654 (relating to failure by individual to pay estimated income tax) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

''(m) SPECIAL RULE FOR HOLDERS OF BUILD AMERICA BONDS.—For purposes of this section, the credit allowed by section 54 to a taxpayer by reason of holding a Build America bond on a credit allowance date shall be treated as if it were a payment of estimated tax made by the taxpayer on such date.''.

(B) CORPORATE.—Subsection (g) of section 6655 (relating to failure by corporation to pay estimated income tax) is amended by adding at the end the following new paragraph:

''(5) SPECIAL RULE FOR HOLDERS OF BUILD AMERICA BONDS.—For purposes of this section, the credit allowed by section 54 to a taxpayer by reason of holding a Build America bond on a credit allowance date shall be treated as if it were a payment of estimated tax made by the taxpayer on such date.''.

(c) CLERICAL AMENDMENTS.—

(1) The table of subparts for part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

''Subpart H. Nonrefundable Credit for Holders of Build America Bonds.''.

(2) Section 6401(b)(1) is amended by striking ''and G'' and inserting ''G, and H''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after the day after the date of the enactment of this Act.

SEC. 5674. TRANSPORTATION FINANCE CORPORATION.

(a) ESTABLISHMENT AND STATUS.—There is established a body corporate to be known as the ''Transportation Finance Corporation'' (hereafter in this section referred to as the ''Corporation''). The Corporation is not a department, agency, or instrumentality of the United States Government, and shall not be subject to title 31, United States Code.

(b) PRINCIPAL OFFICE; APPLICATION OF LAWS.—The principal office and place of business of the Corporation shall be in the District of Columbia, and, to the extent consistent with this section, the District of Columbia Business Corporation Act (D.C. Code 29–301 et seq.) shall apply.

(c) FUNCTIONS OF CORPORATION.—The Corporation shall—

(1) issue Build America bonds for the financing of qualified projects as required under section 54 of the Internal Revenue Code of 1986,

(2) establish and operate the Build America Trust Account as required under section 54(j) of such Code,

(3) act as a centralized entity to provide financing for qualified projects,

(4) leverage resources and stimulate public and private investment in transportation infrastructure,

(5) encourage States to create additional opportunities for the financing of transportation infrastructure and to provide technical assistance to States, if needed,

(6) perform any other function the sole purpose of which is to carry out the financing of qualified projects through Build America bonds, and

(7) not later than February 15 of each year submit a report to Congress—

(A) describing the activities of the Corporation for the preceding year, and

(B) specifying whether the amounts deposited and expected to be deposited in the Build America Trust Account are sufficient to fully repay at maturity the principal of any outstanding Build America bonds issued pursuant to such section 54.

(d) POWERS OF CORPORATION.—The Corporation—

(1) may sue and be sued, complain and defend, in its corporate name, in any court of competent jurisdiction,

(2) may adopt, alter, and use a seal, which shall be judicially noticed,

(3) may prescribe, amend, and repeal such rules and regulations as may be necessary for carrying out the functions of the Corporation,

(4) may make and perform such contracts and other agreements with any individual, corporation, or other private or public entity however designated and wherever situated, as may be necessary for carrying out the functions of the Corporation,

(5) may determine and prescribe the manner in which its obligations shall be incurred and its expenses allowed and paid,

(6) may, as necessary for carrying out the functions of the Corporation, employ and fix the compensation of employees and officers,

(7) may lease, purchase, or otherwise acquire, own, hold, improve, use, or otherwise deal in and with such property (real, personal, or mixed) or any interest therein, wherever situated, as may be necessary for carrying out the functions of the Corporation,

(8) may accept gifts or donations of services or of property (real, personal, or mixed), tangible or intangible, in furtherance of the purposes of this Act, and

(9) shall have such other powers as may be necessary and incident to carrying out this Act.

(e) NONPROFIT ENTITY; RESTRICTION ON USE OF MONEYS; CONFLICT OF INTERESTS; AUDITS.—

(1) NONPROFIT ENTITY.—The Corporation shall be a nonprofit corporation and shall have no capital stock.

(2) RESTRICTION.—No part of the Corporation's revenue, earnings, or other income or property shall inure to the benefit of any of its directors, officers, or employees, and such revenue, earnings, or other income or property shall only be used for carrying out the purposes of this Act.

(3) CONFLICT OF INTERESTS.—No director, officer, or employee of the Corporation shall in any manner, directly or indirectly participate in the deliberation upon or the determination of any question affecting his or her personal interests or the interests of any corporation, partnership, or organization in which he or she is directly or indirectly interested.

(4) AUDITS.—

(A) AUDITS BY INDEPENDENT CERTIFIED PUBLIC ACCOUNTANTS.—

(i) IN GENERAL.—The Corporation's financial statements shall be audited annually in accordance with generally accepted auditing standards by independent certified public accountants that are certified by a regulatory authority of a State or other political subdivision of the United States. The audits shall be conducted at the place or places where the accounts of the Corporation are normally kept. All books, accounts, financial records, reports, files, and all other papers, things, or property belonging to or in use by the Corporation and necessary to facilitate the audit shall be made available to the person or persons conducting the audits, and full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians shall be afforded to such person or persons.

(ii) REPORTING REQUIREMENTS.—The report of each annual audit described in clause (i) shall be included in the annual report required by subsection (c)(8).

(B) RECORD KEEPING REQUIREMENTS.—The Corporation shall ensure that each recipient of assistance from the Corporation keeps—

(i) separate accounts with respect to such assistance,

(ii) such records as may be reasonably necessary to fully disclose—

(I) the amount and the disposition by such recipient of the proceeds of such assistance,

(II) the total cost of the project or undertaking in connection with which such assistance is given or used, and the extent to which such costs are for a qualified project, and

(III) the amount and nature of that portion of the cost of the project or undertaking supplied by other sources, and

(iii) such other records as will facilitate an effective audit.

(C) AUDIT AND EXAMINATION OF BOOKS.—The Corporation shall ensure that the Corporation, or any of the Corporation's duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of any recipient of assistance from the Corporation that are pertinent to such assistance.

(f) EXEMPTION FROM TAXES.—

(1) IN GENERAL.—The Corporation, including its franchise, capital, reserves, surplus, sinking funds, mortgages or other security holdings, and income, shall be exempt from all taxation now or hereafter imposed by the United States, by any territory, dependency, or possession thereof, or by any State, county, municipality, or local taxing authority, except that any real property of the Corporation shall be subject to State, territorial, county, municipal, or local taxation to the same extent according to its value as other real property is taxed.

(2) FINANCIAL OBLIGATIONS.—Build America bonds or other obligations issued by the Corporation and the interest on or tax credits with respect to its bonds or other obligations shall not be subject to taxation by any State, county, municipality, or local taxing authority.

(g) ASSISTANCE FOR TRANSPORTATION PURPOSES.—

(1) IN GENERAL.—In order to carry out the corporate functions described in subsection (c), the Corporation shall be eligible to receive discretionary grants, contracts, gifts, contributions, or technical assistance from any Federal department or agency, to the extent permitted by law.

(2) AGREEMENT.—In order to receive any assistance described in this subsection, the Corporation shall enter into an agreement with the Federal department or agency providing such assistance, under which the Corporation agrees—

(A) to use such assistance to provide funding and technical assistance only for activities which the Board of Directors of the Corporation determines are consistent with the corporate functions described in subsection (c), and

(B) to review the activities of State transportation agencies and other entities receiving assistance from the Corporation to assure that the corporate functions described in subsection (c) are carried out.

(3) CONSTRUCTION.—Nothing in this section shall be construed to establish the Corporation as a department, agency, or instrumentality of the United States Government, or to establish the members of the Board of Directors of the Corporation, or the officers and employees of the Corporation, as officers or employees of the United States Government.

(h) MANAGEMENT OF CORPORATION.—

(1) BOARD OF DIRECTORS; MEMBERSHIP; DESIGNATION OF CHAIRPERSON AND VICE CHAIRPERSON; APPOINTMENT CONSIDERATIONS; TERM; VACANCIES.—

(A) BOARD OF DIRECTORS.—The management of the Corporation shall be vested in a board of directors composed of 15 members appointed by the President, by and with the advice and consent of the Senate.

(B) CHAIRPERSON AND VICE CHAIRPERSON.—The President shall designate 1 member of the Board to serve as Chairperson of the Board and 1 member to serve as Vice Chairperson of the Board.

(C) INDIVIDUALS FROM PRIVATE LIFE.—Eleven members of the Board shall be appointed from private life.

(D) FEDERAL OFFICERS AND EMPLOYEES.—Four members of the Board shall be appointed from among officers and employees of agencies of the United States concerned with infrastructure development.

(E) APPOINTMENT CONSIDERATIONS.—All members of the Board shall be appointed on the basis of their understanding of and sensitivity to infrastructure development processes. Members of the Board shall be appointed so that not more than 8 members of the Board are members of any 1 political party.

(F) TERMS.—Members of the Board shall be appointed for terms of 3 years, except that of the members first appointed, as designated by the President at the time of their appointment, 5 shall be appointed for terms of 1 year and 5 shall be appointed for terms of 2 years.

(G) VACANCIES.—A member of the Board appointed to fill a vacancy occurring before the expiration of the term for which that member's predecessor was appointed shall be appointed only for the remainder of that term. Upon the expiration of a member's term, the member shall continue to serve until a successor is appointed and is qualified.

(2) COMPENSATION, ACTUAL, NECESSARY, AND TRANSPORTATION EXPENSES.—Members of the Board shall serve without additional compensation, but may be reimbursed for actual and necessary expenses not exceeding $100 per day, and for transportation expenses, while engaged in their duties on behalf of the Corporation.

(3) QUORUM.—A majority of the Board shall constitute a quorum.

(4) PRESIDENT OF CORPORATION.—The Board of Directors shall appoint a president of the Corporation on such terms as the Board may determine.

SA 2554. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert:

''(a) STUDY.—The Secretary of Transportation shall, in consultation with State and local government officials, conduct a study of the impact of blocked highway-railroad grade crossings on the ability of emergency responders to perform public safety and security duties.

(b) REPORT ON THE IMPACT OF BLOCKED HIGHWAY-RAILROAD GRADE CROSSINGS ON EMERGENCY RESPONDERS.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit the results of the study and recommendations for reducing the impact of blocked crossings on emergency response to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure.''

SA 2555. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert:

''(a) NOTIFICATION PROCEDURES.—

(1) REGULATIONS.—The Secretary of Transportation shall prescribe regulations setting forth procedures for a railroad to immediately notify first responders in communities that lie in the path of a runaway train.

(2) TIME FOR ISSUANCE OF REGULATIONS.—The Secretary shall issue the final regulations under this section not later than 120 days after the date of enactment of this Act.

(3) DEFINITIONS.— In this section, the term 'runaway train' means a locomotive, train, rail car, or other item of railroad equipment that, at a particular moment in time, is rolling on tracks outside the operations limits of a railroad and is not under the control of the railroad.

(b) RESPONSE PROCEDURES.—Not later than 60 days after the Secretary prescribes the regulations under subsection (a), each railroad shall submit to the Department of Transportation for the Secretary's approval the procedures proposed by the railroad for providing the notice described in such subsection.

(c) REPORTING OF INCIDENTS REQUIRED.—The Secretary shall require railroads to report to the Department of Transportation each incident of a runaway train.''

SA 2556. Mr. KOHL submitted an amendment intended to be proposed to amendment SA 2302 submitted by Mr. BAYH (for himself, Mr. DURBIN, Mr. LUGAR, Mr. KOHL, and Mr. FITZGERALD) and intended to be proposed to the bill S. 1072, to authorize funds for Federal-

aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 55, strike line 25 and all that follows through page 57, line 23, and insert the following:

''(c) SPECIAL RULES.—

''(1) MINIMUM COMBINED ALLOCATION.—For each fiscal year, before making the allocations under subsection (a)(1), the Secretary shall allocate among the States amounts sufficient to ensure that no State receives a combined total of amounts allocated under subsection (a)(1), apportionments for the programs specified in subsection (a)(2), and amounts allocated under this subsection, that is less than 110 percent of the sum of—

''(A) the total apportionments of the State for the fiscal year for the programs specified in subsection (a)(2); exceeds

''(B) the sum of—

''(i) the percentage of the average, for the period of fiscal years 1998 through 2003, of the annual apportionments of the State for all programs specified in subsection (b)(2), as specified in paragraph (2); and

''(ii) an amount which is equivalent to—

''(I) the amount equal to the number of gallons of gasohol sold within the State during fiscal years 1996 through 2001 multiplied by the excess of the tax rate applicable for a gallon of gasoline over the tax rate applicable for a gallon of gasohol for such years; plus

''(II) an amount equal to the number of gallons of gasohol sold within the State during fiscal years 1996 through 2001 multiplied by the amount of the tax rate applicable to a gallon of gasohol which is not deposited into the Highway Trust Fund with respect to each such year.

''(2) PERCENTAGES.—The percentages referred to in paragraph (1)(B)(i) are—

''(A) for fiscal year 2004, 120 percent;

''(B) for fiscal year 2005, 130 percent;

''(C) for fiscal year 2006, 134 percent;

''(D) for fiscal year 2007, 137 percent;

''(E) for fiscal year 2008, 145 percent; and

''(F) for fiscal year 2009, 250 percent.''.

''(3) NO NEGATIVE ADJUSTMENT.—Notwithstanding subsection (d), no negative adjustment shall be made under subsection (a)(1) to the apportionment of any State.

''(4) MINIMUM SHARE OF TAX PAYMENTS.—Notwithstanding subsection (d), for each fiscal year, the Secretary shall allocate among the States amounts sufficient to ensure that no State receives a percentage of apportionments for the fiscal year for the programs specified in subsection (a)(2) that is less than 90.5 percent of the percentage share of the State of estimated tax payments attributable to highway users in the State paid into the Highway Trust Fund (other than the Mass Transit Account) in the most recent fiscal year for which data are available.

''(d) LIMITATION ON ADJUSTMENTS.—

''(1) IN GENERAL.—Except as provided in paragraphs (2) and (3) of subsection (c), no State shall receive, for any fiscal year, additional amounts under subsection (a)(1) if—

''(A) the total apportionments of the State for the fiscal year for the programs specified in subsection (a)(2); exceeds

''(B) the sum of—

''(i) the percentage of the average, for the period of fiscal years 1998 through 2003, of the annual apportionments of the State for all programs specified in subsection (b)(2), as specified in paragraph (2); and

''(ii) an amount which is equivalent to—

''(I) the amount equal to the number of gallons of gasohol sold within the State during fiscal years 1996 through 2001 multiplied by the excess of the tax rate applicable for a gallon of gasoline over the tax rate applicable for a gallon of gasohol for such years; plus

''(II) an amount equal to the number of gallons of gasohol sold within the State during fiscal years 1996 through 2001 multiplied by the amount of the tax rate applicable to a gallon of gasohol which is not deposited into the Highway Trust Fund with respect to each such year.

''(2) PERCENTAGES.—The percentages referred to in paragraph (1)(B)(i) are—

''(A) for fiscal year 2004, 120 percent;

''(B) for fiscal year 2005, 130 percent;

''(C) for fiscal year 2006, 134 percent;

''(D) for fiscal year 2007, 137 percent;

''(E) for fiscal year 2008, 145 percent; and

''(F) for fiscal year 2009, 250 percent.''.

SA 2557. Ms. STABENOW (for herself and Mr. LEVIN) submitted an amendment intended to be proposed to amendment SA 2441 submitted by Ms. STABENOW (for herself and Mr. LEVIN) and intended to be proposed to the amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

''(B)(i) $101,800,000 of the amounts made available under section 5338(b)(4) shall be allocated for the Bus Transit Equity Subaccount established under paragraph (7); and

''(ii) the remaining amounts made available under section 5338(b)(4) shall be allocated for capital projects for buses and bus-related equipment and facilities.

''(3) FIXED GUIDEWAY MODERNIZATION.—The amounts made available for fixed guideway modernization under section 5338(b)(2)(K) for fiscal year 2005 and each fiscal year thereafter shall be allocated in accordance with section 5337.

''(4) PRELIMINARY ENGINEERING.—Not more that 8 percent of the allocation described in paragraphs (1)(A) and (2)(A) may be expended on preliminary engineering.

''(5) FUNDING FOR FERRY BOATS.—Of the amounts described in paragraphs (1)(A) and (2)(A), $10,400,000 shall be available in each of the fiscal years 2004 through 2009 for capital projects in Alaska and Hawaii for new fixed guideway systems and extension projects utilizing ferry boats, ferry boat terminals, or approaches to ferry boat terminals.

''(6) BUS AND BUS FACILITY GRANTS.—

''(A) CONSIDERATIONS.—In making grants under paragraphs (1)(C) and (2)(B), the Secretary shall consider the age and condition of buses, bus fleets, related equipment, and bus-related facilities.

''(B) PROJECTS NOT IN URBANIZED AREAS.—Of the amounts made available under paragraphs (1)(C) and (2)(B), not less than 5.5 percent shall be available in each fiscal year for projects that are not in urbanized areas.

''(C) INTERMODAL TERMINALS.—Of the amounts made available under paragraphs (1)(C) and (2)(B), not less than $75,000,000 shall be available in each fiscal year for intermodal terminal projects, including the intercity bus portion of such projects.

''(7) BUS TRANSIT EQUITY SUBACCOUNT.—

''(A) ESTABLISHMENT.—There is established a Bus Transit Equity Subaccount within the Mass Transit Account of the Highway Trust Fund.

''(B) ELIGIBILITY.—Any of the 50 States shall be eligible for funding under the Bus Transit Equity Subaccount if the State—

''(i) is otherwise scheduled to receive under sections 5303, 5307, 5309, 5310, 5311, 5313(b), 5336, and 5340 for fiscal years 2004 through 2009, an amount that is less than 175 percent of the amount the State received under sections 5303, 5307, 5309, 5310, 5311, 5313(b), and 5336 for fiscal years 1998 through 2003; and

''(ii) received less than 1.25 percent of the total amount allocated to the 50 States in fiscal year 2002 for fixed guideways modernization and new starts.

''(C) ALLOCATION.—Each eligible State under subparagraph (B) shall be allocated from the Bus Transit Equity Subaccount, for each of the fiscal years 2005 through 2009, an amount that is equal to 20 percent of the difference between the amount the State is otherwise scheduled to receive under sections 5303, 5307, 5309, 5310, 5311, 5313(b), 5336, and 5340 for fiscal years 2004 through 2009, and the amount which is equal to 175 percent of the amount the State received under sections 5303, 5307, 5309, 5310, 5311, 5313(b), and 5336 for fiscal years 1998 through 2003.''.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. TALENT. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Wednesday, February 11, 2004, at 9:30 a.m. on Protecting Children From Violent and Indecent Programming.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. TALENT. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, on Wednesday, February 11 at 10:00 a.m. to consider pending calendar business.

Agenda Item 2: S. 213—A bill to clear title to certain real property in New Mexico associated with the Middle Rio Grande Project, and for other purposes with an amendment.

Agenda Item 3: S. 524—A bill to expand the boundaries of the Fort Donelson National Battlefield to authorize the acquisition and interpretation of lands associated with the campaign that resulted in the capture of the fort in 1862, and for other purposes.

Agenda Item 5: S. 943—A bill to authorize the Secretary of the Interior to enter into one or more contracts with the city of Cheyenne, Wyoming, for the storage of water in the Kendrick Project, Wyoming with an amendment.

Agenda Item 6: S. 960—To amend the Reclamation Wastewater and Groundwater Study and Facilities Act and the Hawaii Water Resources Act of 2000 with an amendment.

Agenda Item 9: S. 1107—A bill to enhance the Recreational Fee Demonstration Program for the National Park Service, and for other purposes.

Agenda Item 13: S. 1516—Salt Cedar Control Demonstration Act with an amendment in the nature of a substitute.

Agenda Item 14: S. 1576—A bill to revise the boundary of Harper's Ferry National Historical Park, and for other purposes.

Agenda Item 15: S. 1577—A bill to extend the deadline for commencement of construction of hydroelectric project in the State of Wyoming.

Agenda Item 16: S. 1582—A bill to amend the Valles Preservation Act to improve the preservation of the Valles Caldera, and for other purposes with an amendment.

Agenda Item 17: S. 1848—A bill to amend the Bend Pine Nursery Land Conveyance Act to direct the Secretary of Agriculture to sell the Bend Pine Nursery Administration Site in the State of Oregon with an amendment.

Agenda Item 18: H.R. 408—To provide for expansion of Sleeping Bear Dunes National Lakeshore.

Agenda Item 19: H.R. 417—To revoke a Public Land Order with respect to certain lands erroneously included in the Cibola National Wildlife Refuge, California with report language.

Agenda Item 20: H.R. 620—To authorize the Secretary of the Interior to provide supplemental funding and other services that are necessary to assist the State of California or local educational agencies in California in providing educational services for students attending schools located within the Park with an amendment.

Agenda Item 21: H.R. 708—To require the conveyance of certain National Forest System lands in Mendocino National Forest, California, to provide for the use of the proceeds from such conveyance for National Forest purposes, and for other purposes.

Agenda Item 23: H.R. 856—To authorize the Secretary of the Interior to revise a repayment contract with the Tom Green County Water Control and Improvement District No. 1, San Angelo project, Texas, and for other purposes.

Agenda Item 26: H.R. 1598—To amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in projects within the San Diego Creek Watershed, California, and for other purposes.

Agenda Item 27: S. 1167—A bill to resolve the boundary conflicts in Barry and Stone Counties in the State of Missouri.

In addition, the Committee may turn to any other measures that are ready for consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. TALENT. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, February 11, 2004 at 10 a.m. to hold a Business Meeting.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON INDIAN AFFAIRS

Mr. TALENT. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Wednesday, February 11, 2004 at 9:30 a.m. in Room 485 of the Russell Senate Office Building to conduct a hearing on the President's Fiscal Year 2005 Budget Request.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. TALENT. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on Wednesday, February 11, 2004 at 2 p.m. on ''Judicial Nominations,'' in the Dirksen Senate Office Building Room 226.

Panel I: Senators.

Panel II: Diane S. Sykes, to the Circuit Court of Appeals for the Seventh Circuit; James L. Robart, to the U.S. District Court for the Western District of Washington; Juan R. Sanchez, to the U.S. District Court for the Eastern District of Pennsylvania.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ANTITRUST, COMPETITION POLICY AND CONSUMER RIGHTS

Mr. TALENT. Mr. President, I ask unanimous consent that the Senate Committee on the Judiciary Subcommittee on Antitrust, Competition Policy and Consumer Rights be authorized to meet to conduct a hearing on ''Cable Competition—Increasing Price; Increasing Value?'' on Wednesday, February 11, 2004, at 10:30 a.m., in Room 226 of the Dirksen Senate Office Building.

Mr. Michael Willner, Vice-Chairman, President and CEO, Insight Communications Company, Inc.;

Mr. Rodger Johnson, CEO, Knology;

Mr. Robert Sachs, President and CEO, National Cable and Telecommunications Association;

Ms. Coralie Wilson, President, National Association of Telecommunications Officers and Advisors;

Mr. Scott Cleland, CEO, Precursor; and

Dr. Mark Cooper, Director of Research, Consumer Federation of America.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON INTERNATIONAL TRADE AND FINANCE

Mr. TALENT. Mr. President, I ask unanimous consent that the Subcommittee on International Trade and Finance of the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the Session of the Senate on Wednesday, February 11, 2004, at 1:00 p.m. to conduct a hearing on ''Economic and Financial Reconstruction in Iraq.''

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. REID. Madam President, I ask unanimous consent that William Boyd, a fellow on the Environment and Public Works Committee, be granted floor privileges during the pendency of the matter which is now before the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that privilege of the floor be granted to Adam Rosenberg, who is an AAAS fellow on the Committee on Energy and Natural Resources, during consideration of this legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEASURES PLACED ON THE CALENDAR—S. 2061 AND S. 2062

Mr. FRIST. Mr. President, I understand there are two bills at the desk and due for a second reading. I ask unanimous consent that the clerk read the titles of the bills for the second time en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will read the titles of the bills.

The legislative clerk read as follows:

A bill (S. 2061) to improve women's access to health care services and provide improved medical care by reducing the excessive burden the liability system places on the delivery of obstetrical and gynecological services.

A bill (S. 2062) to amend the procedures that apply to consideration of interstate class actions to assure fairer outcomes for class members and defendants, and for other purposes.

Mr. FRIST. Mr. President, I object to further proceeding en bloc.

The PRESIDING OFFICER. Under the rules, the bills will be placed on the calendar.

APPOINTMENTS

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore, pursuant to 10 U.S.C. 9355(a)(2), appoints the Senator from Arkansas, Mr. PRYOR, from the Armed Services Committee, to the Board of Visitors of the U.S. Air Force Academy.

The Chair, on behalf of the President pro tempore, pursuant to 10 U.S.C. 6968(a)(2), appoints the Senator from Maryland, Mr. SARBANES, from the Armed Services Committee, to the Board of Visitors of the U.S. Naval Academy.

ORDERS FOR THURSDAY, FEBRUARY 12, 2004

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 8:30 a.m., Thursday, February 12. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then resume consideration of S. 1072, the highway bill, provided that the time until 9 a.m. be equally divided between the chairman and ranking member of the Environment and Public Works Committee or their designees.

I further ask consent that the mandatory quorum be waived for both cloture motions and the cloture vote on

the substitute amendment occur at 9 a.m.; provided, further, that Senators have until 9 a.m. tomorrow to file second-degree amendments to the highway bill.

The PRESIDING OFFICER. Is there objection?

Mr. REID. No objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. FRIST. Tomorrow, the Senate will resume consideration of S. 1072, the highway bill. The vote on the motion to invoke cloture on the pending substitute to the highway bill will occur at 9 a.m. It is my hope that if cloture is invoked, we will be able to dispose of any additional germane amendments in a timely manner, thereby clearing the way to wrap up consideration of the substitute. Once the substitute amendment is disposed of, we still may require a cloture vote on the bill itself. Again, it is my hope that we will be able to speed the process along and be in a position to complete action on the bill tomorrow. It is my intention, however, to remain in session until we pass this bill.

Senators should expect rollcall votes throughout the day tomorrow, with the first vote occurring at approximately 9 a.m. In addition, I remind all Senators that all second-degree amendments must be filed at the desk no later than 9 a.m. tomorrow.

The PRESIDING OFFICER. The assistant Democratic leader.

Mr. REID. Mr. President, I know the hour is late. I want to acknowledge how difficult this has been for the majority leader. This has been extremely difficult. I know there is pressure from a lot of different sources to do things differently than we have done this week.

I say to the majority leader, whom I compliment for standing firm on what he believes to be the proper role of the Senate on this matter, everyone will have their day. When we complete this legislation—I believe we will be able to do it tomorrow—the House will do theirs and there will be some process to meld together the legislation from the two bodies. Then, of course, there will be input from the administration. At this stage we don't have to be concerned about vetoes. We are a long way from that.

I want the RECORD to reflect my personal appreciation for the courage of the majority leader during this most difficult 2 weeks.

Mr. FRIST. I thank the assistant Democratic leader. It has been a challenge for both sides the last 2 weeks as we have been on this bill. Again, we gave the time for discussion and debate, and we had regular order throughout using the Senate rules. With that, we will be able to complete our goal of giving very careful consideration to this bill. At the end of this 2-week period, during which people have had plenty of time, plenty of opportunity to understand what is in this very important bill, they will have the opportunity to vote. They will have that opportunity tomorrow.

ADJOURNMENT UNTIL 8:30 A.M. TOMORROW

Mr. FRIST. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:10 p.m., adjourned until Thursday, February 12, 2004, at 8:30 a.m.

NOMINATIONS

Executive nominations received by the Senate February 11, 2004:

POSTAL RATE COMMISSION

DAWN A. TISDALE, OF TEXAS, TO BE A COMMISSIONER OF THE POSTAL RATE COMMISSION FOR A TERM EXPIRING NOVEMBER 22, 2006, VICE WILLIAM H. LEBLANC III, TERM EXPIRED.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

CATHY M. MACFARLANE, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF HOUSING AND URBAN DEVELOPMENT, VICE DIANE LENEGHAN TOMB, RESIGNED.

DENNIS C. SHEA, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF HOUSING AND URBAN DEVELOPMENT, VICE ALBERTO FAUSTINO TREVINO, RESIGNED.

IN THE COAST GUARD

THE FOLLOWING INDIVIDUALS FOR APPOINTMENT AS PERMANENT COMMISSIONED REGULAR OFFICERS IN THE UNITED STATES COAST GUARD IN THE GRADE INDICATED UNDER TITLE 14, U.S.C., SECTION 211:

To be lieutenant commander

SUSAN J. BLOOD, 0000
GREGORY P. TOBER, 0000

To be lieutenant

HEATHER L. MORRISON, 0000

IN THE AIR FORCE

THE FOLLOWING NAMED AIR NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12212:

To be colonel

VIRGINIA A. SCHNEIDER, 0000

THE FOLLOWING NAMED AIR NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12212:

To be colonel

PERRY L. AMERINE, 0000
JAMES R. PATTERSON, 0000

THE FOLLOWING NAMED AIR NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12212:

To be colonel

STEWART J. HAZEL, 0000
JILL L. HENDRA, 0000
CHRISTOPHER J. KNAPP, 0000
CLEE E. LLOYD, 0000
WILLIAM W. POND, 0000

THE FOLLOWING NAMED AIR NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12212:

To be colonel

WILLIAM E. ENRIGHT JR., 0000
JOSEPH P. MOAN, 0000
VICTORIA A. REARDON, 0000
CASSIE A. STROM, 0000
MICHAEL F. VANHOOMISSEN, 0000

THE FOLLOWING NAMED AIR NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12212:

To be colonel

COLLEN B. HOUGH, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE AND FOR REGULAR APPOINTMENT (IDENTIFIED BY AN ASTERISK (*)) UNDER TITLE 10, U.S.C., SECTIONS 624 AND 531:

To be colonel

NORMA L. ALLGOOD, 0000
DAVID E. ANISMAN, 0000
GARY I. ARISHITA, 0000
STEVEN L. BARNES, 0000
SVEN T. BERG, 0000
MARTIN D. BOMALASKI, 0000
DEAN A. * BRICKER, 0000
ELIZABETH P. CLARK, 0000
RICHARD A. CLARK, 0000
ROBERT B. CONNOR, 0000
STEVEN C. DECOUD, 0000
VICTOR A. FOLARIN, 0000
MICHAEL C. * GORDON, 0000
THOMAS C. * GRAU, 0000
DAVID E. HOLCK, 0000
KENNETH K. KNIGHT, 0000
CHRISTOPHER LEWANDOWSKI, 0000
THOMAS D. FADELL LUNA, 0000
ROBERT E. MANAKER, 0000
KURT D. MCCARTNEY, 0000
LYNN S. MCCURDY, 0000
ROBERT S. MICHAELSON, 0000
PATRICK P. MILES, 0000
RICHARD J. MONTMINY, 0000
DAVID M. OBRIEN, 0000
LORETTA M. OBRIEN, 0000
HERNANDO J. * ORTEGA JR., 0000
JOSEPH V. * PACE, 0000
AUGUST C. PASQUALE III, 0000
TIMOTHY LEE PENDERGRASS, 0000
CHRISTOPHER SARTORI, 0000
JEFFREY A. * SCHIEVENIN, 0000
THOMAS M. SEAY, 0000
TIMOTHY W. SOWIN, 0000
WAYNE K. SUMPTER, 0000
CRESCENCIO TORRES, 0000
MATTHEW P. * WICKLUND, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE AND FOR REGULAR APPOINTMENT (IDENTIFIED BY AN ASTERISK (*)) UNDER TITLE 10, U.S.C., SECTIONS 624 AND 531:

To be colonel

RICHARD C. BATZER, 0000
TIMOTHY L. BRAY, 0000
WILLIAM R. BUHLER, 0000
PAUL N. CARDON, 0000
MICHAEL J. * CONLAN, 0000
MULLEN O. COOVER JR., 0000
DAVID P. DEWITT, 0000
WILLIAM E. DINSE, 0000
WILLIAM J. DUNN, 0000
BRYAN D. DYE, 0000
BLAKE J. EDINGER, 0000
DIANE J. FLINT, 0000
ROBERT F. GAMBLE, 0000
RIDGE M. GILLEY, 0000
LYNN C. HARRIS, 0000
CHARLES A. HUGGINS, 0000
RAY S. JETER, 0000
MICHAEL P. KLEPCZYK, 0000
MICHAEL A. KOCH, 0000
THOMAS S. MARSHALL, 0000
ALAN J. MORITZ, 0000
LARRY P. PARWORTH, 0000
JAMES L. PAUKERT, 0000
DOUGLAS L. RISK, 0000
JANET Y. ROBINSON, 0000
PAUL M. ROGERS, 0000
RIDLEY O. ROSS, 0000
KENT A. SABEY, 0000
PHILLIP R. SANDEFUR, 0000
JEFFREY A. STAPLES, 0000
DANIEL S. * STRECK, 0000
DALE C. THAMES JR., 0000
RICHARD I. VANCE, 0000

THE FOLLOWING NAMED AIR NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12212:

To be colonel

JOHN A. ALEXANDER, 0000
WILLIE ALLEN, 0000
WILLIAM E. ANDERSON JR., 0000
BRUCE D. BABCOCK, 0000
STEVEN T. BECK, 0000
DENNIS R. BLACK, 0000
MICHAEL L. BRICKNER II, 0000
JORGE R. CANTRES, 0000
CHRISTOPHER J. COCHRAN, 0000
STEVEN A. CRAY, 0000
JAMES L. CRUMPTON, 0000
RICHARD J. DENNEE, 0000
WILLIAM K. DUCKETT, 0000
DONALD P. DUNBAR, 0000
LOUIS M. DURKAC, 0000
TRULAN A. EYRE, 0000
MARK K. FOREMAN, 0000
GREGORY C. GRAF, 0000
BILLY T. GRAHAM JR., 0000
JOSEPH P. GRIFFIN, 0000
FLOYD H. HARBIN, 0000
JOSEPH G. HIGGINS, 0000
MICHAEL T. HINMAN, 0000
MARK W. HUGHES, 0000
BENJAMIN F. JABLECKI JR., 0000
JOSEPH A. JETT, 0000

MICHAEL L. KING, 0000
WILLIAM M. KREIGHBAUM, 0000
ENRIQUE LAMOUTTE, 0000
PATRICK L. MARTIN, 0000
JOHN E. MCCOY, 0000
CHARLES R. MELTON, 0000
BRIAN G. NEAL, 0000
PETER NEZAMIS, 0000
TIMOTHY R. OBRIEN, 0000
GRADY L. PATTERSON III, 0000
CHRISTOPHER A. POPE, 0000
RICHARD G. POPPELL, 0000
CARLOS A. QUINONESNIEVES, 0000
PHILIP D. QUINTENZ, 0000
WILLIAM N. REDDEL III, 0000
JOHN J. SAMUHEL, 0000
SIDNEY M. SCARBOROUGH, 0000
HENRY P. SERMONS JR., 0000
WAYNE M. SHANKS, 0000
ROY J. SHETKA, 0000
JOANNA O. SHUMAKER, 0000
ELIZABETH A. STANLEY, 0000
WILLIAM E. STANTON, 0000
ELSON E. STAUGAARD JR., 0000
FRANK J. SULLIVAN, 0000
DAVID A. TORRES, 0000
STEVEN J. VERHELST, 0000
FRANCIS J. WALKER, 0000
MICHAEL E. WELSH, 0000
JOHN A. WISNIEWSKI JR., 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE AND FOR REGULAR APPOINTMENT (IDENTIFIED BY AN ASTERISK (*)) UNDER TITLE 10, U.S.C., SECTIONS 624 AND 531:

To be lieutenant colonel

TODD B. * ABEL, 0000
BRADLEY S. ABELS, 0000
LAURA K. ABTS, 0000
PAUL J. AFFLECK, 0000
SAKET K. AMBASHT, 0000
KATHLEEN C. AMYOT, 0000
JEFFREY A. * BAILEY, 0000
ALBERT H. * BONNEMA, 0000
MICHELE L. BRENNERVINCENT, 0000
JOHN R. * BRENT, 0000
MARK J. * BROOKS, 0000
MARY T. * BRUEGGEMEYER, 0000
MICHAEL G. BRYAN, 0000
LOUISE M. BRYCE, 0000
JOHN R. BURROUGHS, 0000
BRET D. * BURTON, 0000
EDITH D. * CANBYHAGINO, 0000
CREG A. * CARPENTER, 0000
THOMAS N. * CHEATHAM, 0000
NICOLA A. * CHOATE, 0000
BRANDON D. * CLINT, 0000
CHARLES D. * CLINTON, 0000
MARK R. * COAKWELL, 0000
LUBOV M. COVERDELL, 0000
MARCUS M. * CRANSTON, 0000
RANDOLPH K. * CRIBBS, 0000
BRIAN K. CROWNOVER, 0000
JEANINE M. CZECH, 0000
DEVIN L. * DONNELLY, 0000
PAUL D. * DOUGHTEN, 0000
COLLEEN M. DUGAN, 0000
JAMES R. * ELLIOTT, 0000
HARRY L. ERVIN JR., 0000
RENEE D. ESPINOSA, 0000
SUSAN C. FARRISH, 0000
MERLIN B. FAUSETT, 0000
CAROL M. * FERRUA, 0000
ERIC W. FESTER, 0000
WILLIAM F. * FOODY JR., 0000
KRISTEN A. FULTSGANEY, 0000
JOEL E. * GOLDBERG, 0000
PHILIP L. * GOULD, 0000
STEPHEN U. * HANLON, 0000
ALEXANDER V. HERNANDEZ III, 0000
KAREN A. HEUPEL, 0000
TERRY G. * HOEHNE, 0000
ROBERT G. * HOLCOMB, 0000
CAROL J. * IDDINS, 0000
JAMES L. JABLONSKI II, 0000
KERRY G. JEPSEN, 0000
WILMER T. * JONES III, 0000
JAMES A. * KEENEY, 0000
DEREK A. * KNIGHT, 0000
KRISTOPHER E. KORDANA, 0000
TIMOTHY J. KOSMATKA, 0000
MICHAEL R. KOTELES, 0000
ROBYN A. LAKAMSANI, 0000
RICHARD G. * LANE II, 0000
PHILIP D. LANHAM, 0000
KARL M. LARSEN, 0000
RAYMOND J. LEGENZA, 0000
GEORGE W. * LEON, 0000
ERIC J. * LETONOFF, 0000
TERRY J. * LEWIS, 0000
DOUGLAS W. * LITTLE, 0000
JOHN P. * LYNCH, 0000
DEBRA L. * MALONE, 0000
AMY LYNN * MARLOW, 0000
DANIEL S. * MARTINEAU, 0000
RANDY O. * MAUFFRAY, 0000
RANDALL R. MCCAFFERTY, 0000
KENT D. MCDONALD, 0000
KIRK A. * MILHOAN, 0000
CHANDRA M. * MILLER, 0000
WILLIAM F. * MOORE, 0000
PAUL H. NELSON, 0000
MARRINER V. * OLDHAM, 0000
DONELL BAIRD * OLIVER, 0000
TODD A. * PARRISH, 0000
MICHAEL J. * PASTON, 0000
TIMOTHY R. * PAULDING, 0000
KAREN M. PETERSON, 0000
ELLIOT * PINERO, 0000
TODD W. * POINDEXTER, 0000
MICHELE A. PREVOST, 0000
ROBERT PRIETO, 0000
ALEJANDRO PRUITT, 0000
TODD E. * RASMUSSEN, 0000
ROCKY R. RESTON, 0000
JOANN Y. * RICHARDSON, 0000
ROBBY C. RIDDLE, 0000
EDGAR * RODRIGUEZ, 0000
WALTER C. * RUSTMANN, 0000
DONALD M. * SANDERCOCK, 0000
KEVIN L. * SCHEU, 0000
LOWELL G. * SENSINTAFFAR, 0000
WADE J. * SEXTON, 0000
GRETCHEN S. * SHAAR, 0000
STACY A. * SHACKELFORD, 0000
MICHAEL D. * SIMMONS, 0000
JOSEPH P. * SIMON, 0000
TERESA M. SKOJAC, 0000
BRENT D. STEPHENSON, 0000
BRIAN L. * STRAUSS, 0000
MAUREEN J. SWEZEY, 0000
MICHAEL S. * TANKERSLEY, 0000
GRANT P. TIBBETTS, 0000
GEORGE F. TORRES, 0000
GARY N. * TOUPS, 0000
DEREK K. * URBAN, 0000
ERIC J. * VANDEGRAAFF, 0000
SCOTT A. * VANDEHOEF, 0000
RICHARD N. * VANLEEUWEN, 0000
DANNY X. * VU, 0000
BRYAN M. * VYVERBERG, 0000
LESLIE A. * WILSON, 0000
JON B. WOODS, 0000
RICHARD A. * YOKELL, 0000
GIANNA R. ZEH, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE AND FOR REGULAR APPOINTMENT (IDENTIFIED BY AN ASTERISK (*)) UNDER TITLE 10, U.S.C., SECTIONS 624 AND 531:

To be lieutenant colonel

DOUGLAS P. * BETHONEY, 0000
KEVIN C. * BOYLE, 0000
SEAN W. * DIGMAN, 0000
LARRY J. * EVANS, 0000
LORI L. * EVERETT, 0000
TOMMY D. * FISHER, 0000
MICHAEL E. * FULTON, 0000
KIMBERLY M. * GILL, 0000
JAMES B. * GRAHAM, 0000
MARK R. HENDERSON, 0000
TODD A. * LINCOLN, 0000
DAVID W. * NUNEZ, 0000
JACOB E. * PALMA, 0000
HYEKYUNG HELENA PAE * PARK, 0000
PHILLIP C. * PORTERA, 0000
ROGER E. * PRADELLI, 0000
DOUGLAS E. * THOMAS, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

To be major

ADAM M. ANDERSON, 0000
BRETT C. ANDERSON, 0000
PAULA E. ANDERSON, 0000
BRETT M. ANDRES, 0000
ROBERT S. ANDREWS, 0000
MARIA M. ANGLES, 0000
WILLIAM A. ANKNEY, 0000
SHERYL L. ANTHOS, 0000
DANIEL W. ARNOLD, 0000
JORGE ARZOLA, 0000
DIANE M. ASLANIS, 0000
KARYN J. AYERS, 0000
KAREN M. AYOTTE, 0000
CARL W. BAKER II, 0000
SHAROLYN H. BALDWIN, 0000
ELLEN W. BALLERENE, 0000
KIMBERLY M. BALOGH, 0000
MICHAEL A. BARNETT, 0000
SAMUEL B. BARONE, 0000
JEFFREY W. BARR, 0000
JOSE E. BARRERA, 0000
CHRISTOPHER J. BASSETT, 0000
KRISTEN BAUER, 0000
CHAD C. BAUERLY, 0000
ETHAN A. BEAN, 0000
PETRAN J. BEARD, 0000
JEFFREY N. BEEN, 0000
AMY L. BELISLE, 0000
RICHARD W. BENTLEY, 0000
DONALD J. BERNARDINI, 0000
JOHN N. BERRY, 0000
HEIDI C. BERTRAM, 0000
JEFFREY J. BIDINGER, 0000
SCOTT R. BISHOP, 0000
JEFFREY F. BLEAKLEY, 0000
JAMES A. BLEDSOE, 0000
JESSICA J. BLOOM, 0000
ERIK A. BOATMAN, 0000
JAMES V. BODRIE JR., 0000
KEVIN J. BOHNSACK, 0000
DOUGLAS E. BOLER, 0000
WILLIAM S. BOLLING, 0000
DENNIS F. BOND II, 0000
CRAIG D. BOREMAN, 0000
STACEY L. BRANCH, 0000
BRETT D. BRIMHALL, 0000
WILLIAM R. BRODERICK, 0000
JODY L. BROWN, 0000
STEVEN S. BRUMFIELD, 0000
ERIC C. BRUNO, 0000
CHARLES L. BRYANT, 0000
JOHN T. BRYANT, 0000
CRAIG M. BURNWORTH, 0000
RAELYN M. CALENDINE, 0000
FERDINAND O. CALINAWAN, 0000
COLLEEN L. CALLAGHAN, 0000
ROBERT S. CALLAHAN, 0000
SCOT E. CAMPBELL, 0000
FRANCIS R. CARANDANG, 0000
GABRIELLA CARDOZAFAVARATO, 0000
JOSHUA P. CAREY, 0000
DAWN E. CARLSON, 0000
NATHAN D. CARLSON, 0000
DAVID H. CARNAHAN, 0000
MARK P. CARROLL JR., 0000
BRETT J. CASSIDY, 0000
DANIEL A. CHARLICK, 0000
RICHARD PAUL CHERN, 0000
BRYCHAN K. CLARK, 0000
DANIEL E. COLE, 0000
LEE M. COLEMAN, 0000
SEAN M. CONLEY, 0000
BARBARA A. COOPER, 0000
MERRILEE I. COX, 0000
LOUIS M. DAVIGNON, 0000
ERIC M. DEDEKE, 0000
CATHERINE J. B. DERBER, 0000
DONALD G. DETMERING, 0000
SCOTT V. DICKSON, 0000
KURT F. DITTRICH, 0000
MICHAEL R. DOBBS, 0000
GEORGE M. DOCKENDORF, 0000
AMANDA M. DRAPER, 0000
RORY C. DUNHAM, 0000
STEPHEN J. DURANT, 0000
BRYAN T. EDWARDS, 0000
MEREDITH GILSON ELGUESSAB, 0000
JEFFREY J. EMERY, 0000
QUENBY L. ERICKSON, 0000
BETH I. ESTERBROOK, 0000
MICHAEL E. FELDMAN, 0000
CHRISTOPHER F. FENNELL, 0000
ANN S. FENTON, 0000
ANDREW T. FIGURA, 0000
MICHAEL B. FISCHER, 0000
ANDREA D. FISK, 0000
COLLEEN FITZPATRICK WEISBROD, 0000
SHAWN A. FLANAGAN, 0000
WADE E. FLETCHER, 0000
WILLIAM P. FLINN, 0000
GERALD R. FORTUNA JR., 0000
SARAH O. FORTUNA, 0000
CURTIS M. FOY, 0000
CHRISTINA V. FRASER, 0000
JOHN F. FREILER, 0000
MICHAEL A. FREIMAN, 0000
DOUGLAS S. FRENIA, 0000
RODNEY A. FRIEND, 0000
JANETTE M. FROEHLICH, 0000
MARY CATHERINE GABRIEL, 0000
JOSHUA S. GADY, 0000
KELLY D. GAGE, 0000
JOSEPH P. GALLAGHER, 0000
ROBERT W. GARNER, 0000
ROBERT J. GARR, 0000
MICHAEL S. GARRETT, 0000
LAURA E. GIVENSMOYER, 0000
JAMIE D. GLOVER, 0000
BRADLEY J. GOEKE, 0000
VERONICA M. GONZALEZ, 0000
THERESA B. GOODMAN, 0000
DAVID D. GOVER, 0000
ANDRE D. GRAHAM, 0000
KIMBERLY A. GRANDINETTI, 0000
NOAH H. GREENE, 0000
CARRIE ASHBY GREGORY, 0000
BASIL M. GRIFFIN III, 0000
RICHARD C. GRIGGS, 0000
LOUIS Q. GUILLERMO, 0000
WILLIAM E. GUNN, 0000
ANN K. GWINNUP, 0000
MICHAEL J. HAFRAN, 0000
CAROL A. HALL, 0000
ERIC S. HALSEY, 0000
DERRICK A. HAMAOKA, 0000
HOPE S. HAMMETT, 0000
MATTHEW P. HANSON, 0000
CRAIG K. HARMS, 0000
PHILIP A. HARRIS, 0000
MICHAEL A. HASLER, 0000
KARIN N. HAWKINS, 0000
MEGHAN E. HAYES, 0000
JOHN R. HENNER, 0000
EMILY M. HENNING, 0000
JOHN E. HENRIKSEN, 0000
HEATHER R. HERBOLSHEIMER, 0000
ERIC J. HICK, 0000
JAMES M. HITCHCOCK, 0000
CRYSTAL L. HNATKO, 0000
JEANNE M. HOLLAND, 0000
JENNIFER E. HORN, 0000
PAULA R. HUBERT, 0000
KYLE B. HUDSON, 0000
TODD P. HUHN, 0000
KEANE K. Y. HUNG, 0000
SCOTT M. JENSEN, 0000
CHARLES D. JOHNSON, 0000
JAMES E. JOHNSON, 0000
KEVIN W. JOHNSON, 0000
DAVID S. JONES, 0000
HEATHER D. JONES, 0000
HEATHER M. JONES, 0000
LOREN M. JONES, 0000

ROGER E. JONES, 0000
PETER J. KAH, 0000
JOHN P. KALISZAK, 0000
TODD R. KELLEY, 0000
THOMAS E. KIBELSTIS, 0000
JEREMY A. KING, 0000
ROBERT M. KIRCHNER, 0000
MICHELLE L. KNIERIM, 0000
SANDRA J. KNUDSEN, 0000
GRETCHEN L. KOHLER, 0000
JANA S. KOKKONEN, 0000
JAMES B. KOPP, 0000
HENRY KORZENIOWSKI JR., 0000
GREGORY D. KOSTUR, 0000
KATHLEEN S. KREJCI, 0000
GEORGE BRADLEY D. KUEHN, 0000
ELLA B. KUNDU, 0000
NIRVANA KUNDU, 0000
JONATHON V. LAMMERS, 0000
SUSAN C. LAN, 0000
MICHAEL L. LANDRUM, 0000
ANDREW G. LAPADAT, 0000
APRIL L. LARKIN, 0000
THOMAS J. LAUDICO, 0000
JARRETT B. LEA, 0000
ALEX J. LEE, 0000
CHRISTINE Y. LEE, 0000
FRANK C. LEE, 0000
KENYA D. LEE, 0000
MARVIN LEE II, 0000
JAMES D. LEIBER, 0000
BRIAN E. LEININGER, 0000
JEFFREY D. LEWIS, 0000
RYAN L. LEWIS, 0000
PETER A. LIEHR, 0000
DOUGLAS LIM, 0000
PETER J. LODICO, 0000
JONATHAN C. LOHRBACH, 0000
MANUEL A. LOPEZ, 0000
BRIAN W. LOVERIDGE, 0000
KEEGAN M. LYONS, 0000
KIRIN L. MADDEN, 0000
MICHAEL A. MADRID, 0000
MEGAN E. MAHAFFEY, 0000
CHARLES G. MAHAKIAN, 0000
DAVID MALDONADO III, 0000
PATRICK MALLORY, 0000
GREGORY J. MALONE, 0000
KJERSTI A. MARIUS, 0000
PHILLIP E. MASON, 0000
RUSSELL E. MASSINE, 0000
DEREK A. MATHIS, 0000
ERICH C. MAUL, 0000
EDWARD L. MAZUCHOWSKI II, 0000
BRETT A. MCFADDEN, 0000
SOPHIA MCFADDEN, 0000
HOWARD J. MCGOWAN, 0000
MIA M. MCGREGOR, 0000
DAWN P. MCNAUGHTON, 0000
ALEKSANDR G. MELIKOV, 0000
CHRISTOPHER M. MEYER, 0000
EDWARD J. MEYERS, 0000
MICHAEL D. MICHENER, 0000
QUINTESSA MILLER, 0000
DOUGLAS D. MIN, 0000
ANTHONY L. MITCHELL, 0000
PAUL R. MONCLA, 0000
BRIAN A. MOORE, 0000
PAUL M. MORTON, 0000
CHER D. MOSEMAN, 0000
EVAN B. MOSER, 0000
DANIEL H. MURRAY, 0000
HAFEZ A. NASR, 0000
RICHARD E. NEUBERT, 0000
VISETH NGAUY, 0000
BRETT R. NISHIKAWA, 0000
ANTHONY B. OCHOA, 0000
BRIAN P. ODONNELL, 0000
DAVID D. ORTIZ, 0000
SARAH M. PAGE, 0000
BRIAN N. PALEN, 0000
WESLEY D. PALMER, 0000
MICHAEL T. PARKE, 0000
JEFFERY E. PARKER, 0000
AMIT I. PATEL, 0000
GILBERTO PATINO, 0000
JUDITH E. PECK, 0000
ALYSSA C. PERROY, 0000
RACHEL R. PETERSEN, 0000
LAURA J. PETERSON, 0000
JOEL M. PHARES, 0000
GRANT C. PHILLIPS, 0000
TIMOTHY M. PHILLIPS, 0000
BRIAN J. PICKARD, 0000
MICHAEL ALAN PROFFITT, 0000
CHRISTOPHER B. PUDOL, 0000
JAMES C. RACHAL, 0000
GREGORY N. RAMPEY, 0000
CHRISTIAN L. RANK, 0000
KRISTA WARE RANKIN, 0000
TONYA S. RANSNIGRO, 0000
DAVID A. RAPKO, 0000
TRACEE P. RAY, 0000
ALYSON D. READ, 0000
JERALD E. RECTOR, 0000
NATALIE L. RESTIVO, 0000
AMY M. REYNOLDS, 0000
NEAL PATRICK RIDGE, 0000
MARK G. RIEKER, 0000
JENNIFER M. RIZZOLI, 0000
CHARLES K. ROBERTS, 0000
KYLE M. ROCKERS, 0000
JEFFREY L. ROSE, 0000
CHRISTINE N. ROSSBACH, 0000
DONALD P. ROTEN, 0000
DAWN M. RUDD, 0000
GREGORY A. RUFF, 0000
NAYKALA A. RUSE, 0000
AMY M. SAGE, 0000
CHRISTOPHER P. SAMUELS, 0000
CORIE L. SANDALL, 0000
ANDRE G. SARMIENTO, 0000
BENJAMIN G. SARVER, 0000
GEOFFREY T. SASAKI, 0000
STEPHANIE A. SAVAGE, 0000
JENNIFER L. SCAGNELLI, 0000
MICHAEL J. SCHEEL, 0000
JACK D. SCHILLEN, 0000
DANIEL C. SCHUBERT, 0000
VINCENT SCIORTINO, 0000
STEPHEN E. SCRANTON, 0000
KATHRYN L. SELLEN, 0000
B. ADAM SHANES, 0000
DANIEL A. SHOEMAKER, 0000
REBECCA W. SHORT, 0000
JOEL M. SHULKIN, 0000
TERESA A. SIMPSON, 0000
JOHN HWA SLADKY, 0000
GREGORY S. SMITH, 0000
TODD R. SMITH, 0000
CHRISTOPHER R. SPINELLI, 0000
PRIYADARSHINI SRINIVASAN, 0000
GARY C. STARR, 0000
JAMES D. STEED JR., 0000
KEVIN E. STEEL, 0000
PHILLIP J. STEPHAN, 0000
ELIZABETH DOKFA P. STEWART, 0000
TIMOTHY J. SULLIVAN, 0000
JOSE V. SUMAQUIAL, 0000
DEENA E. SUTTER, 0000
LON J. TAFF, 0000
PAUL J. TAN, 0000
DAMON D. TANTON, 0000
TARA L. TAYLOR, 0000
BRIDGET A. THILL, 0000
WARREN W. THIO, 0000
JEFFREY B. THOMAS, 0000
MICHAEL R. THOMAS, 0000
PATRICK J. THOMPSON, 0000
ROBERT A. TIMMONS, 0000
MICHAEL K. TING, 0000
RAMONE A. TOLIVER, 0000
BRIAN J. TOLLEFSON, 0000
EMMANUEL A. TRIGENIS, 0000
COURTNEY T. TRIPP, 0000
ALECHIA M. TROUT, 0000
PAMELA TULI, 0000
RICHARD TYSON, 0000
JOSEPH D. VILLACIS, 0000
DANA T. VIRGO, 0000
KIRSTEN R. VITRIKAS, 0000
ERIK C. VON ROSENVINGE, 0000
KIMBERLY A. VORMBROCK, 0000
DANIEL R. WALKER, 0000
SPENCER D. WALKER, 0000
JAMES E. WALLACE, 0000
RAYMOND J. WALSH, 0000
DAVID T. WANG, 0000
NEIL P. WANG, 0000
RICHARD P. WARD JR., 0000
DARON A. WATTS, 0000
JENNIFER J. WEAVER, 0000
RYAN D. WELLS, 0000
JOHN C. WHEELER, 0000
PATRICK F. WHITNEY, 0000
CHRISTOPHER J. WIBBELSMAN, 0000
CAROLYN A. WILD, 0000
ERIC L. WILLIAMS, 0000
MAUREEN N. WILLIAMS, 0000
LYNN M. WILSON, 0000
BRICE P. WINDSOR, 0000
THOMAS C. WISLER JR., 0000
LEE T. WOLFE, 0000
ROGER A. WOOD, 0000
HENRY A. WOODS JR., 0000
KENNETH A. WOODWARD, 0000
JOSHUA L. WRIGHT, 0000
JOY C. WU, 0000
MANOJ S. WUNNAVA, 0000
CHRISTOPHER K. WYATT, 0000
MATTHEW C. YOUNG, 0000
SHAHID A. ZAIDI, 0000
MICHAEL A. ZANE, 0000
LANA A. ZERRER, 0000
REGGIE ZHAN, 0000
ZOFIA ZHIVANOVICH, 0000
DAVID J. ZOLLINGER, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

To be major

MARYA J. BARNES, 0000
ERIC R. BAUGH JR., 0000
GEORGE E. BOUGHAN, 0000
DORON BRESLER, 0000
STEPHEN H. CHARTIER, 0000
JILL A. CHERRY, 0000
KEITH L. CLARK, 0000
FREDERICK A. CONNER, 0000
GREGORY A. CONNER, 0000
MICHELLE D. DULLANTY, 0000
SARAH C. EAGER, 0000
JOSE F. EDUARDO, 0000
JONATHAN D. EVANS, 0000
ANDREW R. FENTON, 0000
TEGRAN O. FRAITES, 0000
DANIEL B. GABRIEL, 0000
MICHAEL T. GARDNER, 0000
CECILIA I. GARIN, 0000
SCOTT W. GEORGE, 0000
DAVID E. HALL, 0000
STEPHEN C. HOLMES, 0000
DENNIS M. HOLT, 0000
LANCE J. KIM, 0000
JAMES D. KISER JR., 0000
MIKELLE L. KUEHN, 0000
XAVIER LEOS, 0000
TRENT E. LOISEAU, 0000
ROBERT K. MCGHEE, 0000
ALI R. MIREMAMI, 0000
BARRY F. MORRIS, 0000
JESSE MURILLO, 0000
ANDREW M. NALIN, 0000
JEANLUC G. C. NIEL, 0000
KYLE W. ODOM, 0000
INAAM A. A. PEDALINO, 0000
MICHAEL J. SILVERMAN, 0000
YOUNG K. SUNG, 0000
SARAT THIKKURISSY, 0000
SARAH A. TRUSCINSKI, 0000
WILLIAM K. TUCKER, 0000
GEORGE S. TUNDER JR., 0000
TODD S. WELLER, 0000
KARYN E. YOUNGCARIGNAN, 0000

IN THE ARMY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

DAVID H. FORDEN, 0000
GERALD E. STONE, 0000

IN THE MARINE CORPS

THE FOLLOWING NAMED LIMITED DUTY OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

STEVE E. HOWELL, 0000

THE FOLLOWING NAMED LIMITED DUTY OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C, SECTION 624:

To be lieutenant colonel

RICHARD K. ROHR, 0000

THE FOLLOWING NAMED LIMITED DUTY OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

DAVID J. WILSON, 0000

THE FOLLOWING NAMED LIMITED DUTY OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

WILLIAM E. HIDLE, 0000

THE FOLLOWING NAMED LIMITED DUTY OFFICER FOR APPOINTMEHNT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

JOHN T. BROWER, 0000

THE FOLLOWING NAMED LIMITED DUTY OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

RONALD W. COCHRAN, 0000
JOHNATHAN D. LAWSON, 0000
ROBERT J. MAGERS, 0000
PAUL J. MINER, 0000

THE FOLLOWING NAMED LIMITED DUTY OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

TODD P. OHMAN, 0000

THE FOLLOWING NAMED LIMITED DUTY OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

MICHAEL E. BEAN, 0000
GREGORY G. FRICH, 0000
WALTON S. PITCHFORD, 0000