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 manmade 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:

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:

(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 offsetting 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

''§ 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:

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:

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. LEIBERMAN 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 decisionmakers 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.