

SA 2596. Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2597. Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2598. Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2599. Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2600. Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2601. Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2602. Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2603. Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2604. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2605. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 2388 proposed by Mrs. HUTCHISON (for herself, Mr. KYL, Mr. LEVIN, Mr. GRAHAM of Florida, Mr. McCain, Ms. STABENOW, and Mrs. FEINSTEIN) to the amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2606. Mr. BURNS submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2607. Mr. BURNS submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2608. Mr. BURNS (for himself, Mr. DORGAN, and Mr. ROCKEFELLER) submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2609. Mr. BURNS (for himself, Mr. DORGAN, and Mr. ROCKEFELLER) submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2610. Mr. SHELBY submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2611. Mr. SHELBY submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2612. Mr. SHELBY submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2613. Mr. SHELBY submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2614. Mr. BUNNING submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2615. Ms. LANDRIEU (for herself, Mr. BREAUX, Mrs. LINCOLN, and Mr. PRYOR) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra.

SA 2616. Mr. INHOFE proposed an amendment to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra.

TEXT OF AMENDMENTS

SA 2558. Mrs. MURRAY (for herself, Ms. COLLINS, Mrs. BOXER, Ms. CANTWELL, Mrs. CLINTON, 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 to amendment SA 2491 submitted by 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) 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 38, strike line 22 and all that follows through page 39, line 7, 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, \$150,000,001 for each of fiscal years 2004 through 2009.

SA 2559. Mrs. MURRAY (for herself, Ms. COLLINS, Mrs. BOXER, Ms. CANTWELL, Mrs. CLINTON, 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 to amendment SA 2492 submitted by 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) 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 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.”.

(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 2560. 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:

At the end of the amendment add 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 2561. 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 2, after line 14, insert the following new section:

SEC. 4. CLARIFICATION OF RAIL TRANSPORTATION POLICY.

Section 10101 is amended—

(1) by inserting “(a) **IN GENERAL.**—” before “In regulating”; and

(2) by adding at the end the following:

“(b) **PRIMARY OBJECTIVES.**—The primary objectives of the rail transportation policy of the United States are as follows:

“(1) To promote effective competition among rail carriers at origins and destinations.

“(2) To maintain reasonable rates in the absence of effective competition.

“(3) To maintain consistent and efficient rail transportation service for shippers, including the timely provision of rail cars requested by shippers.

“(4) To ensure that smaller carload and intermodal shippers are not precluded from accessing rail systems due to volume requirements.”.

SA 2562. 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 2, after line 14, insert the following new section:

SEC. 4. RAIL CUSTOMER ADVOCATE IN THE DEPARTMENT OF TRANSPORTATION.

(a) PARTICIPATION OF RAIL CUSTOMER ADVOCATE IN STB PROCEEDINGS.—

(1) AUTHORITY AND RESPONSIBILITIES.—Chapter 105 is amended by adding at the end the following new section:

“§ 10503. Participation of Rail Customer Advocate in Board proceedings

“(a) AUTHORITY.—The following persons are authorized to petition the Board for an exercise of authority of the Board regarding rail transportation of any agricultural or forestry commodity or product, and to participate in any proceeding of the Board regarding rail transportation of such a commodity or product:

“(1) The Rail Customer Advocate of the Department of Transportation.

“(2) Any official of the government of a State whose functions are the same as or similar to the functions of the Rail Customer Advocate of the Department of Transportation.

“(b) CONSIDERATION OF PRESENTATIONS BY ADVOCATE.—(1) The Board shall accord significant persuasive weight to any material evidence, proposal, or view that is presented by an official referred to in subsection (a) with respect to rail transportation of an agricultural or forestry commodity or product.

“(2) In disposing of any matter before the Board in which an official referred to in subsection (a) has participated under the authority of such subsection, the Board shall present in writing a detailed explanation of any disagreement of the Board with matters presented to the Board by that official.”.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“10503. Participation of Rail Customer Advocate in Board proceedings.”.

(b) ESTABLISHMENT AND DUTIES.—

(1) IN GENERAL.—The Department of Transportation Reorganization Act is amended by adding at the end the following new section:

“SEC. 286. RAIL CUSTOMER ADVOCATE.

“(a) ESTABLISHMENT OF OFFICE.—There is established within the Department an Office of Rail Customer Advocacy.

“(b) RAIL CUSTOMER ADVOCATE.—

“(1) APPOINTMENT.—The Secretary shall appoint the Rail Customer Advocate.

“(2) HEAD OF OFFICE.—The Rail Customer Advocate is the head of the Office of Rail Customer Advocacy.

“(c) FUNCTIONS.—The Rail Customer Advocate has the following functions:

“(1) PARTICIPATION IN STB PROCEEDINGS.—To participate as a party in proceedings of

the Surface Transportation Board on petitions for action by the Board regarding the regulation of rail transportation of agricultural or forestry commodities or products, and to initiate any such action.

“(2) COMPILATION OF INFORMATION.—To collect, compile, and maintain information regarding the cost and efficiency of rail transportation of agricultural commodities and products and forestry commodities and products.

“(3) STUDIES.—To perform studies regarding rail transportation of agricultural commodities and products and forestry commodities and products.

“(d) ACCESS TO STB INFORMATION.—To carry out the functions under subsection (b), the Rail Customer Advocate shall have access to information, including databases, of the Surface Transportation Board.”.

(B) In paragraph (5), by striking the period at the end and inserting “; or”; and

(C) by adding at the end the following:

“(6) the establishment of the Office of Rail Consumer Advocacy of the Department under section 286.”.

SA 2563. 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 2, after line 14, insert the following new section:

SEC. 4. PERIODIC STUDY OF COMPETITION AMONG RAIL CARRIERS.

(a) REQUIREMENT FOR STUDY.—

(1) TRIENNIAL STUDY.—Chapter 101 is amended by adding at the end the following new section:

“§ 10103. Periodic study of rail carrier competition and processes of the Board

“(a) REQUIREMENT FOR STUDY.—Every three years, the Secretary of Transportation shall conduct a comprehensive study of rail carrier competition and the processes of the Board. The study shall include an assessment of the following:

“(1) The availability of effective competitive options among and between rail carriers.

“(2) The effectiveness of the processes of the Surface Transportation Board, including the process used for determining the reasonableness of rates of rail carriers.

“(3) The availability to rail users of effective regulatory dispute resolution options.

“(b) STUDY TO INCLUDE ASSESSMENT OF RAIL-TO-RAIL COMPETITION.—In carrying out the study, the Board shall assess the overall level of rail-to-rail competition in the rail carrier industry in the United States. In making the assessment, the Board shall consider the views of users of the services of rail carriers.

“(c) REPORT TO CONGRESS.—Not later than November 15 of each year in which a study is conducted under subsection (a), the Secretary shall submit a report on the results of the study to Congress. The report shall include the following:

“(1) The Board’s assessment of the overall level of rail-to-rail competition in the rail carrier industry in the United States.

“(2) The markets that have limited rail-to-rail competition.

“(3) Any recommendations for enhancing rail-to-rail competition, particularly in markets identified as having limited rail-to-rail competition.

“(4) An assessment of the Board’s performance of its purpose to promote and enhance competition among and between railroads by—

“(A) addressing complaints regarding rates, charges, and service; and

“(B) promulgating regulations of general applicability or taking other actions.

“(5) Any recommendations for modification of any of the decisions of the Board (or decisions of the former Interstate Commerce Commission continuing in effect) or for modification of the general authority or jurisdiction of the Board.

“(6) Any other findings, analyses, assessments, and recommendations that result from the study.”.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following:

“10103. Periodic study of rail carrier competition and processes of the Board.”.

(b) TIME FOR FIRST STUDY.—The first study under section 10103 of title 49, United States Code (as added by subsection (a)), shall be carried out not later than two years after the date of the enactment of this Act.

SA 2564. 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:

In lieu of the matter proposed, insert the following:

“SEC. . DELTA REGION TRANSPORTATION DEVELOPMENT 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:

“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 decision-making; and

“(4) support transportation construction.

“(b) ELIGIBLE RECIPIENTS.—A State transportation department and 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 677, line 11, strike “\$2,500,000,000” and insert “\$1,300,000,000”.

On page 677, line 13, strike “\$2,000,000,000” and insert “\$1,200,000,000”.

On page 677, line 15, strike “\$500,000,000” and insert “\$100,000,000”.

On page 678, after line 5, insert the following:

“(16) DELTA REGION TRANSPORTATION DEVELOPMENT PROGRAM.—For the Delta Region transportation development program, \$400,000,000 for each of fiscal years 2004 through 2009.”

SA 2565. 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:

In lieu of the matter proposed, insert the following:

“SEC. . DELTA REGION TRANSPORTATION DEVELOPMENT 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:

“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 decision-making; and

“(4) support transportation construction.

“(b) ELIGIBLE RECIPIENTS.—A State transportation department and 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 the following:

“(16) DELTA REGION TRANSPORTATION DEVELOPMENT PROGRAM.—For the Delta Region transportation development program, \$400,000,000 for each of fiscal years 2004 through 2009.”

SA 2566. Mr. GRASSLEY (for himself, and Mr. BAUCUS) submitted an amendment intended to be proposed to amendment SA 2549 submitted by Mr. GRASSLEY (for himself and Mr. BAUCUS) 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 “(g)” and insert:

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 CERTAIN RAIL PROJECTS.—With respect to rail 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, except for any rail project involving publicly owned rail facilities or any rail project yielding a public benefit.”.

SA 2567. 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 appropriate place in the amendment, insert:

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 2568. 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:

SEC. . 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 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 “\$255,000,000”.

SA 2569. 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 appropriate place in the amendment, insert:

SEC. ____ . 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 2570. 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 appropriate place in the amendment, insert:

SEC. ____ . 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 2571. 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 appropriate place in the amendment, insert:

SEC. ____ . 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 2572. 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 appropriate place in the amendment, insert:

SEC. ____ . 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 2573. 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 appropriate place in the amendment, insert:

SEC. ____ . 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 2574. 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 appropriate place in the amendment, insert:

SEC. ____ . 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 2575. 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 appropriate place in the amendment, insert

SEC. . 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 2576. 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 appropriate place in the amendment, insert

SEC. . 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 “\$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 2577. 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 appropriate place in the amendment, insert

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 2578. 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 appropriate place in the amendment, insert:

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 2579. 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 appropriate place in the amendment, insert:

SEC. ____ . 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 2580. 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 appropriate place in the amendment, insert:

SEC. ____ . 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 2581. 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 appropriate place in the amendment, insert:

SEC. . 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 2582. 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 appropriate place insert the following:

“(ii) \$4,821,335 shall be available to the personal rapid transit system in Morgantown, West Virginia for improvements to its passenger operations under section 5307.”

SA 2583. 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 appropriate place in the amendment, insert:

SEC. . 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 2584. Mr. INHOFE submitted an amendment intended to be proposed to amendment SA 2315 submitted by Mr. KYL 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:

On page 60, line 9, strike “October 1, 2004” and insert “October 2, 2004”.

SA 2585. Mr. INHOFE submitted an amendment intended to be proposed to amendment SA 2315 submitted by Mr. KYL 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:

At end, 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 2586. Mr. INHOFE submitted an amendment intended to be proposed to amendment SA 2511 submitted by Mr. DASCHLE 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:

On line 9 strike “\$15,000,000” and insert “\$14,000,000”.

SA 2587. Mr. INHOFE submitted an amendment intended to be proposed to amendment SA 2382 submitted by Mr. MCCAIN (for himself and Mr. HOLLINGS) 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:

Strike lines 1 and 2.

SA 2588. Mr. INHOFE submitted an amendment intended to be proposed to amendment SA 2418 submitted by Mr. CARPER 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:

Strike lines 1 and 2.

SA 2589. Mr. CONRAD submitted an amendment intended to be proposed to amendment SA 2414 submitted by Mr. NICKLES 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:

H—Additional Revenue Provisions

PART I—ADMINISTRATIVE PROVISIONS

SEC. 5671. 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 “September 30, 2009”.

SEC. 5672. EXTENSION OF IRS USER FEES.

(a) IN GENERAL.—Section 7528(c) (relating to termination) is amended by striking “December 31, 2004” and inserting “September 30, 2013”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to requests after the date of the enactment of this Act.

PART II—FINANCIAL INSTRUMENTS

SEC. 5673. TREATMENT OF STRIPPED INTERESTS IN BOND AND PREFERRED STOCK FUNDS, ETC.

(a) IN GENERAL.—Section 1286 (relating to tax treatment of stripped bonds) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

“(f) TREATMENT OF STRIPPED INTERESTS IN BOND AND PREFERRED STOCK FUNDS, ETC.—In the case of an account or entity substantially all of the assets of which consist of bonds, preferred stock, or a combination thereof, the Secretary may by regulations provide that rules similar to the rules of this section and 305(e), as appropriate, shall apply to interests in such account or entity to which (but for this subsection) this section or section 305(e), as the case may be, would not apply.”.

(b) CROSS REFERENCE.—Subsection (e) of section 305 is amended by adding at the end the following new paragraph:

“(7) CROSS REFERENCE.—

“For treatment of stripped interests in certain accounts or entities holding preferred stock, see section 1286(f).”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to purchases and dispositions after the date of the enactment of this Act.

SEC. 5674. APPLICATION OF EARNINGS STRIPPING RULES TO PARTNERSHIPS AND S CORPORATIONS.

(a) IN GENERAL.—Section 168(j) (relating to limitation on deduction for interest on certain indebtedness) is amended by redesignating paragraph (8) as paragraph (9) and by inserting after paragraph (7) the following new paragraph:

“(8) APPLICATION TO PARTNERSHIPS AND S CORPORATIONS.—

“(A) IN GENERAL.—This subsection shall apply to partnerships and S corporations in the same manner as it applies to C corporations.

“(B) ALLOCATIONS TO CERTAIN CORPORATE PARTNERS.—If a C corporation is a partner in a partnership—

“(i) the corporation’s allocable share of indebtedness and interest income of the partnership shall be taken into account in applying this subsection to the corporation, and

“(ii) if a deduction is not disallowed under this subsection with respect to any interest expense of the partnership, this subsection shall be applied separately in determining whether a deduction is allowable to the corporation with respect to the corporation’s allocable share of such interest expense.”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 5675. RECOGNITION OF CANCELLATION OF INDEBTEDNESS INCOME REALIZED ON SATISFACTION OF DEBT WITH PARTNERSHIP INTEREST.

(a) IN GENERAL.—Paragraph (8) of section 108(e) (relating to general rules for discharge of indebtedness (including discharges not in title 11 cases or insolvency)) is amended to read as follows:

“(8) INDEBTEDNESS SATISFIED BY CORPORATE STOCK OR PARTNERSHIP INTEREST.—For purposes of determining income of a debtor from discharge of indebtedness, if—

“(A) a debtor corporation transfers stock, or

“(B) a debtor partnership transfers a capital or profits interest in such partnership,

to a creditor in satisfaction of its recourse or nonrecourse indebtedness, such corporation or partnership shall be treated as having satisfied the indebtedness with an amount of money equal to the fair market value of the stock or interest. In the case of any partnership, any discharge of indebtedness income recognized under this paragraph shall be included in the distributive shares of taxpayers which were the partners in the partnership immediately before such discharge.”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to cancellations of indebtedness occurring on or after the date of the enactment of this Act.

SEC. 5676. MODIFICATION OF STRADDLE RULES.

(a) RULES RELATING TO IDENTIFIED STRADDLES.—

(1) IN GENERAL.—Subparagraph (A) of section 1092(a)(2) (relating to special rule for identified straddles) is amended to read as follows:

“(A) IN GENERAL.—In the case of any straddle which is an identified straddle—

“(i) paragraph (1) shall not apply with respect to identified positions comprising the identified straddle,

“(ii) if there is any loss with respect to any identified position of the identified straddle, the basis of each of the identified offsetting positions in the identified straddle shall be increased by an amount which bears the same ratio to the loss as the unrecognized gain with respect to such offsetting position bears to the aggregate unrecognized gain with respect to all such offsetting positions, and

“(iii) any loss described in clause (ii) shall not otherwise be taken into account for purposes of this title.”.

(2) IDENTIFIED STRADDLE.—Section 1092(a)(2)(B) (defining identified straddle) is amended—

(A) by striking clause (ii) and inserting the following:

“(ii) to the extent provided by regulations, the value of each position of which (in the hands of the taxpayer immediately before the creation of the straddle) is not less than the basis of such position in the hands of the taxpayer at the time the straddle is created, and”, and

(B) by adding at the end the following new flush sentence:

“The Secretary shall prescribe regulations which specify the proper methods for clearly identifying a straddle as an identified straddle (and the positions comprising such straddle), which specify the rules for the application of this section for a taxpayer which fails to properly identify the positions of an identified straddle, and which specify the ordering rules in cases where a taxpayer disposes of less than an entire position which is part of an identified straddle.”

(3) UNRECOGNIZED GAIN.—Section 1092(a)(3) (defining unrecognized gain) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

“(B) SPECIAL RULE FOR IDENTIFIED STRADDLES.—For purposes of paragraph (2)(A)(ii), the unrecognized gain with respect to any identified offsetting position shall be the excess of the fair market value of the position at the time of the determination over the fair market value of the position at the time the taxpayer identified the position as a position in an identified straddle.”

(4) CONFORMING AMENDMENT.—Section 1092(c)(2) is amended by striking subparagraph (B) and by redesignating subparagraph (C) as subparagraph (B).

(b) PHYSICALLY SETTLED POSITIONS.—Section 1092(d) (relating to definitions and special rules) is amended by adding at the end the following new paragraph:

“(8) SPECIAL RULES FOR PHYSICALLY SETTLED POSITIONS.—For purposes of subsection (a), if a taxpayer settles a position which is part of a straddle by delivering property to which the position relates (and such position, if terminated, would result in a realization of a loss), then such taxpayer shall be treated as if such taxpayer—

“(A) terminated the position for its fair market value immediately before the settlement, and

“(B) sold the property so delivered by the taxpayer at its fair market value.”

(c) REPEAL OF STOCK EXCEPTION.—

(1) IN GENERAL.—Section 1092(d)(3) is repealed.

(2) CONFORMING AMENDMENT.—Section 1258(d)(1) is amended by striking “; except that the term ‘personal property’ shall include stock”.

(d) REPEAL OF QUALIFIED COVERED CALL EXCEPTION.—Section 1092(c)(4) is amended by adding at the end the following new subparagraph:

“(I) TERMINATION.—This paragraph shall not apply to any position established on or after the date of the enactment of this subparagraph.”

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to positions established on or after the date of the enactment of this Act.

SEC. 5677. DENIAL OF INSTALLMENT SALE TREATMENT FOR ALL READILY TRADEABLE DEBT.

(a) IN GENERAL.—Section 453(f)(4)(B) (relating to purchaser evidences of indebtedness payable on demand or readily tradeable) is amended by striking “is issued by a corporation or a government or political subdivision thereof and”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to sales occurring on or after the date of the enactment of this Act.

PART III—CORPORATIONS AND PARTNERSHIPS

SEC. 5678. MODIFICATION OF TREATMENT OF TRANSFERS TO CREDITORS IN DIVISIVE REORGANIZATIONS.

(a) IN GENERAL.—Section 361(b)(3) (relating to treatment of transfers to creditors) is

amended by adding at the end the following new sentence: “In the case of a reorganization described in section 368(a)(1)(D) with respect to which stock or securities of the corporation to which the assets are transferred are distributed in a transaction which qualifies under section 355, this paragraph shall apply only to the extent that the sum of the money and the fair market value of other property transferred to such creditors does not exceed the adjusted bases of such assets transferred.”

(b) LIABILITIES IN EXCESS OF BASIS.—Section 357(c)(1)(B) is amended by inserting “with respect to which stock or securities of the corporation to which the assets are transferred are distributed in a transaction which qualifies under section 355” after “section 368(a)(1)(D)”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers of money or other property, or liabilities assumed, in connection with a reorganization occurring on or after the date of the enactment of this Act.

SEC. 5679. CLARIFICATION OF DEFINITION OF NONQUALIFIED PREFERRED STOCK.

(a) IN GENERAL.—Section 351(g)(3)(A) is amended by adding at the end the following: “Stock shall not be treated as participating in corporate growth to any significant extent unless there is a real and meaningful likelihood of the shareholder actually participating in the earnings and growth of the corporation.”

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to transactions after May 14, 2003.

SEC. 5680. MODIFICATION OF DEFINITION OF CONTROLLED GROUP OF CORPORATIONS.

(a) IN GENERAL.—Section 1563(a)(2) (relating to brother-sister controlled group) is amended by striking “possessing—” and all that follows through “(B)” and inserting “possessing”.

(b) APPLICATION OF EXISTING RULES TO OTHER CODE PROVISIONS.—Section 1563(f) (relating to other definitions and rules) is amended by adding at the end the following new paragraph:

“(5) BROTHER-SISTER CONTROLLED GROUP DEFINITION FOR PROVISIONS OTHER THAN THIS PART.—

“(A) IN GENERAL.—Except as specifically provided in an applicable provision, subsection (a)(2) shall be applied to an applicable provision as if it read as follows:

“(2) BROTHER-SISTER CONTROLLED GROUP.—Two or more corporations if 5 or fewer persons who are individuals, estates, or trusts own (within the meaning of subsection (d)(2) stock possessing—

“(A) at least 80 percent of the total combined voting power of all classes of stock entitled to vote, or at least 80 percent of the total value of shares of all classes of stock, of each corporation, and

“(B) more than 50 percent of the total combined voting power of all classes of stock entitled to vote or more than 50 percent of the total value of shares of all classes of stock of each corporation, taking into account the stock ownership of each such person only to the extent such stock ownership is identical with respect to each such corporation.”

“(B) APPLICABLE PROVISION.—For purposes of this paragraph, an applicable provision is any provision of law (other than this part) which incorporates the definition of controlled group of corporations under subsection (a).”

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 5681. MANDATORY BASIS ADJUSTMENTS IN CONNECTION WITH PARTNERSHIP DISTRIBUTIONS AND TRANSFERS OF PARTNERSHIP INTERESTS.

(a) IN GENERAL.—Section 754 is repealed.

(b) ADJUSTMENT TO BASIS OF UNDISTRICTED PARTNERSHIP PROPERTY.—Section 734 is amended—

(1) by striking “, with respect to which the election provided in section 754 is in effect,” in the matter preceding paragraph (1) of subsection (b).

(2) by striking “(as adjusted by section 732(d))” both places it appears in subsection (b).

(3) by striking the last sentence of subsection (b).

(4) by striking subsection (a) and by redesignating subsections (b) and (c) as subsections (a) and (b), respectively, and

(5) by striking “optional” in the heading.

(c) ADJUSTMENT TO BASIS OF PARTNERSHIP PROPERTY.—Section 743 is amended—

(1) by striking “with respect to which the election provided in section 754 is in effect” in the matter preceding paragraph (1) of subsection (b).

(2) by striking subsection (a) and by redesignating subsections (b) and (c) as subsections (a) and (b), respectively.

(3) by adding at the end the following new subsection:

“(c) ELECTION TO ADJUST BASIS FOR TRANSFERS UPON DEATH OF PARTNER.—Subsection (a) shall not apply and no adjustments shall be made in the case of any transfer of an interest in a partnership upon the death of a partner unless an election to do so is made by the partnership. Such an election shall apply with respect to all such transfers of interests in the partnership. Any election under section 754 in effect on the date of the enactment of this subsection shall constitute an election made under this subsection. Such election may be revoked by the partnership, subject to such limitations as may be provided by regulations prescribed by the Secretary.”, and

(4) by striking “OPTIONAL” in the heading.

(d) CONFORMING AMENDMENTS.—

(1) Subsection (d) of section 732 is repealed.

(2) Section 755(a) is amended—

(A) by striking “section 734(b) (relating to the optional adjustment)” and inserting “section 734(a) (relating to the adjustment)”, and

(B) by striking “section 743(b) (relating to the optional adjustment)” and inserting “section 743(a) (relating to the adjustment)”.

(3) Section 761(e)(2) is amended by striking “optional”.

(4) Section 774(a) is amended by striking “743(b)” both places it appears and inserting “743(a)”.

(5) The item relating to section 734 in the table of sections for subpart B of part II of subchapter K of chapter 1 is amended by striking “Optional”.

(6) The item relating to section 743 in the table of sections for subpart C of part II of subchapter K of chapter 1 is amended by striking “Optional”.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to transfers and distributions made after the date of the enactment of this Act.

(2) REPEAL OF SECTION 732(d).—The amendments made by subsections (b)(2) and (d)(1) shall apply to—

(A) except as provided in subparagraph (B), transfers made after the date of the enactment of this Act, and

(B) in the case of any transfer made on or before such date to which section 732(d) applies, distributions made after the date which is 2 years after such date of enactment.

PART IV—DEPRECIATION AND AMORTIZATION

SEC. 5682. 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.

SEC. 5683. CLASS LIVES FOR UTILITY GRADING COSTS.

(a) GAS UTILITY PROPERTY.—Section 168(e)(3)(E) (defining 15-year property) 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) initial clearing and grading land improvements with respect to gas utility property.”

(b) ELECTRIC UTILITY PROPERTY.—Section 168(e)(3) is amended by adding at the end the following new subparagraph:

“(F) 20-YEAR PROPERTY.—The term ‘20-year property’ means initial clearing and grading land improvements with respect to any electric utility transmission and distribution plant.”

(c) CONFORMING AMENDMENTS.—The table contained in section 168(g)(3)(B) is amended—

(1) by inserting “or (E)(iv)” after “(E)(iii)”, and

(2) by adding at the end the following new item:

“(F) 25”.

(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.

SEC. 5684. 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 2590. Mr. ROCKEFELLER (for himself, Mr. BURNS, and 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:

“Title 49 of the United States Code is amended by adding a new Section 11101, and

renumbering all successive sections accordingly, as follows:

SEC. 11101. DUTY TO PROVIDE A RATE TO SHIPPERS.

Upon the request of a shipper, a rail carrier shall provide both a rate, in writing, for, and the transportation service requested by, the shipper between any two points on the system of that carrier where traffic originates, terminates, or may reasonably be interchanged.”

SA 2591. Mr. INHOFE proposed an amendment SA 2388 proposed by Mrs. HUTCHISON (for herself, Mr. KYL, Mr. LEVIN, Mr. GRAHAM of Florida, Mr. MCCAIN, Ms. STABENOW, and Mrs. FEINSTEIN) 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; as follows:

At the end, add the following:

“SEC. . This section shall take effect one day after enactment of this Act.”

SA 2592. 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. . 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) of the Energy Policy Act of 1992.

“(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 of the Energy Policy Act of 1992.

“(c) EXEMPTION.—This section does not apply to fuel used in vehicles described in subparagraphs (A) through (H) of section 301(9) of the Energy Policy Act of 1992.”.

SA 2593. Mr. HOLLINGS (for himself and 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:

Strike all after the first word and insert the following:

PART —AMTRAK AUTHORIZATIONS

SEC. 1. 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 highspeed corridors, but only after they have been improved to permit operation of highspeed 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. 2. 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 Account-

ability 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. 3. 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. 4. 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 redeem the debt in its entirety, 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, 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 the such reductions.

SEC. 5. 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 2005, \$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. 6. 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 in consultation with the State of Maryland \$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. 7. 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. 8. 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. 9. 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 _____ 6, _____ 7, and _____ 8.

(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 to 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. 10. 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. 11. REESTABLISHMENT OF NORTHEAST CORRIDOR SAFETY COMMITTEE.

(a) RE-ESTABLISHMENT OF NORTHEAST CORRIDOR SAFETY COMMITTEE.—The Secretary of Transportation shall reestablish 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. 12. 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. 13. 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. 14. 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 non-passenger 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. 15. 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. 16. 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. 17. 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 _____ 17 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.”.

SA 2594. Mr. HOLLINGS (for himself and 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 appropriate place, insert the following:

PART —AMTRAK AUTHORIZATIONS

SEC. 1. 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 highspeed service;

“(C) long-distance routes of more than 750 miles between endpoints operated by Amtrak as of the elate 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-HIGHSPEED SERVICES.—Nothing in this subtitle is intended to preclude Amtrak from restoring, improving, or developing non-high-speed intercity passenger rail service.

SEC. 2. GENERAL AMTRAK AUTHORIZATIONS.

(a) REPEAL OF SELF-SUFFICIENT REQUIREMENTS.—

(1) TITLE 49 AMENDMENTS.—Chapter 241 is amended—

(A) by striking the last sentence of section 24101(4); 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(4) 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. 3. 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. 4. 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 redeem the debt in its entirety, 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, 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 principal 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. 5. 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. 6. 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, DC, 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 in consultation with the State of Maryland \$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. 7. 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. 8. 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. 9. 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 _____ 6, _____ 7, and _____ 8.

(b) **PROCEDURES FOR GRANT REQUEST.**—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. 10. 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. 11. 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. 12. 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.

"(e) **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. 13. 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. 14. 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 Rep-

resentatives 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. 15. 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. 16. 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. 17. 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 17 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."

SA 2595. 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 pro-

grams, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

PART —RAILROAD TRACK MODERNIZATION

SEC. 1. SHORT TITLE.

This part may be cited as the "Railroad Track Modernization Act of 2004".

SEC. 2. 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

"22302. State rail plans

"22303. Purposes

"22304. Content

"22305. Approval

"22306. Standards and conditions

"22307. Definitions

"§ 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) 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 States;

"(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 of the Railroad Track Modernization Act of 2004, 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 stakeholders.

“(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)(4) shall include the following matters:

“(A) Two lists for rail capital projects, 1 for freight rail capital projects and 1 for inter-city 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.

“§ 22305. 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.

“§ 22306. Standards and conditions

“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 section 22301—

(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.).

“§ 22307. 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.”

(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. 3. 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 chapter 223 of title 49, United States Code, 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.

SEC. 171. 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 2596. 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 all after the first word and insert the following:

PART —RAIL MODERNIZATION

SEC. 1. SHORT TITLE.

This part may be cited as the “Railroad Track Modernization Act of 2004”.

SEC. 2. 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
- “22302. State rail plans
- “22303. Purposes
- “22304. Content
- “22305. Approval
- “22306. Standards and conditions
- “22307. Definitions

“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) 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—

“(1) 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 of the Railroad Track Modernization Act of 2004, 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) PURPOSE.—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)(4) 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.

“§ 22305. 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.

“§ 22306. Standards and conditions

“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 section 22301—

(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.).

“§ 22307. Definitions

In this chapter:

“(1) PRIVATE BENEFIT.—The terra ‘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.”

(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. 3. 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 chapter 223 of title 49, United States Code, 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.

SEC. 171. EXTENSION OF CUSTOMS USER FEES.

Section 130310(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 2597. 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 all after the first word and insert the following:

PART —RAIL MODERNIZATION

SEC. —1. SHORT TITLE.

This part may be cited as the “Railroad Track Modernization Act of 2004”.

SEC. —2. 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
- “22302. State rail plans
- “22303. Purposes
- “22304. Content
- “22305. Approval
- “22306. Standards and conditions
- “22307. Definitions

“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) 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 of the Railroad Track Modernization Act of 2004, 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)(4) 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.

“§ 22305. 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.

“§ 22306. Standards and conditions

“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 section 22301—

(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.).

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.).

“§ 22307. 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.”

(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. 3. 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 chapter 223 of title 49, United States Code, 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.

SA 2598. 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:

At the appropriate place, insert the following:

PART —. RAILROAD TRACK MODERNIZATION

SEC. 1. SHORT TITLE.

This part may be cited as the “Railroad Track Modernization Act of 2004”.

SEC. 2. 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

“22302. State rail plans

“22303. Purposes

“22304. Content

“22305. Approval

“22306. Standards and conditions

“22307. Definitions

“§ 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) 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 of the Railroad Track Modernization Act of 2004, 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)(4) 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.

“§ 22305. 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.

“§ 22306. Standards and conditions

“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 section 22301—

“(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.).

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.).

“§ 22307. 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.”

(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 GRAFTS FOR RAILROAD TRACK 22301”.

SEC. 3. 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 chapter 223 of title 49, United States Code, 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.

SEC. 171. EXTENSION OF CUSTOMS USER FEES.

Section 13031(j)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 5Fe(j)(3)) is amended by striking “March 31, 2004,” and inserting “March 31, 2014”.

SA 2599. 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 all after the first word and insert the following:

PART —RAIL MODERNIZATION

SEC. 1. SHORT TITLE.

This part may be cited as the "Railroad Track Modernization Act of 2004".

SEC. 2. 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

"22303. State rail plans

"22303. Purposes

"22304. Content

"22305. Approval

"22306. Standards and conditions

"22307. Definitions

"§ 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) 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—

"(1) 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 of the Railroad Track Modernization Act of 2004, 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.

"(g) 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)(4) 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.

"22305. 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.

"22306. Standards and conditions

"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 section 22301—

(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.).

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.).

“22307. 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.”.

(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”.

SA 2600. 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:

At the appropriate place, insert the following:

PART —RAILROAD TRACK MODERNIZATION
SEC. 1. SHORT TITLE.

This part may be cited as the “Railroad Track Modernization Act of 2004”.

SEC. 2. 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
“22302. State rail plans
“22303. Purposes
“22304. Content
“22305. Approval
“22306. Standards and conditions
“22307. Definitions

“§ 122301. 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) are listed in a State rail plan approved for such State under chapter 225 of this title; and

“(B) are 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 of the Railroad Track Modernization Act of 2004, 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 commitment 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)(4) 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 in 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.

“§ 22305. 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.

“§ 22306. Standards and conditions

“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 section 22301—

(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.).

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.).

“§ 22307. 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 Rail-

road 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.”

(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”.

SA 2601. 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:

At the appropriate place, insert the following:

PART —RAILROAD TRACK MODERNIZATION

SEC. 1. SHORT TITLE.

This part may be cited as the “Railroad Track Modernization Act of 2004”.

SEC. 2. 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

“22302. State rail plans

“22303. Purposes

“22304. Content

“22305. Approval

“22306. Standards and conditions

“22307. Definitions

“§ 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) 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 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 fixture 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 of the Railroad Track Modernization Act of 2004, 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)(4) 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.

“§ 22305. 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 inter-

city 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.

“§ 22306. Standards and conditions

“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 section 22301—

(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.).

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.).

“§ 22307. 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.”.

(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”.

SA 2602. 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:

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 AMTRAK for operating and capital expenses.”.

SA 2603. 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:

PART —RAIL MODERNIZATION

SEC. 1. SHORT TITLE.

This part may be cited as the “Railroad Track Modernization Act of 2004”.

SEC. 2. 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
- “22302 State rail plans
- “22303 Purposes
- “22304 Content
- “22305 Approval
- “22306 Standards and conditions
- “22307 Definitions

“§ 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) 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 of the Railroad Track Modernization Act of 2004, 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)(4) 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.

“§ 22305. 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 inter-

city 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.

“§ 22306. Standards and conditions

“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 section 22301—

(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.).

“§ 22307. 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.”.

(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”.

SA 2604. 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:

At the appropriate place, insert 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 2605. Mr. MCCAIN submitted an amendment intended to be proposed to

amendment SA 2388 proposed by Mrs. HUTCHISON (for herself, Mr. KYL, Mr. LEVIN, Mr. GRAHAM of Florida, Mr. MCCAIN, Ms. STABENOW, and Mrs. FEINSTEIN) 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:

At the end of the amendment add the following:

“(e) FUNDING CAP FROM HIGHWAY TRUST FUND.—Prior to making any apportionments or allocations under Chapter 1 of U.S.C. 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 2606. 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:

At the end of the amendment, add the following:

SEC. ____ CLARIFICATION OF RAIL TRANSPORTATION POLICY.

Section 10101 of title 49, United States Code, is amended—

(1) by inserting “(a) IN GENERAL.—” before “In regulating”; and

(2) by adding at the end the following:

“(b) PRIMARY OBJECTIVES.—The primary objectives of the rail transportation policy of the United States are as follows:

“(1) To promote effective competition among rail carriers at origins and destinations.

“(2) To maintain reasonable rates in the absence of effective competition.

“(3) To maintain consistent and efficient rail transportation service for shippers, including the timely provision of rail cars requested by shippers.

“(4) To ensure that smaller carload and intermodal shippers are not precluded from accessing rail systems due to volume requirements.”.

SA 2607. 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:

At the end of the amendment, add the following:

SEC. ____ ARBITRATION OF CERTAIN RAIL RATE, SERVICE, AND OTHER DISPUTES.

(a) IN GENERAL.—

(1) AUTHORITY.—Chapter 117 of title 49, United States Code, is amended by adding after section 11707 the following new section:

“§ 11708. Arbitration of certain rail rate, service, and other disputes

“(a) ELECTION OF ARBITRATION.—A dispute described in subsection (b) shall be submitted for resolution by arbitration upon the

election of any party to the dispute that is not a rail carrier.

“(b) COVERED DISPUTES.—(1) Except as provided in paragraph (2), subsection (a) applies to any dispute between a party described in subsection (a) and a rail carrier that—

“(A) arises under section 10701(c), 10701(d), 10702, 10704(a)(1), 10707, 10741, 10745, 10746, 11101(a), 11102, 11121, 11122, or 11706 of this title; and

“(B) involves—

“(i) the payment of money;

“(ii) a rate or charge imposed by the rail carrier; or

“(iii) transportation or other service by the rail carrier.

“(2) Subsection (a) does not apply to a dispute if the resolution of the dispute would necessarily involve the promulgation of regulations generally applicable to all rail carriers.

“(c) ARBITRATION PROCEDURES.—The Secretary of Transportation shall prescribe in regulations the procedures for the resolution of disputes submitted for arbitration under subsection (a). The regulations shall include the following:

“(1) Procedures, including time limits, for the selection of an arbitrator or panel of arbitrators for a dispute from among arbitrators listed on the roster of arbitrators established and maintained by the Secretary under subsection (d)(1).

“(2) Policies, requirements, and procedures for the compensation of each arbitrator for a dispute to be paid by the parties to the dispute.

“(3) Procedures for expedited arbitration of a dispute, including procedures for discovery authorized in the exercise of discretion by the arbitrator or panel of arbitrators.

“(d) SELECTION OF ARBITRATORS.—(1) The Secretary of Transportation shall establish, maintain, and revise as necessary a roster of arbitrators who—

“(A) are experienced in transportation or economic issues within the jurisdiction of the Board or issues similar to those issues;

“(B) satisfy requirements for neutrality and other qualification requirements prescribed by the Secretary;

“(C) consent to serve as arbitrators under this section; and

“(D) are not officers or employees of the United States.

“(2) For a dispute involving an amount not in excess of \$1,000,000, the regulations under subsection (c) shall provide for arbitration by a single arbitrator who—

“(A) is selected by the parties to the dispute; or

“(B) if the parties cannot agree, is selected by the Secretary from among the arbitrators listed on the roster of arbitrators under paragraph (1).

“(3)(A) For a dispute involving an amount in excess of \$1,000,000, the regulations under subsection (c) shall provide for arbitration by a panel of three arbitrators selected as follows:

“(i) One arbitrator selected by the party electing the arbitration.

“(ii) One arbitrator selected by the rail carrier or all of the rail carriers who are parties to the dispute, as the case may be.

“(iii) One arbitrator selected by the two arbitrators selected under clauses (i) and (ii).

“(B) If a selection of an arbitrator is not made under clause (ii) or (iii) of subparagraph (A) within the time limits prescribed in the regulations, then the Secretary shall select the arbitrator from among the arbitrators listed on the roster of arbitrators under paragraph (1).

“(e) DISPUTES OVER RATES OR CHARGES.—(1) The requirements of this subsection apply to a dispute submitted under this section concerning a rate or charge imposed by a rail carrier.

“(2)(A) Subject to subparagraph (B), the decision of an arbitrator or panel of arbitrators in a dispute on an issue described in paragraph (1) shall be the final offer of one of the parties to the dispute.

“(B) A decision under subparagraph (A) may not provide for a rate for transportation by a rail carrier that would result in a revenue-variable cost percentage for such transportation that is less than 180 percent, as determined under standards applied in the administration of section 10707(d) of this title.

“(3) If the party electing arbitration of a dispute described in paragraph (1) seeks compensation for damages incurred by the party as a result of a specific rate or charge imposed by a rail carrier for the transportation of items for the party and the party alleges an amount of damages that does not exceed \$500,000 for any year as a result of the imposition of the specific rate or charge, the arbitrator, in making a decision on the dispute, shall consider the rates or charges, respectively, that are imposed by rail carriers for the transportation of similar items under similar circumstances in rail transportation markets where there is effective competition, as determined under standards applied by the Board in the administration of section 10707 of this title.

“(f) TIME FOR ISSUANCE OF ARBITRATION DECISION.—Notwithstanding any other provision of this subtitle limiting the time for the taking of an action under this subtitle, the arbitrator or panel of arbitrators for a dispute submitted for resolution under this section shall issue a final decision on the dispute within the maximum period after the date on which the arbitrator or panel is selected to resolve the dispute under this section, as follows:

“(1) In the case of a dispute involving \$1,000,000 or less, 120 days.

“(2) In the case of a dispute involving more than \$1,000,000, 180 days.

“(g) AUTHORIZED RELIEF.—A decision of an arbitrator or panel of arbitrators under this section shall grant relief in either or both of the following forms:

“(1) Monetary damages, to the extent authorized to be provided by the Board in such a dispute under this subtitle.

“(2) An order that requires specific performance under any applicable law, including any law limiting rates to reasonable rates, for any period not in excess of two years beginning on the date of the decision.

“(h) JUDICIAL CONFIRMATION AND REVIEW.—The following provisions of title 9 shall apply to an arbitration decision issued in a dispute under this section:

“(1) Section 9 (relating to confirmation of an award in an arbitration decision), which shall be applied as if the parties had entered into an agreement under title 9 to submit the dispute to the arbitration and had provided in that agreement for a judgment of an unspecified court to be entered on the award made pursuant to the arbitration.

“(2) Section 10 (relating to judicial vacation of an award in an arbitration decision).”.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 11707 the following:

“11708. Arbitration of certain rail rate, service, and other disputes.”.

(b) TIME FOR IMPLEMENTING CERTAIN REQUIREMENTS.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall promulgate regulations, prescribe a roster of arbitrators, and complete any other action that is necessary for the implementation of section 11708 of title 49, United States Code (as added by subsection (a)).

SA 2608. Mr. BURNS (for himself, Mr. DORGAN, and Mr. ROCKEFELLER) 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 amendment, add the following:

SEC. ____ . AREAS OF INADEQUATE RAIL COMPETITION.

(a) DESIGNATION AND REMEDIES.—

(1) IN GENERAL.—Chapter 105 of title 49, United States Code, is amended by adding at the end the following new section:

“§ 10503. Areas of inadequate rail competition

“(a) DESIGNATION.—The Board shall designate any State or part of a State as an area of inadequate rail competition after finding either of the grounds set forth in subsection (b). An area of inadequate rail competition may be limited to be composed of the facilities of a group of shippers or receivers of one or more specific commodities within a geographic area.

“(b) GROUNDS FOR DESIGNATION.—The grounds for designating a State or part of a State as an area of inadequate rail competition are as follows:

“(1) The State or part of a State encompasses a significant number of rail shipping origins and destinations that are served exclusively by only one Class I railroad.

“(2) A significant number of the persons that ship by rail or receive rail shipments in the State or part of a State—

“(A) usually find it necessary to pay rates for the rail shipments that exceed the rates necessary to yield recovery by the rail carrier of 180 percent of revenue-variable costs, as determined under standards applied in the administration of section 10707(d) of this title; or

“(B) have experienced competitive disadvantage in the marketplace or other economic adversity because of high cost or poor quality of rail service in the State or part of a State, as the case may be.

“(c) AUTHORIZED PETITIONERS.—The following persons are authorized to petition the Board for a designation of a State or part of a State as an area of inadequate rail competition:

“(1) The chief executive of the State or another official of the State who is designated to do so by the chief executive or is authorized to do so under the laws of that State.

“(2) A Member of Congress from the State.

“(3) As provided in section 10504 of this title, the Rail Customer Advocate of the Department of Agriculture and any State official referred to in subsection (a)(2) of such section.

“(4) A person that ships by rail or receives rail shipments in that State or part of a State.

“(d) ACTIONS.—Upon designating a State or a part of a State as an area of inadequate rail competition, the Board shall attempt to resolve, within 60 days after the date of the designation, the conditions described in subsection (b) that justify the designation. In addition to providing other remedies authorized by law, the Board may, when requested in a petition, order any of the following actions:

“(1) Provision of reciprocal switching and access to tracks of another rail carrier beyond the limits specified in section 11102(a) of this title.

“(2) Haulage transportation of railroad cars by a rail carrier to or from facilities that such carrier alone physically serves on behalf of another rail carrier, for a fee prescribed by the Board.

“(3) Regarding rates on any rail segments within or connected to the area of inadequate rail competition on which rail service is susceptible to delay or interruption due to traffic congestion—

“(A) expedited review of the reasonableness of the rates under section 10701(d)(3) of this title; or

“(B) expedited final offer arbitration of the reasonableness of the rates under section 11708(e) of this title.

“(4) Expedited review, under section 10701(d)(3) of this title, of the reasonableness of—

“(A) increases in rates or other charges; and

“(B) new transportation service tariffs.

“(5) Expedited review of whether a rate violates the prohibition against discriminatory rates contained in section 10741 of this title, without regard to subsection (b)(2) of such section.

“(e) LIMITATIONS AND CONDITIONS APPLICABLE TO SPECIFIC REMEDIES.—(1) In the case of a petition for an order for reciprocal switching or access to tracks of another rail carrier under subsection (d)(1), the Board may not require that there be evidence of anti-competitive conduct by a rail carrier as a prerequisite for ordering such action.

“(2) In the case of a petition for expedited review of rates or final offer arbitration of rates under subsection (d)(3)—

“(A) the Board or arbitrator or panel of arbitrators, as the case may be, shall accord, with respect to rail transportation of a specific commodity, significant persuasive weight to evidence comparing—

“(i) rates charged for rail transportation of various quantities of that commodity within the area of inadequate rail competition; and

“(ii) rates charged for rail transportation of similar quantities of that commodity or any similar commodity or commodities in areas where there is competition among rail carriers for shipments of such commodity or commodities; and

“(B) the Board or arbitrator or panel of arbitrators, as the case may be, shall not apply the stand-alone cost test or any other test that the Board applies in determining the reasonableness of rates reviewed in cases not involving rail service in an area of inadequate rail competition.

“(3) In the case of a petition for expedited review, under subsection (d)(4), of an increase of a rate or other charge or the imposition of a new service tariff by a rail carrier—

“(A) the rail carrier shall have the burden of proving the reasonableness of the increase or tariff charge; and

“(B) the Board shall consider any evidence comparing—

“(i) the increased rate or other charge, or the tariff charge, as the case may be; and

“(ii) corresponding rates, other charges, or new service tariff charges, respectively, imposed for rail transportation in areas where there is a significant level of competition among the rail carriers.”

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

10503. Areas of inadequate rail competition.”

(b) STUDY AND REPORT ON AREAS OF INADEQUATE RAIL COMPETITION.—

(1) STUDY REQUIRED.—The Rail Customer Advocate of the Department of Agriculture shall carry out a study of the process provided under section 10503 of title 49, United States Code (as added by subsection (a)), for challenging and remedying conditions described in subsection (b) of such section in States and parts of States designated under such section as areas of inadequate rail com-

petition insofar as such conditions adversely affect rail shippers of agricultural or forestry commodities and products.

(2) FINDINGS ON EFFECTIVENESS OF PROCESS.—The Rail Customer Advocate shall make findings, on the basis of the study under paragraph (1), regarding the effectiveness of the process for remedying the conditions studied, particularly in the case of customers that ship agricultural or forestry commodities and products by rail in annual volumes of 1,500 rail cars or less.

(3) REPORT.—Not later than 3 years after the date of the enactment of this Act, the Rail Customer Advocate shall submit to Congress a report on the results of the study under paragraph (1), including the findings required under paragraph (2).

SA 2609. Mr. BURNS (for himself, Mr. DORGAN, and Mr. ROCKEFELLER) 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 amendment, add the following:

SEC. ____ . PERIODIC STUDY OF COMPETITION AMONG RAIL CARRIERS.

(a) REQUIREMENT FOR STUDY.—

(1) TRIENNIAL STUDY.—Chapter 101 of title 49, United States Code, is amended by adding at the end the following new section:

“§ 10103. Periodic study of rail carrier competition and processes of the Board

“(a) REQUIREMENT FOR STUDY.—Every three years, the Secretary of Transportation shall conduct a comprehensive study of rail carrier competition and the processes of the Board. The study shall include an assessment of the following:

“(1) The availability of effective competitive options among and between rail carriers.

“(2) The effectiveness of the processes of the Surface Transportation Board, including the process used for determining the reasonableness of rates of rail carriers.

“(3) The availability to rail users of effective regulatory dispute resolution options.

“(b) STUDY TO INCLUDE ASSESSMENT OF RAIL-TO-RAIL COMPETITION.—In carrying out the study, the Board shall assess the overall level of rail-to-rail competition in the rail carrier industry in the United States. In making the assessment, the Board shall consider the views of users of the services of rail carriers.

“(c) REPORT TO CONGRESS.—Not later than November 15 of each year in which a study is conducted under subsection (a), the Secretary shall submit a report on the results of the study to Congress. The report shall include the following:

“(1) The Board’s assessment of the overall level of rail-to-rail competition in the rail carrier industry in the United States.

“(2) The markets that have limited rail-to-rail competition.

“(3) Any recommendations for enhancing rail-to-rail competition, particularly in markets identified as having limited rail-to-rail competition.

“(4) An assessment of the Board’s performance of its purpose to promote and enhance competition among and between railroads by—

“(A) addressing complaints regarding rates, charges, and service; and

“(B) promulgating regulations of general applicability or taking other actions.

“(5) Any recommendations for modification of any of the decisions of the Board (or

decisions of the former Interstate Commerce Commission continuing in effect) or for modification of the general authority or jurisdiction of the Board.

“(6) Any other findings, analyses, assessments, and recommendations that result from the study.”

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following: “10103. Periodic study of rail carrier competition and processes of the Board.”

(b) TIME FOR FIRST STUDY.—The first study under section 10103 of title 49, United States Code (as added by subsection (a)), shall be carried out not later than two years after the date of the enactment of this Act.

SA 2610. 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 the following:

“SEC. . DELTA REGION TRANSPORTATION DEVELOPMENT 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:

“§ 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 decision-making; and

“(4) support transportation construction.

“(b) ELIGIBLE RECIPIENTS.—A State transportation department and 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 1814(b)), is amended by adding at the end the following:

“178. Delta Regional Transportation Development Program.”

On page 678, after line 5, insert the following:

“(16) DELTA REGIONAL TRANSPORTATION DEVELOPMENT PROGRAM.—For the Delta Region transportation development program, \$400,000,000 for each of fiscal years 2004 through 2009.”

SA 2611. 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 the following:

“SEC. . DELTA REGION TRANSPORTATION DEVELOPMENT 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:

“§ 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 decision-making; and

“(4) support transportation construction.

“(b) ELIGIBLE RECIPIENTS.—A State transportation department and 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 1814 (b)), is amended by adding at the end the following:

“178. Delta Region Transportation Development Program.”

On page 677, line 11, strike “\$2,500,000,000” and insert “\$1,300,000,000”.

On page 677, line 13, strike “\$2,000,000,000” and insert “\$1,200,000,000”.

On page 677, line 15, strike “\$500,000,000” and insert “\$100,000,000”.

On page 678, after line 5, insert the following:

“(16) DELTA REGION TRANSPORTATION DEVELOPMENT PROGRAM.—For the Delta Region transportation development program, \$400,000,000 for each of fiscal years 2004 through 2009.”

On page 677, line 11, strike “\$2,500,000,000” and insert “\$1,300,000,000”.

On page 677, line 13, strike “\$2,000,000,000” and insert “\$1,200,000,000”.

On page 677, line 15, strike “\$500,000,000” and insert “\$100,000,000”.

On page 678, after line 5, insert the following:

“(16) DELTA REGION TRANSPORTATION DEVELOPMENT PROGRAM.—For the Delta Region transportation development program, \$400,000,000 for each of fiscal years 2004 through 2009.”

SA 2612. 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 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 2613. 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 the following:

On page 521, strike line 18 and all that follows through the matter following line 18 on page 720, and insert the following:

TITLE III—PUBLIC TRANSPORTATION

SEC. 3001. SHORT TITLE.

This title may be cited as the “Federal Public Transportation Act of 2004”.

SEC. 3002. AMENDMENTS TO TITLE 49, UNITED STATES CODE; UPDATED TERMINOLOGY.

(a) AMENDMENTS TO TITLE 49.—Except as otherwise specifically 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 of law,

the reference shall be considered to be made to a section or other provision of title 49, United States Code.

(b) UPDATED TERMINOLOGY.—Except for sections 5301(f), 5302(a)(7), and 5315, chapter 53, including the chapter analysis, is amended by striking “mass transportation” each place it appears and inserting “public transportation”.

SEC. 3003. POLICIES, FINDINGS, AND PURPOSES.

(a) DEVELOPMENT AND REVITALIZATION OF PUBLIC TRANSPORTATION SYSTEMS.—Section 5301(a) is amended to read as follows:

“(a) DEVELOPMENT AND REVITALIZATION OF PUBLIC TRANSPORTATION SYSTEMS.—It is in the economic interest of the United States to foster the development and revitalization of public transportation systems, which are coordinated with other modes of transportation, that maximize the efficient, secure, and safe mobility of individuals and minimize environmental impacts.”.

(b) GENERAL FINDINGS.—Section 5301(b)(1) is amended—

(1) by striking “70 percent” and inserting “two-thirds”; and

(2) by striking “urban areas” and inserting “urbanized areas”.

(c) PRESERVING THE ENVIRONMENT.—Section 5301(e) is amended—

(1) by striking “an urban” and inserting “a”; and

(2) by striking “under sections 5309 and 5310 of this title”.

(d) GENERAL PURPOSES.—Section 5301(f) is amended—

(1) in paragraph (1)—

(A) by striking “improved mass” and inserting “improved public”; and

(B) by striking “public and private mass transportation companies” and inserting “public transportation companies and private companies engaged in public transportation”;

(2) in paragraph (2)—

(A) by striking “urban mass” and inserting “public”; and

(B) by striking “public and private mass transportation companies” and inserting “public transportation companies and private companies engaged in public transportation”;

(3) in paragraph (3)—

(A) by striking “urban mass” and inserting “public”; and

(B) by striking “public or private mass transportation companies” and inserting “public transportation companies or private companies engaged in public transportation”;

(4) in paragraph (5), by striking “urban mass” and inserting “public”.

SEC. 3004. DEFINITIONS.

Section 5302(a) is amended—

(1) in paragraph (1)—

(A) in subparagraph (G)(i), by inserting “including the intercity bus and intercity rail portions of such facility or mall,” after “transportation mall.”;

(B) in subparagraph (G)(ii), by inserting “, except for the intercity bus portion of intermodal facilities or malls,” after “commercial revenue-producing facility”;

(C) in subparagraph (H)—

(i) by striking “and” after “innovative” and inserting “or”; and

(ii) by striking “or” after the semicolon at the end;

(D) in subparagraph (I), by striking the period at the end and inserting a semicolon; and

(E) by adding at the end the following:

“(J) crime prevention and security, including—

“(i) projects to refine and develop security and emergency response plans; or

“(ii) projects to detect chemical or biological agents in public transportation;

“(K) conducting emergency response drills with public transportation agencies and local first response agencies or security training for public transportation employees, except for expenses relating to operations; or

“(L) establishing a debt service reserve, made up of deposits with a bondholder’s trustee, to ensure the timely payment of principal and interest on bonds issued by a grant recipient to finance an eligible project under this chapter.”;

(2) by striking paragraph (16);

(3) by redesignating paragraphs (8) through (15) as paragraphs (9) through (16), respectively;

(4) by striking paragraph (7) and inserting the following:

“(7) MASS TRANSPORTATION.—The term ‘mass transportation’ means public transportation.

“(8) MOBILITY MANAGEMENT.—The term ‘mobility management’ means a short-range planning or management activity or project that does not include operating public transportation services and—

“(A) improves coordination among public transportation providers, including private companies engaged in public transportation;

“(B) addresses customer needs by tailoring public transportation services to specific market niches; or

“(C) manages public transportation demand.”;

(5) by amending paragraph (11), as redesignated, to read as follows:

“(11) PUBLIC TRANSPORTATION.—The term ‘public transportation’ means transportation by a conveyance that provides local regular and continuing general or special transportation to the public, but does not include school bus, charter bus, intercity bus or passenger rail, or sightseeing transportation.”;

(6) in subparagraphs (A) and (E) of paragraph (16), as redesignated, by striking “and” each place it appears and inserting “or”; and

(7) by amending paragraph (17) to read as follows:

“(17) URBANIZED AREA.—The term ‘urbanized area’ means an area encompassing a population of not less than 50,000 people that has been defined and designated in the most recent decennial census as an ‘urbanized area’ by the Secretary of Commerce.”.

SEC. 3005. METROPOLITAN TRANSPORTATION PLANNING.

Section 5303 is amended to read as follows:

“§ 5303. Metropolitan transportation planning

“(a) DEFINITIONS.—As used in this section and in section 5304, the following definitions shall apply:

“(1) CONSULTATION.—A ‘consultation’ occurs when 1 party—

“(A) confers with another identified party in accordance with an established process;

“(B) prior to taking action, considers the views of the other identified party; and

“(C) periodically informs that party about action taken.

“(2) METROPOLITAN PLANNING AREA.—The term ‘metropolitan planning area’ means the geographic area determined by agreement between the metropolitan planning organization and the Governor under subsection (d).

“(3) METROPOLITAN PLANNING ORGANIZATION.—The term ‘metropolitan planning organization’ means the Policy Board of the organization designated under subsection (c).

“(4) NONMETROPOLITAN AREA.—The term ‘nonmetropolitan area’ means any geographic area outside all designated metropolitan planning areas.

“(5) NONMETROPOLITAN LOCAL OFFICIAL.—The term ‘nonmetropolitan local official’ means any elected or appointed official of general purpose local government located in

a nonmetropolitan area who is responsible for transportation services for such local government.

“(b) GENERAL REQUIREMENTS.—

“(1) DEVELOPMENT OF PLANS AND PROGRAMS.—To accomplish the objectives described in section 5301(a), each metropolitan planning organization, in cooperation with the State and public transportation operators, shall develop transportation plans and programs for metropolitan planning areas of the State in which it is located.

“(2) CONTENTS.—The plans and programs developed under paragraph (1) for each metropolitan planning area shall provide for the development and integrated management and operation of transportation systems and facilities (including pedestrian walkways and bicycle transportation facilities) that will function as an intermodal transportation system for the metropolitan planning area and as an integral part of an intermodal transportation system for the State and the United States.

“(3) PROCESS OF DEVELOPMENT.—The process for developing the plans and programs shall provide for consideration of all modes of transportation and shall be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems to be addressed.

“(4) PLANNING AND PROJECT DEVELOPMENT.—The metropolitan planning organization, the State Department of Transportation, and the appropriate public transportation provider shall agree upon the approaches that will be used to evaluate alternatives and identify transportation improvements that address the most complex problems and pressing transportation needs in the metropolitan area.

“(c) DESIGNATION OF METROPOLITAN PLANNING ORGANIZATIONS.—

“(1) IN GENERAL.—To carry out the transportation planning process under this section, a metropolitan planning organization shall be designated for each urbanized area—

“(A) by agreement between the Governor and units of general purpose local government that combined represent not less than 75 percent of the affected population (including the incorporated city or cities named by the Bureau of the Census in designating the urbanized area); or

“(B) in accordance with procedures established by applicable State or local law.

“(2) STRUCTURE.—Each metropolitan planning organization designated under paragraph (1) that serves an area identified as a transportation management area shall consist of—

“(A) local elected officials;

“(B) officials of public agencies that administer or operate major modes of transportation in the metropolitan area; and

“(C) appropriate State officials.

“(3) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this subsection shall be construed to interfere with the authority, under any State law in effect on December 18, 1991, of a public agency with multimodal transportation responsibilities—

“(A) to develop plans and programs for adoption by a metropolitan planning organization; and

“(B) to develop long-range capital plans, coordinate transit services and projects, and carry out other activities pursuant to State law.

“(4) CONTINUING DESIGNATION.—The designation of a metropolitan planning organization under this subsection or any other provision of law shall remain in effect until the metropolitan planning organization is redesignated under paragraph (5).

“(5) REDESIGNATION PROCEDURES.—A metropolitan planning organization may be redesignated by agreement between the Governor

and units of general purpose local government that combined represent not less than 75 percent of the existing planning area population (including the incorporated city or cities named by the Bureau of the Census in designating the urbanized area) as appropriate to carry out this section.

“(6) DESIGNATION OF MORE THAN 1 METROPOLITAN PLANNING ORGANIZATION.—More than 1 metropolitan planning organization may be designated within an existing metropolitan planning area only if the Governor and the existing metropolitan planning organization determine that the size and complexity of the existing metropolitan planning area make designation of more than 1 metropolitan planning organization for the area appropriate.

“(d) METROPOLITAN PLANNING AREA BOUNDARIES.—

“(1) IN GENERAL.—For the purposes of this section, the boundaries of a metropolitan planning area shall be determined by agreement between the metropolitan planning organization and the Governor.

“(2) INCLUDED AREA.—Each metropolitan planning area—

“(A) shall encompass at least the existing urbanized area and the contiguous area expected to become urbanized within a 20-year forecast period for the transportation plan; and

“(B) may encompass the entire metropolitan statistical area or consolidated metropolitan statistical area, as defined by the Office of Management and Budget.

“(3) IDENTIFICATION OF NEW URBANIZED AREAS WITHIN EXISTING PLANNING AREA BOUNDARIES.—The designation by the Bureau of the Census of new urbanized areas within an existing metropolitan planning area shall not require the redesignation of the existing metropolitan planning organization.

“(4) EXISTING METROPOLITAN PLANNING AREAS IN NONATTAINMENT.—Notwithstanding paragraph (2), in the case of an urbanized area designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.), the boundaries of the metropolitan planning area in existence as of the date of enactment of the Federal Public Transportation Act of 2004 shall be retained, except that the boundaries may be adjusted by agreement of the Governor and affected metropolitan planning organizations in accordance with paragraph (5).

“(5) NEW METROPOLITAN PLANNING AREAS IN NONATTAINMENT.—If an urbanized area is designated after the date of enactment of this paragraph in a nonattainment area for ozone or carbon monoxide, the boundaries of the metropolitan planning area—

“(A) shall be established in accordance with subsection (c)(1);

“(B) shall encompass the areas described in paragraph (2)(A);

“(C) may encompass the areas described in paragraph (2)(B); and

“(D) may address any nonattainment identified under the Clean Air Act (42 U.S.C. 7401 et seq.) for ozone or carbon monoxide.

“(e) COORDINATION IN MULTISTATE AREAS.—

“(1) IN GENERAL.—The Secretary shall encourage each Governor with responsibility for a portion of a multistate metropolitan area and the appropriate metropolitan planning organizations to provide coordinated transportation planning for the entire metropolitan area.

“(2) INTERSTATE COMPACTS.—States are authorized—

“(A) to enter into agreements or compacts with other States, which agreements or compacts are not in conflict with any law of the United States, for cooperative efforts and mutual assistance in support of activities authorized under this section as the activi-

ties pertain to interstate areas and localities within the States; and

“(B) to establish such agencies, joint or otherwise, as the States may determine desirable for making the agreements and compacts effective.

“(3) LAKE TAHOE REGION.—

“(A) DEFINITION.—In this paragraph, the term ‘Lake Tahoe region’ has the meaning given the term ‘region’ in subdivision (a) of article II of the Tahoe Regional Planning Compact, as set forth in the first section of Public Law 96-551 (94 Stat. 3234).

“(B) TRANSPORTATION PLANNING PROCESS.—The Secretary shall—

“(i) establish with the Federal land management agencies that have jurisdiction over land in the Lake Tahoe region a transportation planning process for the region; and

“(ii) coordinate the transportation planning process with the planning process required of State and local governments under this section and section 5304.

“(C) INTERSTATE COMPACT.—

“(i) IN GENERAL.—Subject to clause (ii) and notwithstanding subsection (c), to carry out the transportation planning process required by this section, California and Nevada may designate a metropolitan planning organization for the Lake Tahoe region, by agreement between the Governor of the State of California, the Governor of the State of Nevada, and units of general purpose local government that combined represent not less than 75 percent of the affected population (including the incorporated city or cities named by the Bureau of the Census in designating the urbanized area), or in accordance with procedures established by applicable State or local law.

“(ii) INVOLVEMENT OF FEDERAL LAND MANAGEMENT AGENCIES.—

“(I) REPRESENTATION.—The policy board of a metropolitan planning organization designated under clause (i) shall include a representative of each Federal land management agency that has jurisdiction over land in the Lake Tahoe region.

“(II) FUNDING.—In addition to funds made available to the metropolitan planning organization under other provisions of title 23 and this chapter, not more than 1 percent of the funds allocated under section 202 of title 23 may be used to carry out the transportation planning process for the Lake Tahoe region under this subparagraph.

“(D) ACTIVITIES.—Highway projects included in transportation plans developed under this paragraph—

“(i) shall be selected for funding in a manner that facilitates the participation of the Federal land management agencies that have jurisdiction over land in the Lake Tahoe region; and

“(ii) may, in accordance with chapter 2 of title 23, be funded using funds allocated under section 202 of title 23.

“(f) COORDINATION OF METROPOLITAN PLANNING ORGANIZATIONS.—

“(1) NONATTAINMENT AREAS.—If more than 1 metropolitan planning organization has authority within a metropolitan area or an area which is designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.), each metropolitan planning organization shall consult with the other metropolitan planning organizations designated for such area and the State in the coordination of plans required by this section.

“(2) TRANSPORTATION IMPROVEMENTS LOCATED IN MULTIPLE METROPOLITAN PLANNING AREAS.—If a transportation improvement funded from the highway trust fund is located within the boundaries of more than 1 metropolitan planning area, the metropolitan planning organizations shall coordinate

plans regarding the transportation improvement.

“(3) INTERREGIONAL AND INTERSTATE PROJECT IMPACTS.—Planning for National Highway System, commuter rail projects, or other projects with substantial impacts outside a single metropolitan planning area or State shall be coordinated directly with the affected, contiguous, metropolitan planning organizations and States.

“(4) COORDINATION WITH OTHER PLANNING PROCESSES.—

“(A) IN GENERAL.—The Secretary shall encourage each metropolitan planning organization to coordinate its planning process, to the maximum extent practicable, with those officials responsible for other types of planning activities that are affected by transportation, including State and local land use planning, economic development, environmental protection, airport operations, housing, and freight.

“(B) OTHER CONSIDERATIONS.—The metropolitan planning process shall develop transportation plans with due consideration of, and in coordination with, other related planning activities within the metropolitan area. This should include the design and delivery of transportation services within the metropolitan area that are provided by—

“(i) recipients of assistance under this chapter;

“(ii) governmental agencies and nonprofit organizations (including representatives of the agencies and organizations) that receive Federal assistance from a source other than the Department of Transportation to provide nonemergency transportation services; and

“(iii) recipients of assistance under section 204 of title 23.

“(g) SCOPE OF PLANNING PROCESS.—

“(1) IN GENERAL.—The goals and objectives developed through the metropolitan planning process for a metropolitan planning area under this section shall address, in relation to the performance of the metropolitan area transportation systems—

“(A) supporting the economic vitality of the metropolitan area, especially by enabling global competitiveness, productivity, and efficiency, including through services provided by public and private operators;

“(B) increasing the safety of the transportation system for motorized and nonmotorized users;

“(C) increasing the security of the transportation system for motorized and nonmotorized users;

“(D) increasing the accessibility and mobility of people and for freight, including through services provided by public and private operators;

“(E) protecting and enhancing the environment (including the protection of habitat, water quality, and agricultural and forest land, while minimizing invasive species), promoting energy conservation, and promoting consistency between transportation improvements and State and local land use planning and economic development patterns (including minimizing adverse health effects from mobile source air pollution and promoting the linkage of the transportation and development goals of the metropolitan area);

“(F) enhancing the integration and connectivity of the transportation system, across and between modes, for people and freight, including through services provided by public and private operators;

“(G) promoting efficient system management and operation; and

“(H) emphasizing the preservation and efficient use of the existing transportation system, including services provided by public and private operators.

“(2) SELECTION OF FACTORS.—After soliciting and considering any relevant public

comments, the metropolitan planning organization shall determine which of the factors described in paragraph (1) are most appropriate to consider.

“(3) FAILURE TO CONSIDER FACTORS.—The failure to consider any factor specified in paragraph (1) shall not be reviewable by any court under title 23, this title, subchapter II of chapter 5 of title 5, or chapter 7 of title 5 in any matter affecting a transportation plan, a transportation improvement plan, a project or strategy, or the certification of a planning process.

“(h) DEVELOPMENT OF TRANSPORTATION PLAN.—

“(1) IN GENERAL.—

“(A) REQUIREMENT.—Each metropolitan planning organization shall develop a transportation plan for its metropolitan planning area in accordance with this subsection, and update such plan—

“(i) not less frequently than once every 4 years in areas designated as nonattainment, as defined in section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)), and in areas that were nonattainment that have been redesignated as attainment, in accordance with paragraph (3) of such section, with a maintenance plan under section 175A of the Clean Air Act (42 U.S.C. 7505a); or

“(ii) not less frequently than once every 5 years in areas designated as attainment, as defined in section 107(d) of the Clean Air Act.

“(B) COORDINATION FACTORS.—In developing the transportation plan under this section, each metropolitan planning organization shall consider the factors described in subsection (f) over a 20-year forecast period.

“(C) FINANCIAL ESTIMATES.—For the purpose of developing the transportation plan, the metropolitan planning organization, transit operator, and State shall cooperatively develop estimates of funds that will be available to support plan implementation.

“(2) MITIGATION ACTIVITIES.—

“(A) IN GENERAL.—A transportation plan under this subsection shall include a discussion of—

“(i) types of potential habitat, hydrological, and environmental mitigation activities that may assist in compensating for loss of habitat, wetland, and other environmental functions; and

“(ii) potential areas to carry out these activities, including a discussion of areas that may have the greatest potential to restore and maintain the habitat types and hydrological or environmental functions affected by the plan.

“(B) CONSULTATION.—The discussion described in subparagraph (A) shall be developed in consultation with Federal and State tribal wildlife, land management, and regulatory agencies.

“(3) CONTENTS.—A transportation plan under this subsection shall be in a form that the Secretary determines to be appropriate and shall contain—

“(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;

“(B) a financial plan that—

“(i) demonstrates how the adopted transportation plan can be implemented;

“(ii) indicates resources from public and private sources that are reasonably expected to be made available to carry out the plan;

“(iii) recommends any additional financing strategies for needed projects and programs; and

“(iv) may include, for illustrative purposes, additional projects that would be included in the adopted transportation plan if approved by the Secretary and reasonable additional resources beyond those identified in the financial plan were available;

“(C) operational and management strategies to improve the performance of existing transportation facilities to relieve vehicular congestion and maximize the safety and mobility of people and goods;

“(D) capital investment and other strategies to preserve the existing metropolitan transportation infrastructure and provide for multimodal capacity increases based on regional priorities and needs; and

“(E) proposed transportation and transit enhancement activities.

“(4) CONSULTATION.—

“(A) IN GENERAL.—In each metropolitan area, the metropolitan planning organization shall consult, as appropriate, with State and local agencies responsible for land use management, natural resources, environmental protection, conservation, and historic preservation concerning the development of a long-range transportation plan.

“(B) ISSUES.—The consultation shall involve—

“(i) comparison of transportation plans with State conservation plans or with maps, if available;

“(ii) comparison of transportation plans to inventories of natural or historic resources, if available; or

“(iii) consideration of areas where wildlife crossing structures may be needed to ensure connectivity between wildlife habitat linkage areas.

“(5) COORDINATION WITH CLEAN AIR ACT AGENCIES.—In metropolitan areas in nonattainment for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.), the metropolitan planning organization shall coordinate the development of a transportation plan with the process for development of the transportation control measures of the State implementation plan required by the Clean Air Act.

“(6) APPROVAL OF THE TRANSPORTATION PLAN.—Each transportation plan prepared by a metropolitan planning organization shall be—

“(A) approved by the metropolitan planning organization; and

“(B) submitted to the Governor for information purposes at such time and in such manner as the Secretary may reasonably require.

“(i) PARTICIPATION BY INTERESTED PARTIES.—

“(1) DEVELOPMENT OF PARTICIPATION PLAN.—Not less frequently than every 4 years, each metropolitan planning organization shall develop and adopt a plan for participation in the process for developing the metropolitan transportation plan and programs by—

“(A) citizens;

“(B) affected public agencies;

“(C) representatives of public transportation employees;

“(D) freight shippers;

“(E) providers of freight transportation services;

“(F) private providers of transportation;

“(G) representatives of users of public transit;

“(H) representatives of users of pedestrian walkways and bicycle transportation facilities; and

“(I) other interested parties.

“(2) CONTENTS OF PARTICIPATION PLAN.—The participation plan—

“(A) shall be developed in a manner the Secretary determines to be appropriate;

“(B) shall be developed in consultation with all interested parties; and

“(C) shall provide that all interested parties have reasonable opportunities to comment on—

“(i) the process for developing the transportation plan; and

“(ii) the contents of the transportation plan.

“(3) METHODS.—The participation plan shall provide that the metropolitan planning organization shall, to the maximum extent practicable—

“(A) hold any public meetings at convenient and accessible locations and times;

“(B) employ visualization techniques to describe plans; and

“(C) make public information available in electronically accessible format and means, such as the World Wide Web.

“(4) CERTIFICATION.—Before the metropolitan planning organizations approve a transportation plan or program, each metropolitan planning organization shall certify that it has complied with the requirements of the participation plan it has adopted.

“(j) TRANSPORTATION IMPROVEMENT PROGRAM.—

“(1) DEVELOPMENT AND UPDATE.—

“(A) IN GENERAL.—In cooperation with the State and affected operators of public transportation, a metropolitan planning organization designated for a metropolitan planning area shall develop a transportation improvement program for the area.

“(B) PARTICIPATION.—In developing the transportation improvement program, the metropolitan planning organization, in cooperation with the Governor and any affected operator of public transportation, shall provide an opportunity for participation by interested parties in the development of the program, in accordance with subsection (i).

“(C) UPDATES.—The transportation improvement program shall be updated not less than once every 4 years and shall be approved by the metropolitan planning organization and the Governor.

“(D) FUNDING ESTIMATE.—In developing the transportation improvement program, the metropolitan planning organization, operators of public transportation, and the State shall cooperatively develop estimates of funds that are reasonably expected to be available to support program implementation.

“(E) PROJECT ADVANCEMENT.—Projects listed in the transportation improvement program may be selected for advancement consistent with the project selection requirements.

“(F) MAJOR AMENDMENTS.—Major amendments to the list described in subparagraph (E), including the addition, deletion, or concept and scope change of a regionally significant project, may not be advanced without—

“(i) appropriate public involvement;

“(ii) financial planning;

“(iii) transportation conformity analyses; and

“(iv) a finding by the Federal Highway Administration and Federal Transit Administration that the amended plan was produced in a manner consistent with this section.

“(2) INCLUDED PROJECTS.—

“(A) PROJECTS UNDER CHAPTER 1 OF TITLE 23 AND THIS CHAPTER.—A transportation improvement program developed under this section for a metropolitan area shall include the projects and strategies within the metropolitan area that are proposed for funding under chapter 1 of title 23 and this chapter.

“(B) PROJECTS UNDER CHAPTER 2 OF TITLE 23.—

“(i) REGIONALLY SIGNIFICANT PROJECTS.—Regionally significant projects proposed for funding under chapter 2 of title 23 shall be identified individually in the metropolitan transportation improvement program.

“(ii) OTHER PROJECTS.—Projects proposed for funding under chapter 2 of title 23 that are not regionally significant shall be grouped in 1 line item or identified individually in the metropolitan transportation improvement program.

“(3) SELECTION OF PROJECTS.—

“(A) IN GENERAL.—Except as otherwise provided under subsection (k)(4), the selection of federally funded projects in metropolitan planning areas shall be carried out, from the approved transportation plan—

“(i) by the State, in the case of projects under chapter 1 of title 23 or section 5308, 5310, 5311, or 5317 of this title;

“(ii) by the designated recipient, in the case of projects under section 5307; and

“(iii) in cooperation with the metropolitan planning organization.

“(B) MODIFICATIONS TO PROJECT PRIORITY.—Notwithstanding any other provision of law, a project may be advanced from the transportation improvement program in place of another project in the same transportation improvement program without the approval of the Secretary.

“(4) PUBLICATION REQUIREMENTS.—

“(A) PUBLICATION OF TRANSPORTATION IMPROVEMENT PROGRAM.—A transportation improvement program involving Federal participation shall be published or otherwise made readily available by the metropolitan planning organization for public review, including, to the maximum extent practicable, in electronically accessible formats and means, such as the World Wide Web.

“(B) PUBLICATION OF ANNUAL LISTINGS OF PROJECTS.—An annual listing of projects, including investments in pedestrian walkways and bicycle transportation facilities, for which Federal funds have been obligated in the preceding 4 years shall be published or otherwise made available for public review by the cooperative effort of the State, transit operator, and the metropolitan planning organization. This listing shall be consistent with the funding categories identified in the transportation improvement program.

“(C) RULEMAKING.—Not later than 120 days after the date of enactment of the Federal Public Transportation Act of 2004, the Secretary shall issue regulations specifying—

“(i) the types of data to be included in the list described in subparagraph (B), including—

“(I) the name, type, purpose, and geocoded location of each project;

“(II) the Federal, State, and local identification numbers assigned to each project;

“(III) amounts obligated and expended on each project, sorted by funding source and transportation mode, and the date on which each obligation was made; and

“(IV) the status of each project; and

“(ii) the media through which the list described in subparagraph (B) will be made available to the public, including written and visual components for each of the projects listed.

“(k) TRANSPORTATION MANAGEMENT AREAS.—

“(1) REQUIRED IDENTIFICATION.—The Secretary shall identify each urbanized area with a population of more than 200,000 individuals as a transportation management area.

“(2) TRANSPORTATION PLANS AND PROGRAMS.—Transportation plans and programs for a metropolitan planning area serving a transportation management area shall be based on a continuing and comprehensive transportation planning process carried out by the metropolitan planning organization in cooperation with the State and transit operators.

“(3) CONGESTION MANAGEMENT SYSTEM.—

“(A) IN GENERAL.—The transportation planning process under this section shall ad-

dress congestion management through a process that provides for effective management and operation, based on a cooperatively developed and implemented metropolitan-wide strategy, of new and existing transportation facilities eligible for funding under title 23 and this chapter through the use of travel demand reduction and operational management strategies.

“(B) PHASE-IN SCHEDULE.—The Secretary shall establish a phase-in schedule that provides for full compliance with the requirements of this section not later than 1 year after the identification of transportation management areas under paragraph (1).

“(4) SELECTION OF PROJECTS.—

“(A) IN GENERAL.—All federally funded projects carried out within the boundaries of a metropolitan planning area serving a transportation management area under title 23 (except for projects carried out on the National Highway System and projects carried out under the bridge program or the interstate maintenance program) or under this chapter shall be selected for implementation from the approved transportation improvement program by the metropolitan planning organization designated for the area in consultation with the State and any affected public transit operator.

“(B) NATIONAL HIGHWAY SYSTEM PROJECTS.—Projects on the National Highway System carried out within the boundaries of a metropolitan planning area serving a transportation management area and projects carried out within such boundaries under the bridge program or the interstate maintenance program under title 23 shall be selected for implementation from the approved transportation improvement program by the State in cooperation with the metropolitan planning organization designated for the area.

“(5) CERTIFICATION.—

“(A) IN GENERAL.—The Secretary shall—

“(i) ensure that the metropolitan planning process of a metropolitan planning organization serving a transportation management area is being carried out in accordance with Federal law; and

“(ii) subject to subparagraph (B), certify, not less frequently than once every 4 years in nonattainment and maintenance areas (as defined under the Clean Air Act) and not less frequently than once every 5 years in attainment areas (as defined under such Act), that the requirements of this paragraph are met with respect to the metropolitan planning process.

“(B) REQUIREMENTS FOR CERTIFICATION.—The Secretary may make the certification under subparagraph (A) if—

“(i) the transportation planning process complies with the requirements of this section and all other applicable Federal law; and

“(ii) a transportation plan and a transportation improvement program for the metropolitan planning area have been approved by the metropolitan planning organization and the Governor.

“(C) PENALTY FOR FAILING TO CERTIFY.—

“(i) WITHHOLDING PROJECT FUNDS.—If the metropolitan planning process of a metropolitan planning organization serving a transportation management area is not certified, the Secretary may withhold any funds otherwise available to the metropolitan planning area for projects funded under title 23 and this chapter.

“(ii) RESTORATION OF WITHHELD FUNDS.—Any funds withheld under clause (i) shall be restored to the metropolitan planning area when the metropolitan planning process is certified by the Secretary.

“(D) REVIEW OF CERTIFICATION.—In making a certification under this paragraph, the Secretary shall provide for public involvement

appropriate to the metropolitan area under review.

“(l) ABBREVIATED PLANS FOR CERTAIN AREAS.—

“(1) IN GENERAL.—Subject to paragraph (2), in the case of a metropolitan area not designated as a transportation management area under this section, the Secretary may provide for the development of an abbreviated transportation plan and transportation improvement program for the metropolitan planning area that the Secretary determines is appropriate to achieve the purposes of this section, after considering the complexity of transportation problems in the area.

“(2) NONATTAINMENT AREAS.—The Secretary may not permit abbreviated plans for a metropolitan area that is in nonattainment for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.).

“(m) ADDITIONAL REQUIREMENTS FOR CERTAIN NONATTAINMENT AREAS.—

“(1) IN GENERAL.—Notwithstanding any other provisions of title 23 or this chapter, Federal funds may not be advanced for transportation management areas classified as nonattainment for ozone or carbon monoxide pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.) for any highway project that will result in a significant increase in carrying capacity for single-occupant vehicles unless the project is addressed through a congestion management process.

“(2) APPLICABILITY.—This subsection applies to any nonattainment area within the metropolitan planning area boundaries determined under subsection (d).

“(n) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to confer on a metropolitan planning organization the authority to impose legal requirements on any transportation facility, provider, or project that is not eligible under title 23 or this chapter.

“(o) AVAILABILITY OF FUNDS.—Funds set aside under section 104(f) of title 23 or section 5308 of this title shall be available to carry out this section.

“(p) CONTINUATION OF CURRENT REVIEW PRACTICE.—Any decision by the Secretary concerning a plan or program described in this section shall not be considered to be a Federal action subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).”

SEC. 3006. STATEWIDE TRANSPORTATION PLANNING.

Section 5304 is amended to read as follows:
“§ 5304. Statewide transportation planning

“(a) GENERAL REQUIREMENTS.—

“(1) DEVELOPMENT OF PLANS AND PROGRAMS.—To support the policies described in section 5301(a), each State shall develop a statewide transportation plan (referred to in this section as a “Plan”) and a statewide transportation improvement program (referred to in this section as a “Program”) for all areas of the State subject to section 5303.

“(2) CONTENTS.—The Plan and the Program developed for each State shall provide for the development and integrated management and operation of transportation systems and facilities (including pedestrian walkways and bicycle transportation facilities) that will function as an intermodal transportation system for the State and an integral part of an intermodal transportation system for the United States.

“(3) PROCESS OF DEVELOPMENT.—The process for developing the Plan and the Program shall—

“(A) provide for the consideration of all modes of transportation and the policies described in section 5301(a); and

“(B) be continuing, cooperative, and comprehensive to the degree appropriate, based

on the complexity of the transportation problems to be addressed.

“(b) COORDINATION WITH METROPOLITAN PLANNING; STATE IMPLEMENTATION PLAN.—Each State shall—

“(1) coordinate planning under this section with—

“(A) the transportation planning activities under section 5303 for metropolitan areas of the State; and

“(B) other related statewide planning activities, including trade and economic development and related multistate planning efforts; and

“(2) develop the transportation portion of the State implementation plan, as required by the Clean Air Act (42 U.S.C. 7401 et seq.).

“(c) INTERSTATE AGREEMENTS.—States may enter into agreements or compacts with other States for cooperative efforts and mutual assistance in support of activities authorized under this section related to interstate areas and localities in the States and establishing authorities the States consider desirable for making the agreements and compacts effective.

“(d) SCOPE OF PLANNING PROCESS.—

“(1) IN GENERAL.—Each State shall carry out a statewide transportation planning process that provides for the consideration of projects, strategies, and implementing projects and services that will—

“(A) support the economic vitality of the United States, the States, nonmetropolitan areas, and metropolitan areas, especially by enabling global competitiveness, productivity, and efficiency;

“(B) increase the safety of the transportation system for motorized and non-motorized users;

“(C) increase the security of the transportation system for motorized and non-motorized users;

“(D) increase the accessibility and mobility of people and freight;

“(E) protect and enhance the environment (including the protection of habitat, water quality, and agricultural and forest land, while minimizing invasive species), promote energy conservation, promote consistency between transportation improvements and State and local land use planning and economic development patterns, and improve the quality of life (including minimizing adverse health effects from mobile source air pollution and promoting the linkage of the transportation and development goals of the State);

“(F) enhance the integration and connectivity of the transportation system, across and between modes throughout the State, for people and freight;

“(G) promote efficient system management and operation; and

“(H) emphasize the preservation and efficient use of the existing transportation system.

“(2) SELECTION OF PROJECTS AND STRATEGIES.—After soliciting and considering any relevant public comments, the State shall determine which of the projects and strategies described in paragraph (1) are most appropriate.

“(3) MITIGATION ACTIVITIES.—

“(A) IN GENERAL.—A transportation plan under this subsection shall include a discussion of—

“(i) types of potential habitat, hydrological, and environmental mitigation activities that may assist in compensating for loss of habitat, wetland, and other environmental functions; and

“(ii) potential areas to carry out these activities, including a discussion of areas that may have the greatest potential to restore and maintain the habitat types and hydrological or environmental functions affected by the plan.

“(B) CONSULTATION.—The discussion described in subparagraph (A) shall be developed in consultation with Federal and State tribal wildlife, land management, and regulatory agencies.

“(4) FAILURE TO CONSIDER FACTORS.—The failure to consider any factor described in paragraph (1) shall not be reviewable by any court under title 23, this title, subchapter II of chapter 5 of title 5, or chapter 7 of title 5 in any matter affecting a Plan, a Program, a project or strategy, or the certification of a planning process.

“(e) ADDITIONAL REQUIREMENTS.—In carrying out planning under this section, each State shall consider—

“(1) with respect to nonmetropolitan areas, the concerns of affected local officials with responsibility for transportation;

“(2) the concerns of Indian tribal governments and Federal land management agencies that have jurisdiction over land within the boundaries of the State; and

“(3) coordination of Plans, Programs, and planning activities with related planning activities being carried out outside of metropolitan planning areas and between States.

“(f) STATEWIDE TRANSPORTATION PLAN.—

“(1) DEVELOPMENT.—Each State shall develop a Plan, with a minimum 20-year forecast period for all areas of the State, that provides for the development and implementation of the intermodal transportation system of the State.

“(2) CONSULTATION WITH GOVERNMENTS.—

“(A) METROPOLITAN PLANNING AREAS.—The Plan shall be developed for each metropolitan planning area in the State in cooperation with the metropolitan planning organization designated for the metropolitan planning area under section 5303.

“(B) NONMETROPOLITAN AREAS.—With respect to nonmetropolitan areas, the statewide transportation plan shall be developed in consultation with affected nonmetropolitan officials with responsibility for transportation. The consultation process shall not require the review or approval of the Secretary.

“(C) INDIAN TRIBAL AREAS.—With respect to each area of the State under the jurisdiction of an Indian tribal government, the Plan shall be developed in consultation with the tribal government and the Secretary of the Interior.

“(D) CONSULTATION, COMPARISON, AND CONSIDERATION.—

“(i) IN GENERAL.—The Plan shall be developed, as appropriate, in consultation with State and local agencies responsible for—

“(I) land use management;

“(II) natural resources;

“(III) environmental protection;

“(IV) conservation; and

“(V) historic preservation.

“(ii) COMPARISON AND CONSIDERATION.—Consultation under clause (i) shall involve—

“(1) comparison of transportation plans to State conservation plans or maps, if available;

“(II) comparison of transportation plans to inventories of natural or historic resources, if available; or

“(III) consideration of areas where wildlife crossing structures may be needed to ensure connectivity between wildlife habitat linkage areas.

“(3) PARTICIPATION BY INTERESTED PARTIES.—In developing the Plan, the State shall—

“(A) provide citizens, affected public agencies, representatives of public transportation employees, freight shippers, private providers of transportation, representatives of users of public transportation, representatives of users of pedestrian walkways and bicycle transportation facilities, providers of freight transportation services, and other in-

terested parties with a reasonable opportunity to comment on the proposed Plan; and

“(B) to the maximum extent practicable—

“(i) hold any public meetings at convenient and accessible locations and times;

“(ii) employ visualization techniques to describe plans; and

“(iii) make public information available in electronically accessible format and means, such as the World Wide Web.

“(4) MITIGATION ACTIVITIES.—

“(A) IN GENERAL.—A Plan shall include a discussion of—

“(i) types of potential habitat, hydrological, and environmental mitigation activities that may assist in compensating for loss of habitat, wetlands, and other environmental functions; and

“(ii) potential areas to carry out these activities, including a discussion of areas that may have the greatest potential to restore and maintain the habitat types and hydrological or environmental functions affected by the plan.

“(B) CONSULTATION.—The discussion described in subparagraph (A) shall be developed in consultation with Federal and State tribal wildlife, land management, and regulatory agencies.

“(5) TRANSPORTATION STRATEGIES.—A Plan shall identify transportation strategies necessary to efficiently serve the mobility needs of people.

“(6) FINANCIAL PLAN.—The Plan may include a financial plan that—

“(A) demonstrates how the adopted Plan can be implemented;

“(B) indicates resources from public and private sources that are reasonably expected to be made available to carry out the Plan;

“(C) recommends any additional financing strategies for needed projects and programs; and

“(D) may include, for illustrative purposes, additional projects that would be included in the adopted Plan if reasonable additional resources beyond those identified in the financial plan were available.

“(7) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—A State shall not be required to select any project from the illustrative list of additional projects described in paragraph (6)(D).

“(8) EXISTING SYSTEM.—The Plan should include capital, operations and management strategies, investments, procedures, and other measures to ensure the preservation and most efficient use of the existing transportation system.

“(9) PUBLICATION OF LONG-RANGE TRANSPORTATION PLANS.—Each Plan prepared by a State shall be published or otherwise made available, including, to the maximum extent practicable, in electronically accessible formats and means, such as the World Wide Web.

“(g) STATEWIDE TRANSPORTATION IMPROVEMENT PROGRAM.—

“(1) DEVELOPMENT.—Each State shall develop a Program for all areas of the State.

“(2) CONSULTATION WITH GOVERNMENTS.—

“(A) METROPOLITAN PLANNING AREAS.—With respect to each metropolitan planning area in the State, the Program shall be developed in cooperation with the metropolitan planning organization designated for the metropolitan planning area under section 5303.

“(B) NONMETROPOLITAN AREAS.—With respect to each nonmetropolitan area in the State, the Program shall be developed in consultation with affected nonmetropolitan local officials with responsibility for transportation. The consultation process shall not require the review or approval of the Secretary.

“(C) INDIAN TRIBAL AREAS.—With respect to each area of the State under the jurisdiction of an Indian tribal government, the Program shall be developed in consultation with the tribal government and the Secretary of the Interior.

“(3) PARTICIPATION BY INTERESTED PARTIES.—In developing the Program, the State shall provide citizens, affected public agencies, representatives of public transportation employees, freight shippers, private providers of transportation, providers of freight transportation services, representatives of users of public transit, representatives of users of pedestrian walkways and bicycle transportation facilities, and other interested parties with a reasonable opportunity to comment on the proposed Program.

“(4) INCLUDED PROJECTS.—

“(A) IN GENERAL.—A Program developed under this subsection for a State shall include federally supported surface transportation expenditures within the boundaries of the State.

“(B) LISTING OF PROJECTS.—

“(i) IN GENERAL.—The Program shall cover a minimum of 4 years, identify projects by year, be fiscally constrained by year, and be updated not less than once every 4 years.

“(ii) PUBLICATION.—An annual listing of projects for which funds have been obligated in the preceding 4 years in each metropolitan planning area shall be published or otherwise made available by the cooperative effort of the State, transit operator, and the metropolitan planning organization for public review. The listing shall be consistent with the funding categories identified in each metropolitan transportation improvement program.

“(C) INDIVIDUAL IDENTIFICATION.—

“(i) REGIONALLY SIGNIFICANT PROJECTS.—Regionally significant projects proposed for funding under chapter 2 of title 23 shall be identified individually in the transportation improvement program.

“(ii) OTHER PROJECTS.—Projects proposed for funding under chapter 2 of title 23 that are not determined to be regionally significant shall be grouped in 1 line item or identified individually.

“(D) CONSISTENCY WITH STATEWIDE TRANSPORTATION PLAN.—Each project included in the list described in subparagraph (B) shall be—

“(i) consistent with the Plan developed under this section for the State;

“(ii) identical to the project or phase of the project as described in each year of the approved metropolitan transportation improvement program; and

“(iii) in conformance with the applicable State air quality implementation plan developed under the Clean Air Act (42 U.S.C. 7401 et seq.), if the project is carried out in an area designated as nonattainment for ozone or carbon monoxide under that Act.

“(E) REQUIREMENT OF ANTICIPATED FULL FUNDING.—The Program shall not include a project, or an identified phase of a project, unless full funding can reasonably be anticipated to be available for the project within the time period contemplated for completion of the project.

“(F) FINANCIAL PLAN.—The Program may include a financial plan that—

“(i) demonstrates how the approved Program can be implemented;

“(ii) indicates resources from public and private sources that are reasonably expected to be made available to carry out the Program;

“(iii) recommends any additional financing strategies for needed projects and programs; and

“(iv) may include, for illustrative purposes, additional projects that would be included in the adopted transportation plan if

reasonable additional resources beyond those identified in the financial plan were available.

“(G) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—

“(i) NO REQUIRED SELECTION.—Notwithstanding subparagraph (F), a State shall not be required to select any project from the illustrative list of additional projects described in subparagraph (F)(iv).

“(ii) REQUIRED APPROVAL BY THE SECRETARY.—A State shall not include any project from the illustrative list of additional projects described in subparagraph (F)(iv) in an approved Program without the approval of the Secretary.

“(H) PRIORITIES.—The Program shall reflect the priorities for programming and expenditures of funds, including transportation and transit enhancement activities, required by title 23 and this chapter, and transportation control measures included in the State's air quality implementation plan.

“(5) PROJECT SELECTION FOR AREAS WITH FEWER THAN 50,000 INDIVIDUALS.—

“(A) IN GENERAL.—Each State, in cooperation with the affected nonmetropolitan local officials with responsibility for transportation, shall select projects to be carried out in areas with fewer than 50,000 individuals from the approved Program (excluding projects carried out under the National Highway System, the bridge program, or the interstate maintenance program under title 23 or sections 5310 and 5311 of this title).

“(B) CERTAIN PROGRAMS.—Each State, in consultation with the affected nonmetropolitan local officials with responsibility for transportation, shall select, from the approved Program, projects to be carried out in areas with fewer than 50,000 individuals under the National Highway System, the bridge program, or the Interstate maintenance program under title 23 or sections 5310 and 5311 of this title.

“(6) STATEWIDE TRANSPORTATION IMPROVEMENT PROGRAM APPROVAL.—A Program developed under this subsection shall be reviewed and based on a current planning finding approved by the Secretary not less frequently than once every 4 years.

“(7) PLANNING FINDING.—Not less frequently than once every 4 years, the Secretary shall determine whether the transportation planning process through which Plans and Programs are developed are consistent with this section and section 5303.

“(8) MODIFICATIONS TO PROJECT PRIORITY.—Notwithstanding any other provision of law, a project included in the approved Program may be advanced in place of another project in the program without the approval of the Secretary.

“(h) FUNDING.—Funds set aside pursuant to section 104(i) of title 23 and 5308 of this title shall be available to carry out this section.

“(i) TREATMENT OF CERTAIN STATE LAWS AS CONGESTION MANAGEMENT SYSTEMS.—For purposes of this section and section 5303, State laws, rules, or regulations pertaining to congestion management systems or programs may constitute the congestion management system under section 5303(i)(3) if the Secretary determines that the State laws, rules, or regulations are consistent with, and fulfill the intent of, the purposes of section 5303.

“(j) CONTINUATION OF CURRENT REVIEW PRACTICE.—Any decision by the Secretary under this section, regarding a metropolitan or statewide transportation plan or the Program, shall not be considered to be a Federal action subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).”

SEC. 3007. TRANSPORTATION MANAGEMENT AREAS.

Section 5305 is repealed.

SEC. 3008. PRIVATE ENTERPRISE PARTICIPATION.

Section 5306 is amended—

(1) in subsection (a)—

(A) by striking “5305 of this title” and inserting “5308”; and

(B) by inserting “, as determined by local policies, criteria, and decision making,” after “feasible”;

(2) in subsection (b) by striking “5303-5305 of this title” and inserting “5303, 5304, and 5308”; and

(3) by adding at the end the following:

“(c) REGULATIONS.—Not later than 1 year after the date of enactment of the Federal Public Transportation Act of 2004, the Secretary shall issue regulations describing how the requirements under this chapter relating to subsection (a) shall be enforced.

SEC. 3009. URBANIZED AREA FORMULA GRANTS.

(a) TECHNICAL AMENDMENTS.—Section 5307 is amended—

(1) by striking subsections (h), (j) and (k); and

(2) by redesignating subsections (i), (l), (m), and (n) as subsections (h), (i), (j), and (k), respectively.

(b) DEFINITIONS.—Section 5307(a) is amended—

(1) by amending paragraph (2)(A) to read as follows:

“(A) an entity designated, in accordance with the planning process under sections 5303, 5304, and 5306, by the chief executive officer of a State, responsible local officials, and publicly owned operators of public transportation, to receive and apportion amounts under sections 5336 and 5337 that are attributable to transportation management areas designated under section 5303; or”;

(2) by adding at the end the following:

“(3) SUBRECIPIENT.—The term ‘subrecipient’ means a State or local governmental authority, a nonprofit organization, or a private operator of public transportation service that may receive a Federal transit program grant indirectly through a recipient, rather than directly from the Federal Government.”

(c) GENERAL AUTHORITY.—Section 5307(b) is amended—

(1) by amending paragraph (1) to read as follows:

“(1) IN GENERAL.—The Secretary of Transportation may award grants under this section for—

“(A) capital projects, including associated capital maintenance items;

“(B) planning, including mobility management;

“(C) transit enhancements;

“(D) operating costs of equipment and facilities for use in public transportation in an urbanized area with a population of less than 200,000; and

“(E) operating costs of equipment and facilities for use in public transportation in a portion or portions of an urbanized area with a population of at least 200,000, but not more than 225,000, if—

“(i) the urbanized area includes parts of more than 1 State;

“(ii) the portion of the urbanized area includes only 1 State;

“(iii) the population of the portion of the urbanized area is less than 30,000; and

“(iv) the grants will not be used to provide public transportation outside of the portion of the urbanized area.”;

(2) by amending paragraph (2) to read as follows:

“(2) SPECIAL RULE FOR FISCAL YEARS 2004 THROUGH 2006—

“(A) INCREASED FLEXIBILITY.—The Secretary may award grants under this section, from funds made available to carry out this section for each of the fiscal years 2004 through 2006, to finance the operating cost of

equipment and facilities for use in mass transportation in an urbanized area with a population of at least 200,000, as determined by the 2000 decennial census of population if—

“(i) the urbanized area had a population of less than 200,000, as determined by the 1990 decennial census of population;

“(ii) a portion of the urbanized area was a separate urbanized area with a population of less than 200,000, as determined by the 1990 decennial census of population;

“(iii) the area was not designated as an urbanized area, as determined by the 1990 decennial census of population; or

“(iv) a portion of the area was not designated as an urbanized area, as determined by the 1990 decennial census, and received assistance under section 5311 in fiscal year 2002.

“(B) MAXIMUM AMOUNTS IN FISCAL YEAR 2004.—In fiscal year 2004—

“(i) amounts made available to any urbanized area under clause (i) or (ii) of subparagraph (A) shall be not more than the amount apportioned in fiscal year 2002 to the urbanized area with a population of less than 200,000, as determined in the 1990 decennial census of population;

“(ii) amounts made available to any urbanized area under subparagraph (A)(iii) shall be not more than the amount apportioned to the urbanized area under this section for fiscal year 2003; and

“(iii) each portion of any area not designated as an urbanized area, as determined by the 1990 decennial census, and eligible to receive funds under subparagraph (A)(iv), shall receive an amount of funds to carry out this section that is not less than the amount the portion of the area received under section 5311 for fiscal year 2002.

“(C) MAXIMUM AMOUNTS IN FISCAL YEAR 2005.—In fiscal year 2005—

“(i) amounts made available to any urbanized area under clause (i) or (ii) of subparagraph (A) shall be not more than 50 percent of the amount apportioned in fiscal year 2002 to the urbanized area with a population of less than 200,000, as determined in the 1990 decennial census of population;

“(ii) amounts made available to any urbanized area under subparagraph (A)(iii) shall be not more than 50 percent of the amount apportioned to the urbanized area under this section for fiscal year 2003; and

“(iii) each portion of any area not designated as an urbanized area, as determined by the 1990 decennial census, and eligible to receive funds under subparagraph (A)(iv), shall receive an amount of funds to carry out this section that is not less than 50 percent of the amount the portion of the area received under section 5311 for fiscal year 2002.

“(D) MAXIMUM AMOUNTS IN FISCAL YEAR 2006.—In fiscal year 2006—

“(i) amounts made available to any urbanized area under clause (i) or (ii) of subparagraph (A) shall be not more than 25 percent of the amount apportioned in fiscal year 2002 to the urbanized area with a population of less than 200,000, as determined in the 1990 decennial census of population;

“(ii) amounts made available to any urbanized area under subparagraph (A)(iii) shall be not more than 25 percent of the amount apportioned to the urbanized area under this section for fiscal year 2003; and

“(iii) each portion of any area not designated as an urbanized area, as determined by the 1990 decennial census, and eligible to receive funds under subparagraph (A)(iv), shall receive an amount of funds to carry out this section that is not less than 25 percent of the amount the portion of the area received under section 5311 in fiscal year 2002.”; and

(3) by striking paragraph (4).

(d) PUBLIC PARTICIPATION REQUIREMENTS.—Section 5307(c)(5) is amended by striking “section 5336” and inserting “sections 5336 and 5337”.

(e) GRANT RECIPIENT REQUIREMENTS.—Section 5307(d)(1) is amended—

(1) in subparagraph (A), by inserting “, including safety and security aspects of the program” after “program”;

(2) in subparagraph (E), by striking “section” and all that follows and inserting “section, the recipient will comply with sections 5323 and 5325;”;

(3) in subparagraph (H), by striking “sections 5301(a) and (d), 5303-5306, and 5310(a)-(d) of this title” and inserting “subsections (a) and (d) of section 5301 and sections 5303 through 5306”;

(4) in subparagraph (I) by striking “and” at the end;

(5) in subparagraph (J), by striking the period at the end and inserting “; and”; and

(6) by adding at the end the following:

“(K) if located in an urbanized area with a population of at least 200,000, will expend not less than 1 percent of the amount the recipient receives each fiscal year under this section for transit enhancement activities described in section 5302(a)(15).”.

(f) GOVERNMENT’S SHARE OF COSTS.—Section 5307(e) is amended—

(1) by striking the first sentence and inserting the following:

“(1) CAPITAL PROJECTS.—A grant for a capital project under this section shall cover 80 percent of the net project cost.”;

(2) by striking “A grant for operating expenses” and inserting the following:

“(2) OPERATING EXPENSES.—A grant for operating expenses”;

(3) by striking the fourth sentence and inserting the following:

“(3) REMAINING COSTS.—The remainder of the net project cost shall be provided in cash from non-Federal sources or revenues derived from the sale of advertising and concessions and amounts received under a service agreement with a State or local social service agency or a private social service organization.”; and

(4) by adding at the end the following: “The prohibitions on the use of funds for matching requirements under section 403(a)(5)(C)(vii) of the Social Security Act (42 U.S.C. 603(a)(5)(C)(vii)) shall not apply to the remainder.”.

(g) UNDERTAKING PROJECTS IN ADVANCE.—Section 5307(g) is amended by striking paragraph (4).

(h) RELATIONSHIP TO OTHER LAWS.—Section 5307(k), as redesignated, is amended to read as follows:

“(k) RELATIONSHIP TO OTHER LAWS.—

“(1) APPLICABLE PROVISIONS.—Sections 5301, 5302, 5303, 5304, 5306, 5315(c), 5318, 5319, 5323, 5325, 5327, 5329, 5330, 5331, 5332, 5333 and 5335 apply to this section and to any grant made under this section.

“(2) INAPPLICABLE PROVISIONS.—

“(A) IN GENERAL.—Except as provided under this section, no other provision of this chapter applies to this section or to a grant made under this section.

“(B) TITLE 5.—The provision of assistance under this chapter shall not be construed as bringing within the application of chapter 15 of title 5, any nonsupervisory employee of a public transportation system (or any other agency or entity performing related functions) to which such chapter is otherwise inapplicable.”.

SEC. 3010. PLANNING PROGRAMS.

(a) IN GENERAL.—Section 5308 is amended to read as follows:

“§ 5308. Planning programs

“(a) GRANTS AUTHORIZED.—Under criteria established by the Secretary, the Secretary

may award grants to States, authorities of the States, metropolitan planning organizations, and local governmental authorities, make agreements with other departments, agencies, or instrumentalities of the Government, or enter into contracts with private nonprofit or for-profit entities to—

“(1) develop transportation plans and programs;

“(2) plan, engineer, design, and evaluate a public transportation project; or

“(3) conduct technical studies related to public transportation, including—

“(A) studies related to management, planning, operations, capital requirements, and economic feasibility;

“(B) evaluations of previously financed projects;

“(C) peer reviews and exchanges of technical data, information, assistance, and related activities in support of planning and environmental analyses among metropolitan planning organizations and other transportation planners; and

“(D) other similar and related activities preliminary to, and in preparation for, constructing, acquiring, or improving the operation of facilities and equipment.

“(b) PURPOSE.—To the extent practicable, the Secretary shall ensure that amounts appropriated pursuant to section 5338 to carry out this section and sections 5303, 5304, and 5306 are used to support balanced and comprehensive transportation planning that considers the relationships among land use and all transportation modes, without regard to the programmatic source of the planning amounts.

“(c) METROPOLITAN PLANNING PROGRAM.—

“(1) ALLOCATIONS TO STATES.—

“(A) IN GENERAL.—The Secretary shall allocate 80 percent of the amount made available under subsection (g)(3)(A) to States to carry out sections 5303 and 5306 in a ratio equal to the population in urbanized areas in each State, divided by the total population in urbanized areas in all States, as shown by the latest available decennial census of population.

“(B) MINIMUM ALLOCATION.—Each State shall receive not less than 0.5 percent of the total amount allocated under this paragraph.

“(2) AVAILABILITY OF FUNDS.—A State receiving an allocation under paragraph (1) shall promptly distribute such funds to metropolitan planning organizations in the State under a formula—

“(A) developed by the State in cooperation with the metropolitan planning organizations;

“(B) approved by the Secretary of Transportation;

“(C) that considers population in urbanized areas; and

“(D) that provides an appropriate distribution for urbanized areas to carry out the cooperative processes described in this section.

“(3) SUPPLEMENTAL ALLOCATIONS.—

“(A) IN GENERAL.—The Secretary shall allocate 20 percent of the amount made available under subsection (g)(3)(A) to States to supplement allocations made under paragraph (1) for metropolitan planning organizations.

“(B) ALLOCATION FORMULA.—Amounts under this paragraph shall be allocated under a formula that reflects the additional cost of carrying out planning, programming, and project selection responsibilities in complex metropolitan planning areas under sections 5303, 5304, and 5306.

“(d) STATE PLANNING AND RESEARCH PROGRAM.—

“(1) IN GENERAL.—The Secretary shall allocate amounts made available pursuant to subsection (g)(3)(B) to States for grants and contracts to carry out sections 5304, 5306, 5315, and 5322 so that each State receives an

amount equal to the ratio of the population in urbanized areas in that State, divided by the total population in urbanized areas in all States, as shown by the latest available decennial census.

“(2) MINIMUM ALLOCATION.—Each State shall receive not less than 0.5 percent of the amount allocated under this subsection.

“(3) REALLOCATION.—A State may authorize part of the amount made available under this subsection to be used to supplement amounts available under subsection (c).

“(e) PLANNING CAPACITY BUILDING PROGRAM.—

“(1) ESTABLISHMENT.—The Secretary shall establish a Planning Capacity Building Program (referred to in this subsection as the “Program”) to support and fund innovative practices and enhancements in transportation planning.

“(2) PURPOSE.—The purpose of the Program shall be to promote activities that support and strengthen the planning processes required under this section and sections 5303 and 5304.

“(3) ADMINISTRATION.—The Program shall be administered by the Federal Transit Administration in cooperation with the Federal Highway Administration.

“(4) USE OF FUNDS.—

“(A) IN GENERAL.—Appropriations authorized under subsection (g)(1) to carry out this subsection may be used—

“(i) to provide incentive grants to States, metropolitan planning organizations, and public transportation operators; and

“(ii) to conduct research, disseminate information, and provide technical assistance.

“(B) GRANTS, CONTRACTS, COOPERATIVE AGREEMENTS.—In carrying out the activities described in subparagraph (A), the Secretary may—

“(i) expend appropriated funds directly; or

“(ii) award grants to, or enter into contracts, cooperative agreements, and other transactions with, a Federal agency, State agency, local governmental authority, association, nonprofit or for-profit entity, or institution of higher education.

“(f) GOVERNMENT’S SHARE OF COSTS.—Amounts made available to carry out subsections (c), (d), and (e) may not exceed 80 percent of the costs of the activity unless the Secretary of Transportation determines that it is in the interest of the Government not to require State or local matching funds.

“(g) ALLOCATION OF FUNDS.—Of the amounts made available under section 5338(b)(2)(B) for fiscal year 2005 and each fiscal year thereafter to carry out this section—

“(1) \$5,000,000 shall be allocated for the Planning Capacity Building Program established under subsection (e);

“(2) \$20,000,000 shall be allocated for grants under subsection (a)(2) for alternatives analyses required by section 5309(e)(2)(A); and

“(3) of the remaining amount—

“(A) 82.72 percent shall be allocated for the metropolitan planning program described in subsection (d); and

“(B) 17.28 percent shall be allocated to carry out subsection (b).

“(h) REALLOCATIONS.—Any amount allocated under this section that has not been used 3 years after the end of the fiscal year in which the amount was allocated shall be reallocated among the States.”

(b) CONFORMING AMENDMENT.—The item relating to section 5308 in the table of sections for chapter 53 is amended to read as follows: “5308. Planning programs.”

SEC. 3011. CAPITAL INVESTMENT PROGRAM.

(a) SECTION HEADING.—The section heading of section 5309 is amended to read as follows: “§ 5309. Capital investment grants”.

(b) GENERAL AUTHORITY.—Section 5309(a) is amended—

(1) in paragraph (1)—

(A) by striking “(1) The Secretary of Transportation may make grants and loans” and inserting the following:

“(1) GRANTS AUTHORIZED.—The Secretary may award grants”;

(B) in subparagraph (A), by striking “alternatives analysis related to the development of systems.”;

(C) by striking subparagraphs (B), (C), (D), and (G);

(D) by redesignating subparagraphs (E), (F), and (H) as subparagraphs (B), (C), and (D), respectively;

(E) in subparagraph (C), as redesignated, by striking the semicolon at the end and inserting “, including programs of bus and bus-related projects for assistance to subrecipients which are public agencies, private companies engaged in public transportation, or private nonprofit organizations; and”; and

(F) in subparagraph (D), as redesignated—

(i) by striking “to support fixed guideway systems”; and

(ii) by striking “dedicated bus and high occupancy vehicle”;

(2) by amending paragraph (2) to read as follows:

“(2) GRANTEE REQUIREMENTS.—

“(A) GRANTEE IN URBANIZED AREA.—The Secretary shall require that any grants awarded under this section to a recipient or subrecipient located in an urbanized area shall be subject to all terms, conditions, requirements, and provisions that the Secretary determines to be necessary or appropriate for the purposes of this section, including requirements for the disposition of net increases in the value of real property resulting from the project assisted under this section.

“(B) GRANTEE NOT IN URBANIZED AREA.—The Secretary shall require that any grants awarded under this section to a recipient or subrecipient not located in an urbanized area shall be subject to the same terms, conditions, requirements, and provisions as a recipient or subrecipient of assistance under section 5311.

“(C) SUBRECIPIENT.—The Secretary shall require that any private, nonprofit organization that is a subrecipient of a grant awarded under this section shall be subject to the same terms, conditions, requirements, and provisions as a 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.”; and

(3) by adding at the end the following:

“(3) CERTIFICATION.—An applicant that has submitted the certifications required under subparagraphs (A), (B), (C), and (H) of section 5307(d)(1) shall be deemed to have provided sufficient information upon which the Secretary may make the findings required under this subsection.”

(c) DEFINED TERM.—Section 5309(b) is amended to read as follows:

“(b) DEFINED TERM.—As used in this section, the term ‘alternatives analysis’ means a study conducted as part of the transportation planning process required under sections 5303 and 5304, which includes—

“(1) an assessment of a wide range of public transportation alternatives designed to address a transportation problem in a corridor or subarea;

“(2) sufficient information to enable the Secretary to make the findings of project justification and local financial commitment required under this section;

“(3) the selection of a locally preferred alternative; and

“(4) the adoption of the locally preferred alternative as part of the long-range transportation plan required under section 5303.”

(d) GRANT REQUIREMENTS.—Section 5309(d) is amended to read as follows:

“(d) GRANT REQUIREMENTS.—The Secretary may not approve a grant for a project under this section unless the Secretary determines that—

“(1) the project is part of an approved transportation plan and program of projects required under sections 5303, 5304, and 5306; and

“(2) the applicant has, or will have—

“(A) the legal, financial, and technical capacity to carry out the project, including safety and security aspects of the project;

“(B) satisfactory continuing control over the use of the equipment or facilities; and

“(C) the capability and willingness to maintain the equipment or facilities.”

(e) MAJOR CAPITAL INVESTMENT PROJECTS OF \$75,000,000 OR MORE.—Section 5309(e) is amended to read as follows:

“(e) MAJOR CAPITAL INVESTMENT PROJECTS OF \$75,000,000 OR MORE.—

“(1) FULL FUNDING GRANT AGREEMENT.—The Secretary shall enter into a full funding grant agreement, based on the evaluations and ratings required under this subsection, with each grantee receiving not less than \$75,000,000 under this subsection for a new fixed guideway capital project that—

“(A) is authorized for final design and construction; and

“(B) has been rated as medium, medium-high, or high, in accordance with paragraph (5)(B).

“(2) DETERMINATIONS.—The Secretary may not award a grant under this subsection for a new fixed guideway capital project unless 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, operating efficiencies, economic development effects, and public transportation supportive land use patterns and policies; and

“(C) supported by an acceptable degree of local financial commitment, including evidence of stable and dependable financing sources to construct the project, and maintain and operate the entire public transportation system, while ensuring that the extent and quality of existing public transportation services are not degraded.

“(3) EVALUATION OF PROJECT JUSTIFICATION.—In making the determinations under paragraph (2)(B) for a major capital investment grant, the Secretary shall analyze, evaluate, and consider—

“(A) the results of the alternatives analysis and preliminary engineering for the proposed project;

“(B) the reliability of the forecasts of costs and utilization made by the recipient and the contractors to the recipient;

“(C) the direct and indirect costs of relevant alternatives;

“(D) factors such as—

“(i) congestion relief;

“(ii) improved mobility;

“(iii) air pollution;

“(iv) noise pollution;

“(v) energy consumption; and

“(vi) all associated ancillary and mitigation costs necessary to carry out each alternative analyzed;

“(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;

“(F) the cost of suburban sprawl;

“(G) the degree to which the project increases the mobility of the public transportation dependent population or promotes economic development;

“(H) population density and current transit ridership in the transportation corridor;

“(I) the technical capability of the grant recipient to construct the project;

“(J) any adjustment to the project justification necessary to reflect differences in local land, construction, and operating costs; and

“(K) other factors that the Secretary determines to be appropriate to carry out this chapter.

“(4) EVALUATION OF LOCAL FINANCIAL COMMITMENT.—

“(A) IN GENERAL.—In evaluating a project under paragraph (2)(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 local source of capital and operating financing is stable, reliable, and available within the proposed project timetable; and

“(iii) local resources are available to recapitalize and operate the overall proposed public transportation system, including essential feeder bus and other services necessary to achieve the projected ridership levels, while ensuring that the extent and quality of existing public transportation services are not degraded.

“(B) EVALUATION CRITERIA.—In assessing the stability, reliability, and availability of proposed sources of local financing under paragraph (2)(C), the Secretary shall consider—

“(i) the reliability of the forecasts of costs and utilization made by the recipient and the contractors to the recipient;

“(ii) existing grant commitments;

“(iii) the degree to which financing sources are dedicated to the proposed purposes;

“(iv) any debt obligation that exists, or is proposed by the recipient, for the proposed project or other public transportation purpose; and

“(v) the extent to which the project has a local financial commitment that exceeds the required non-Federal share of the cost of the project, provided that if the Secretary gives priority to financing projects that include more than the non-Federal share required under subsection (h), the Secretary shall give equal consideration to differences in the fiscal capacity of State and local governments.

“(5) PROJECT ADVANCEMENT AND RATINGS.—

“(A) PROJECT ADVANCEMENT.—A proposed project under this subsection shall not advance from alternatives analysis to preliminary engineering or from preliminary engineering to final design and construction unless the Secretary determines that the project meets the requirements of this section and there is a reasonable likelihood that the project will continue to meet such requirements.

“(B) RATINGS.—In making a determination under subparagraph (A), the Secretary shall evaluate and rate the project on a 5-point scale (high, medium-high, medium, medium-low, or low) based on the results of the 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 by regulation.

“(6) APPLICABILITY.—This subsection shall not apply to projects for which the Secretary has issued a letter of intent or entered into

a full funding grant agreement before the date of enactment of the Federal Public Transportation Act of 2004.

“(7) RULEMAKING.—Not later than 240 days after the date of enactment of the Federal Public Transportation Act of 2004, the Secretary shall issue regulations on the manner by which the Secretary shall evaluate and rate projects based on the results of alternatives analysis, project justification, and local financial commitment, in accordance with this subsection.

“(8) POLICY GUIDANCE.—

“(A) PUBLICATION.—The Secretary shall publish policy guidance regarding the new starts project review and evaluation process—

“(i) not later than 120 days after the date of enactment of the Federal Public Transportation Act of 2004; and

“(ii) each time significant changes are made by the Secretary to the new starts project review and evaluation process and criteria, but not less frequently than once every 2 years.

“(B) PUBLIC COMMENT AND RESPONSE.—The Secretary shall—

“(i) invite public comment to the policy guidance published under subparagraph (A); and

“(ii) publish a response to the comments received under clause (i).”

(f) MAJOR CAPITAL INVESTMENT PROJECTS OF LESS THAN \$75,000,000.—Section 5309(f) is amended to read as follows:

“(f) MAJOR CAPITAL INVESTMENT PROJECTS OF LESS THAN \$75,000,000.—

“(1) PROJECT CONSTRUCTION GRANT AGREEMENT.—

“(A) IN GENERAL.—The Secretary shall enter into a project construction grant agreement, based on evaluations and ratings required under this subsection, with each grantee receiving less than \$75,000,000 under this subsection for a new fixed guideway or corridor improvement capital project that—

“(i) is authorized by law; and

“(ii) has been rated as medium, medium-high, or high, in accordance with paragraph (3)(B).

“(B) CONTENTS.—

“(i) IN GENERAL.—An agreement under this paragraph shall specify—

“(I) the scope of the project to be constructed;

“(II) the estimated net cost of the project;

“(III) the schedule under which the project shall be constructed;

“(IV) the maximum amount of funding to be obtained under this subsection;

“(V) the proposed schedule for obligation of future Federal grants; and

“(VI) the sources of non-Federal funding.

“(ii) ADDITIONAL FUNDING.—The agreement may include a commitment on the part of the Secretary to provide funding for the project in future fiscal years.

“(C) FULL FUNDING GRANT AGREEMENT.—An agreement under this paragraph shall be considered a full funding grant agreement for the purposes of subsection (g).

“(2) SELECTION PROCESS.—

“(A) SELECTION CRITERIA.—The Secretary may not award a grant under this subsection for a proposed project unless the Secretary determines that the project is—

“(i) based on the results of planning and alternatives analysis;

“(ii) justified based on a review of its public transportation supportive land use policies, cost effectiveness, and effect on local economic development; and

“(iii) supported by an acceptable degree of local financial commitment.

“(B) PLANNING AND ALTERNATIVES.—In evaluating a project under subparagraph (A)(i), the Secretary shall analyze and con-

sider the results of planning and alternatives analysis for the project.

“(C) PROJECT JUSTIFICATION.—In making the determinations under subparagraph (A)(ii), the Secretary shall—

“(i) determine the degree to which local land use policies are supportive of the public transportation project and the degree to which the project is likely to achieve local developmental goals;

“(ii) determine the cost effectiveness of the project at the time of the initiation of revenue service;

“(iii) determine the degree to which the project will have a positive effect on local economic development;

“(iv) consider the reliability of the forecasts of costs and ridership associated with the project; and

“(v) consider other factors that the Secretary determines to be appropriate to carry out this subsection.

“(D) LOCAL FINANCIAL COMMITMENT.—For purposes of subparagraph (A)(iii), the Secretary shall require that each proposed local source of capital and operating financing is stable, reliable, and available within the proposed project timetable.

“(3) ADVANCEMENT OF PROJECT TO DEVELOPMENT AND CONSTRUCTION.—

“(A) IN GENERAL.—A proposed project under this subsection may not advance from the planning and alternatives analysis stage to project development and construction unless—

“(i) the Secretary finds that the project meets the requirements of this subsection and there is a reasonable likelihood that the project will continue to meet such requirements; and

“(ii) the metropolitan planning organization has adopted the locally preferred alternative for the project into the long-range transportation plan.

“(B) EVALUATION.—In making the findings under subparagraph (A), the Secretary shall evaluate and rate the project as high, medium-high, medium, medium-low, or low, based on the results of the analysis of the project justification criteria and the degree of local financial commitment, as required under this subsection.

“(4) IMPACT REPORT.—

“(A) IN GENERAL.—Not later than 240 days after the date of enactment of the Federal Public Transportation Act of 2004, the Federal Transit Administration shall submit a report on the methodology to be used in evaluating the land use and economic development impacts of non-fixed guideway or partial fixed guideway projects to—

“(i) the Committee on Banking, Housing, and Urban Affairs of the Senate; and

“(ii) the Committee on Transportation and Infrastructure of the House of Representatives.

“(B) CONTENTS.—The report submitted under subparagraph (A) shall address any qualitative and quantitative differences between fixed guideway and non-fixed guideway projects with respect to land use and economic development impacts.

“(5) REGULATIONS.—Not later than 120 days after the date of enactment of the Federal Public Transportation Act of 2004, the Secretary shall issue regulations establishing an evaluation and rating process for proposed projects under this subsection that is based on the results of project justification and local financial commitment, as required under this subsection.”

(g) FULL FUNDING GRANT AGREEMENTS.—Section 5309(g)(2) is amended by adding at the end the following:

“(C) BEFORE AND AFTER STUDY.—

“(i) IN GENERAL.—Each full funding grant agreement shall require the applicant to conduct a study that—

“(I) describes and analyzes the impacts of the new start project on transit services and transit ridership;

“(II) evaluates the consistency of predicted and actual project characteristics and performance; and

“(III) identifies sources of differences between predicted and actual outcomes.

“(ii) INFORMATION COLLECTION AND ANALYSIS PLAN.—

“(I) SUBMISSION OF PLAN.—Applicants seeking a full funding grant agreement shall submit a complete plan for the collection and analysis of information to identify the impacts of the new start project and the accuracy of the forecasts prepared during the development of the project. Preparation of this plan shall be included in the full funding grant agreement as an eligible activity.

“(II) CONTENTS OF PLAN.—The plan submitted under subsection (I) shall provide for—

“(aa) the collection of data on the current transit system regarding transit service levels and ridership patterns, including origins and destinations, access modes, trip purposes, and rider characteristics;

“(bb) documentation of the predicted scope, service levels, capital costs, operating costs, and ridership of the project;

“(cc) collection of data on the transit system 2 years after the opening of the new start project, including analogous information on transit service levels and ridership patterns and information on the as-built scope and capital costs of the new start project; and

“(dd) analysis of the consistency of predicted project characteristics with the after data.

“(D) COLLECTION OF DATA ON CURRENT SYSTEM.—To be eligible for a full funding grant agreement, recipients shall have collected data on the current system, according to the plan required, before the beginning of construction of the proposed new start project. Collection of this data shall be included in the full funding grant agreement as an eligible activity.

“(E) PUBLIC PRIVATE PARTNERSHIP PILOT PROGRAM.—

“(i) AUTHORIZATION.—The Secretary may establish a pilot program to demonstrate the advantages of public-private partnerships for certain fixed guideway systems development projects.

“(ii) IDENTIFICATION OF QUALIFIED PROJECTS.—The Secretary shall identify qualified public-private partnership projects as permitted by applicable State and local enabling laws and work with project sponsors to enhance project delivery and reduce overall costs.”

(h) FEDERAL SHARE OF NET PROJECT COST.—Section 5309(h) is amended to read as follows:

“(h) FEDERAL SHARE OF ADJUSTED NET PROJECT COST.—

“(1) IN GENERAL.—The Secretary shall estimate the net project cost based on engineering studies, studies of economic feasibility, and information on the expected use of equipment or facilities.

“(2) ADJUSTMENT FOR COMPLETION UNDER BUDGET.—The Secretary may adjust the final net project cost of a major capital investment project evaluated under subsections (e) and (f) to include the cost of eligible activities not included in the originally defined project if the Secretary determines that the originally defined project has been completed at a cost that is significantly below the original estimate.

“(3) MAXIMUM FEDERAL SHARE.—

“(A) IN GENERAL.—A grant for the project shall be for 80 percent of the net project cost, or the net project cost as adjusted under paragraph (2), unless the grant recipient requests a lower grant percentage.

“(B) EXCEPTIONS.—The Secretary may provide a higher grant percentage than requested by the grant recipient if—

“(i) the Secretary determines that the net project cost of the project is not more than 10 percent higher than the net project cost estimated at the time the project was approved for advancement into preliminary engineering; and

“(ii) the ridership estimated for the project is not less than 90 percent of the ridership estimated for the project at the time the project was approved for advancement into preliminary engineering.

“(4) OTHER SOURCES.—The costs not funded by a grant under this section may be funded from—

“(A) an undistributed cash surplus;

“(B) a replacement or depreciation cash fund or reserve; or

“(C) new capital, including any Federal funds that are eligible to be expended for transportation.

“(5) PLANNED EXTENSION TO FIXED GUIDEWAY SYSTEM.—In addition to amounts allowed under paragraph (1), a planned extension to a fixed guideway system may include the cost of rolling stock previously purchased if the Secretary determines that only non-Federal funds were used and that the purchase was made for use on the extension. A refund or reduction of the costs not funded by a grant under this section may be made only if a refund of a proportional amount of the grant is made at the same time.

“(6) EXCEPTION.—The prohibitions on the use of funds for matching requirements under section 403(a)(5)(C)(vii) of the Social Security Act (42 U.S.C. 603(a)(5)(C)(vii)) shall not apply to amounts allowed under paragraph (4).”

(i) LOAN PROVISIONS AND FISCAL CAPACITY CONSIDERATIONS.—Section 5309 is amended—

(1) by striking subsections (i), (j), (k), and (l);

(2) by redesignating subsections (m) and (n) as subsections (i) and (j), respectively;

(3) by striking subsection (o) (as added by section 3009(i) of the Federal Transit Act of 1998); and

(4) by redesignating subsections (o) and (p) as subsections (k) and (l), respectively.

(j) ALLOCATING AMOUNTS.—Section 5309(i), as redesignated, is amended to read as follows:

“(1) ALLOCATING AMOUNTS.—

“(1) FISCAL YEAR 2004.—Of the amounts made available or appropriated for fiscal year 2004 under section 5338(a)(3)—

“(A) \$1,315,983,615 shall be allocated for projects of not less than \$75,000,000 for major capital projects for new fixed guideway systems and extensions of such systems under subsection (e) and projects for new fixed guideway or corridor improvement capital projects under subsection (f);

“(B) \$1,199,387,615 shall be allocated for capital projects for fixed guideway modernization; and

“(C) \$603,617,520 shall be allocated for capital projects for buses and bus-related equipment and facilities.

“(2) IN GENERAL.—Of the amounts made available or appropriated for fiscal year 2005 and each fiscal year thereafter for grants under this section pursuant to subsections (b)(4) and (c) of section 5338—

“(A) the amounts appropriated under section 5338(c) shall be allocated for major capital projects for—

“(i) new fixed guideway systems and extensions of not less than \$75,000,000, in accordance with subsection (e); and

“(ii) projects for new fixed guideway or corridor improvement capital projects, in accordance with subsection (f); and

“(B) the amounts made available under section 5338(b)(4) shall be allocated for cap-

ital 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 than 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.”

(k) REPORTS.—Section 5309 is amended by inserting at the end the following:

“(m) REPORTS.—

“(1) ANNUAL REPORT ON FUNDING RECOMMENDATIONS.—

“(A) IN GENERAL.—Not later than the first Monday of February of each year, the Secretary shall submit a report on funding recommendations to—

“(i) the Committee on Transportation and Infrastructure of the House of Representatives;

“(ii) the Committee on Banking, Housing, and Urban Affairs of the Senate;

“(iii) the Subcommittee on Transportation of the Committee on Appropriations of the House of Representatives; and

“(iv) the Subcommittee on Transportation of the Committee on Appropriations of the Senate.

“(B) CONTENTS.—The report submitted under subparagraph (A) shall contain—

“(i) a proposal on the allocation of amounts to finance grants for capital investment projects among grant applicants;

“(ii) a recommendation of projects to be funded based on—

“(I) the evaluations and ratings determined under subsection (e) and (f); and

“(II) existing commitments and anticipated funding levels for the subsequent 3 fiscal years; and

“(iii) detailed ratings and evaluations on each project recommended for funding.

“(2) TRIENNIAL REPORTS ON PROJECT RATINGS.—

“(A) IN GENERAL.—Not later than the first Monday of February, the first Monday of June, and the first Monday of October of each year, the Secretary shall submit a report on project ratings to—

“(i) the Committee on Transportation and Infrastructure of the House of Representatives;

“(ii) the Committee on Banking, Housing, and Urban Affairs of the Senate;

“(iii) the Subcommittee on Transportation of the Committee on Appropriations of the House of Representatives; and

“(iv) the Subcommittee on Transportation of the Committee on Appropriations of the Senate.

“(B) CONTENTS.—Each report submitted under subparagraph (A) shall contain—

“(i) a summary of the ratings of all capital investment projects for which funding was requested under this section;

“(ii) detailed ratings and evaluations on the project of each applicant that had significant changes to the finance or project proposal or has completed alternatives analysis or preliminary engineering since the date of the latest report; and

“(iii) all relevant information supporting the evaluation and rating of each updated project, including a summary of the financial plan of each updated project.

“(3) BEFORE AND AFTER STUDY REPORTS.—Not later than the first Monday of August of each year, the Secretary shall submit a report containing a summary of the results of the studies conducted under subsection (g)(2) to—

“(A) the Committee on Transportation and Infrastructure of the House of Representatives;

“(B) the Committee on Banking, Housing, and Urban Affairs of the Senate;

“(C) the Subcommittee on Transportation of the Committee on Appropriations of the House of Representatives; and

“(D) the Subcommittee on Transportation of the Committee on Appropriations of the Senate.

“(4) CONTRACTOR PERFORMANCE ASSESSMENT REPORT.—

“(A) IN GENERAL.—Not later than 180 days after the enactment of the Federal Public Transportation Act of 2004, and each year thereafter, the Secretary shall submit a report analyzing the consistency and accuracy of cost and ridership estimates made by each contractor to public transportation agencies developing major investment projects to the committees and subcommittees listed under paragraph (3).

“(B) CONTENTS.—The report submitted under subparagraph (A) shall compare the cost and ridership estimates made at the time projects are approved for entrance into preliminary engineering with—

“(i) estimates made at the time projects are approved for entrance into final design;

“(ii) costs and ridership when the project commences revenue operation; and

“(iii) costs and ridership when the project has been in operation for 2 years.

“(5) ANNUAL GENERAL ACCOUNTING OFFICE REVIEW.—

“(A) REVIEW.—The Comptroller General of the United States shall conduct an annual review of the processes and procedures for evaluating and rating projects and recommending projects and the Secretary's implementation of such processes and procedures.

“(B) REPORT.—Not later than 90 days after the submission of each report required under paragraph (1), the Comptroller General shall submit a report to Congress that summarizes the results of the review conducted under subparagraph (A).

“(6) CONTRACTOR PERFORMANCE INCENTIVE REPORT.—Not later than 180 days after the enactment of the Federal Public Transportation Act of 2004, the Secretary shall submit a report to the committees and subcommittees listed under paragraph (3) on the suitability of allowing contractors to public transportation agencies that undertake major capital investments under this section to receive performance incentive awards if a project is completed for less than the original estimated cost.”.

(I) RESTRICTIONS ON USE OF BUS CATEGORY FUNDS FOR FIXED GUIDEWAY PROJECTS.—

(1) IN GENERAL.—Funds provided to grantees under the bus and bus facility category

for fixed guideway ferry and gondola projects in the Department of Transportation and Related Agencies Appropriations Acts for any of fiscal years 1998 through 2004, or accompanying committee reports, that remain available and unobligated may be used for fixed guideway projects under section 5309 of title 49, United States Code.

(2) NEW FUNDS.—Grantees who received funds under paragraph (1) may use new Federal transit assistance provided under the bus and bus facility category for fixed guideway projects under such section 5309.

SEC. 3012. NEW FREEDOM FOR ELDERLY PERSONS AND PERSONS WITH DISABILITIES.

(a) IN GENERAL.—Section 5310 is amended to read as follows:

“§ 5310. New freedom for elderly persons and persons with disabilities

“(a) GENERAL AUTHORITY.—

“(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, 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) 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.

“(2) REMAINING COSTS.—The costs of a capital project under this section that are not funded through a grant under this section—

“(A) may be funded from an undistributed cash surplus, a replacement or depreciation

cash fund or reserve, a service agreement with a State or local social service agency or a private social service organization, or new capital; and

“(B) may be derived from amounts appropriated to or made available to any Federal agency (other than the Department of Transportation, except for Federal Lands Highway funds) that are eligible to be expended for transportation.

“(3) EXCEPTION.—For purposes of paragraph (2), the prohibitions on the use of funds for matching requirements under section 403(a)(5)(C)(vii) of the Social Security Act (42 U.S.C. 603(a)(5)(C)(vii)) shall not apply to Federal or State funds to be used for transportation purposes.

“(d) GRANT REQUIREMENTS.—

“(1) IN GENERAL.—A grant recipient under this section shall be subject to the requirements of a grant recipient under section 5307 to the extent the Secretary determines to be appropriate.

“(2) CERTIFICATION REQUIREMENTS.—

“(A) FUND TRANSFERS.—A grant recipient under this section that transfers funds to a project funded under section 5336 in accordance with subsection (b)(2) shall certify that the project for which the funds are requested has been coordinated with private nonprofit providers of services under this section.

“(B) PROJECT SELECTION AND PLAN DEVELOPMENT.—Each grant recipient under this section shall certify that—

“(i) the projects selected were derived from a locally developed, coordinated public transit-human services transportation plan; and

“(ii) the plan was developed through a process that included representatives of public, private, and nonprofit transportation and human services providers and participation by the public.

“(C) ALLOCATIONS TO SUBRECIPIENTS.—Each grant recipient under this section shall certify that allocations of the grant to subrecipients, if any, are distributed on a fair and equitable basis.

“(e) STATE PROGRAM OF PROJECTS.—

“(1) SUBMISSION TO SECRETARY.—Each State shall annually submit a program of transportation projects to the Secretary for approval with an assurance that the program provides for maximum feasible coordination between transportation services funded under this section and transportation services assisted by other Federal sources.

“(2) USE OF FUNDS.—Each State may use amounts made available to carry out this section to provide transportation services for elderly individuals and individuals with disabilities if such services are included in an approved State program of projects.

“(f) LEASING VEHICLES.—Vehicles acquired under this section may be leased to local governmental authorities to improve transportation services designed to meet the needs of elderly individuals and individuals with disabilities.

“(g) MEAL DELIVERY FOR HOMEBOUND INDIVIDUALS.—Public transportation service providers receiving assistance under this section or section 5311(c) may coordinate and assist in regularly providing meal delivery service for homebound individuals if the delivery service does not conflict with providing public transportation service or reduce service to public transportation passengers.

“(h) TRANSFERS OF FACILITIES AND EQUIPMENT.—With the consent of the recipient in possession of a facility or equipment acquired with a grant under this section, a State may transfer the facility or equipment to any recipient eligible to receive assistance under this chapter if the facility or equipment will continue to be used as required under this section.

“(i) FARES NOT REQUIRED.—This section does not require that elderly individuals and

individuals with disabilities be charged a fare.”.

(b) CONFORMING AMENDMENT.—The item relating to section 5310 in the table of sections for chapter 53 is amended to read as follows: “5310. New freedom for elderly persons and persons with disabilities.”.

SEC. 3013. FORMULA GRANTS FOR OTHER THAN URBANIZED AREAS.

(a) DEFINITIONS.—Section 5311(a) is amended to read as follows:

“(a) DEFINITIONS.—As used in this section, the following definitions shall apply:

“(1) RECIPIENT.—The term ‘recipient’ means a State or Indian tribe that receives a Federal transit program grant directly from the Federal Government.

“(2) SUBRECIPIENT.—The term ‘subrecipient’ means a State or local governmental authority, a nonprofit organization, or a private operator of public transportation or intercity bus service that receives Federal transit program grant funds indirectly through a recipient.”.

(b) GENERAL AUTHORITY.—Section 5311(b) is amended—

(1) by amending paragraph (1) to read as follows:

“(1) GRANTS AUTHORIZED.—Except as provided under paragraph (2), the Secretary may award grants under this section to recipients located in areas other than urbanized areas for—

“(A) public transportation capital projects;“(B) operating costs of equipment and facilities for use in public transportation; and“(C) the acquisition of public transportation services.”;

(2) by redesignating paragraph (2) as paragraph (3);

(3) by inserting after paragraph (1) the following:

“(2) STATE PROGRAM.—

“(A) IN GENERAL.—A project eligible for a grant under this section shall be included in a State program for public transportation service projects, including agreements with private providers of public transportation service.

“(B) SUBMISSION TO SECRETARY.—Each State shall annually submit the program described in subparagraph (A) to the Secretary.

“(C) APPROVAL.—The Secretary may not approve the program unless the Secretary determines that—

“(i) the program provides a fair distribution of amounts in the State; and

“(ii) the program provides the maximum feasible coordination of public transportation service assisted under this section with transportation service assisted by other Federal sources.”;

(4) in paragraph (3), as redesignated—

(A) by striking “(3) The Secretary of Transportation” and inserting the following:

“(3) RURAL TRANSPORTATION ASSISTANCE PROGRAM.—

“(A) ESTABLISHMENT.—The Secretary”;

(B) by striking “make” and inserting “use not more than 2 percent of the amount made available to carry out this section to award”; and

(C) by adding at the end the following:

“(B) DATA COLLECTION.—

“(i) REPORT.—Each grantee under this section shall submit an annual report to the Secretary containing information on capital investment, operations, and service provided with funds received under this section, including—

“(I) total annual revenue;

“(II) sources of revenue;

“(III) total annual operating costs;

“(IV) total annual capital costs;

“(V) fleet size and type, and related facilities;

“(VI) revenue vehicle miles; and

“(VII) ridership.”; and

(5) by adding after paragraph (3) the following:

“(4) Of the amount made available to carry out paragraph (3)—

“(A) not more than 15 percent may be used to carry out projects of a national scope; and

“(B) any amounts not used under subparagraph (A) shall be allocated to the States.”.

(c) APPORTIONMENTS.—Section 5311(c) is amended to read as follows:

“(c) APPORTIONMENTS.—

“(1) PUBLIC TRANSPORTATION ON INDIAN RESERVATIONS.—Of the amounts made available or appropriated for each fiscal year pursuant to subsections (a)(1)(C)(v) and (b)(2)(F) of section 5338, the following amounts shall be apportioned for grants to Indian tribes for any purpose eligible under this section, under such terms and conditions as may be established by the Secretary:

“(A) \$6,000,000 for fiscal year 2005.

“(B) \$8,000,000 for fiscal year 2006.

“(C) \$10,000,000 for fiscal year 2007.

“(D) \$12,000,000 for fiscal year 2008.

“(E) \$15,000,000 for fiscal year 2009.

“(2) REMAINING AMOUNTS.—Of the amounts made available or appropriated for each fiscal year pursuant to subsections (a)(1)(C)(v) and (b)(2)(F) of section 5338 that are not apportioned under paragraph (1)—

“(A) 20 percent shall be apportioned to the States in accordance with paragraph (3); and

“(B) 80 percent shall be apportioned to the States in accordance with paragraph (4).

“(3) APPORTIONMENTS BASED ON LAND AREA IN NONURBANIZED AREAS.—

“(A) IN GENERAL.—Subject to subparagraph (B), each State shall receive an amount that is equal to the amount apportioned under paragraph (2)(A) multiplied by the ratio of the land area in areas other than urbanized areas in that State and divided by the land area in all areas other than urbanized areas in the United States, as shown by the most recent decennial census of population.

“(B) MAXIMUM APPORTIONMENT.—No State shall receive more than 5 percent of the amount apportioned under this paragraph.

“(4) APPORTIONMENTS BASED ON POPULATION IN NONURBANIZED AREAS.—Each State shall receive an amount equal to the amount apportioned under paragraph (2)(B) multiplied by the ratio of the population of areas other than urbanized areas in that State divided by the population of all areas other than urbanized areas in the United States, as shown by the most recent decennial census of population.”.

(d) USE FOR ADMINISTRATIVE, PLANNING, AND TECHNICAL ASSISTANCE.—Section 5311(e) is amended—

(1) by striking “AND TECHNICAL ASSISTANCE.—(1) The Secretary of Transportation” and inserting “, PLANNING, AND TECHNICAL ASSISTANCE.—The Secretary”;

(2) by striking “to a recipient”; and

(3) by striking paragraph (2).

(e) INTERCITY BUS TRANSPORTATION.—Section 5311(f) is amended—

(1) in paragraph (1)—

(A) by striking “(1)” and inserting the following:

“(1) IN GENERAL.—”; and

(B) by striking “after September 30, 1993.”; and

(2) in paragraph (2)—

(A) by striking “A State” and inserting “After consultation with affected intercity bus service providers, a State”; and

(B) by striking “of Transportation”.

(f) FEDERAL SHARE OF COSTS.—Section 5311(g) is amended to read as follows:

“(g) FEDERAL SHARE OF COSTS.—

“(1) MAXIMUM FEDERAL SHARE.—

“(A) CAPITAL PROJECTS.—

“(i) IN GENERAL.—Except as provided under clause (ii), a grant awarded under this sec-

tion for any purpose other than operating assistance may not exceed 80 percent of the net capital costs of the project, as determined by the Secretary.

“(ii) EXCEPTION.—A State described in section 120(d) of title 23 shall receive a Federal share of the net capital costs in accordance with the formula under that section.

“(B) OPERATING ASSISTANCE.—

“(i) IN GENERAL.—Except as provided under clause (ii), 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.

“(ii) EXCEPTION.—A State described in section 120(d) of title 23 shall receive a Federal share of the net operating costs equal to 62.5 percent of the Federal share provided for under subparagraph (A)(ii).

“(2) OTHER FUNDING SOURCES.—Funds for a project under this section that are not provided for by a grant under this section—

“(A) may be provided from—

“(i) an undistributed cash surplus;

“(ii) a replacement or depreciation cash fund or reserve;

“(iii) a service agreement with a State or local social service agency or a private social service organization; or

“(iv) new capital; and

“(B) may be derived from amounts appropriated to or made available to a Federal agency (other than the Department of Transportation, except for Federal Land Highway funds) that are eligible to be expended for transportation.

“(3) USE OF FEDERAL GRANT.—A State carrying out a program of operating assistance under this section may not limit the level or extent of use of the Federal grant for the payment of operating expenses.

“(4) EXCEPTION.—For purposes of paragraph (2)(B), the prohibitions on the use of funds for matching requirements under section 403(a)(5)(c)(vii) of the Social Security Act (42 U.S.C. 603(a)(5)(c)(vii)) shall not apply to Federal or State funds to be used for transportation purposes.”.

(g) WAIVER CONDITION.—Section 5311(j)(1) is amended by striking “but the Secretary of Labor may waive the application of section 5333(b)” and inserting “if the Secretary of Labor utilizes a Special Warranty that provides a fair and equitable arrangement to protect the interests of employees”.

SEC. 3014. RESEARCH, DEVELOPMENT, DEMONSTRATION, AND DEPLOYMENT PROJECTS.

(a) IN GENERAL.—Section 5312 is amended—

(1) by amending subsection (a) to read as follows:

“(a) RESEARCH, DEVELOPMENT, AND DEMONSTRATION PROJECTS.—

“(1) IN GENERAL.—The Secretary may make grants, contracts, cooperative agreements, or other transactions (including agreements with departments, agencies, and instrumentalities of the United States Government) for research, development, demonstration or deployment projects, or evaluation of technology of national significance to public transportation that the Secretary determines will improve public transportation service or help public transportation service meet the total transportation needs at a minimum cost.

“(2) INFORMATION.—The Secretary may request and receive appropriate information from any source.

“(3) SAVINGS PROVISION.—This subsection does not limit the authority of the Secretary under any other law.”;

(2) by striking subsections (b) and (c);

(3) by redesignating subsections (d) and (e) as (b) and (c), respectively.

(4) in subsection (b), as redesignated—

(A) in paragraph (2), by striking "other agreements" and inserting "other transactions"; and

(B) in paragraph (5), by striking "within the Mass Transit Account of the Highway Trust Fund"; and

(5) in subsection (c), as redesignated—

(A) in paragraph (2), by striking "public and private" and inserting "public or private"; and

(B) in paragraph (3), by striking "within the Mass Transit Account of the Highway Trust Fund".

(b) CONFORMING AMENDMENTS.—

(1) SECTION HEADING.—The heading of section 5312 is amended to read as follows:

"§ 5312. Research, development, demonstration, and deployment projects".

(2) TABLE OF SECTIONS.—The item relating to section 5312 in the table of sections for chapter 53 is amended to read as follows:

"5312. Research, development, demonstration, and deployment projects."

SEC. 3015. TRANSIT COOPERATIVE RESEARCH PROGRAM.

(a) IN GENERAL.—Section 5313 is amended—

(1) by striking subsection (b);

(2) in subsection (a)—

(A) in paragraph (1), by striking "(1) The amounts made available under paragraphs (1) and (2)(C)(ii) of section 5338(c) of this title" and inserting "The amounts made available under subsections (a)(5)(C)(iii) and (b)(2)(G)(i) of section 5338"; and

(B) in paragraph (2), by striking "(2)" and inserting the following:

"(b) FEDERAL ASSISTANCE.—"; and

(3) by amending subsection (c) to read as follows:

"(c) FEDERAL SHARE.—If there would be a clear and direct financial benefit to an entity under a grant or contract financed under this section, the Secretary shall establish a Federal share consistent with such benefit."

(b) CONFORMING AMENDMENTS.—

(1) SECTION HEADING.—The heading of section 5313 is amended to read as follows:

"§ 5313. Transit cooperative research program".

(2) TABLE OF SECTIONS.—The item relating to section 5313 in the table of sections for chapter 53 is amended to read as follows:

"5313. Transit cooperative research program."

SEC. 3016. NATIONAL RESEARCH PROGRAMS.

(a) IN GENERAL.—Section 5314 is amended—

(1) in subsection (a)—

(A) by amending paragraph (1) to read as follows:

"(1) AVAILABILITY OF FUNDS.—The Secretary may use amounts made available under subsections (a)(5)(C)(iv) and (b)(2)(G)(iv) of section 5338 for grants, contracts, cooperative agreements, or other transactions for the purposes described in sections 5312, 5315, and 5322.";

(B) in paragraph (2), by striking "(2) Of" and inserting the following:

"(2) ADA COMPLIANCE.—From";

(C) by amending paragraph (3) to read as follows:

"(3) SPECIAL DEMONSTRATION INITIATIVES.—The Secretary may use not more than 25 percent of the amounts made available under paragraph (1) for special demonstration initiatives, subject to terms that the Secretary determines to be consistent with this chapter. For a nonrenewable grant of not more than \$100,000, the Secretary shall provide expedited procedures for complying with the requirements of this chapter.";

(D) in paragraph (4)—

(i) by striking subparagraph (B); and

(ii) by redesignating subparagraph (C) as subparagraph (B); and

(E) by adding at the end the following:

"(6) MEDICAL TRANSPORTATION DEMONSTRATION GRANTS.—

"(A) GRANTS AUTHORIZED.—The Secretary may award demonstration grants, from funds made available under paragraph (1), to eligible entities to provide transportation services to individuals to access dialysis treatments and other medical treatments for renal disease.

"(B) ELIGIBLE ENTITIES.—An entity shall be eligible to receive a grant under this paragraph if the entity—

"(i) meets the conditions described in section 501(c)(3) of the Internal Revenue Code of 1986; or

"(ii) is an agency of a State or unit of local government.

"(C) USE OF FUNDS.—Grant funds received under this paragraph may be used to provide transportation services to individuals to access dialysis treatments and other medical treatments for renal disease.

"(D) APPLICATION.—

"(i) IN GENERAL.—Each eligible entity desiring a grant under this paragraph shall submit an application to the Secretary at such time, at such place, and containing such information as the Secretary may reasonably require.

"(ii) SELECTION OF GRANTEES.—In awarding grants under this paragraph, the Secretary shall give preference to eligible entities from communities with—

"(I) high incidence of renal disease; and

"(II) limited access to dialysis facilities.

"(E) RULEMAKING.—The Secretary shall issue regulations to implement and administer the grant program established under this paragraph.

"(F) REPORT.—The Secretary shall submit a report on the results of the demonstration projects funded under this paragraph to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.";

(2) by amending subsection (b) to read as follows:

"(b) FEDERAL SHARE.—If there would be a clear and direct financial benefit to an entity under a grant, contract, cooperative agreement, or other transaction financed under subsection (a) or section 5312, 5313, 5315, or 5322, the Secretary shall establish a Federal share consistent with such benefit."

(c) NATIONAL TECHNICAL ASSISTANCE CENTER FOR SENIOR TRANSPORTATION; ALTERNATIVE FUELS STUDY.—Section 5314 is amended by adding at the end the following:

"(c) NATIONAL TECHNICAL ASSISTANCE CENTER FOR SENIOR TRANSPORTATION.—

"(1) ESTABLISHMENT.—The Secretary shall award grants 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 under this paragraph may be used to—

"(i) evaluate the state of transportation services for senior citizens;

"(ii) recognize barriers to mobility that senior citizens encounter in their communities;

"(iii) establish partnerships and promote coordination among community stakeholders, including public, not-for-profit, and for-profit providers of transportation services for senior citizens;

"(iv) identify future transportation needs of senior citizens within local communities; and

"(v) establish strategies to meet the unique needs of healthy and frail senior citizens.

"(C) SELECTION OF GRANTEES.—The Secretary shall select grantees under this subsection based on a fair representation of various geographical locations throughout the United States.

"(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, \$3,000,000 shall be allocated to carry out this subsection.

"(d) ALTERNATIVE FUELS STUDY.—

"(1) STUDY.—The Secretary shall conduct a study of the actions necessary to facilitate the purchase of increased volumes of alternative fuels (as defined in section 301 of the Energy Policy Act of 1992 (42 U.S.C. 13211)) for use in public transit vehicles

"(2) SCOPE OF STUDY.—The study conducted under this subsection shall focus on the incentives necessary to increase the use of alternative fuels in public transit vehicles, including buses, fixed guideway vehicles, and ferries.

"(3) CONTENTS.—The study shall consider—

"(A) the environmental benefits of increased use of alternative fuels in transit vehicles;

"(B) existing opportunities available to transit system operators that encourage the purchase of alternative fuels for transit vehicle operation;

"(C) existing barriers to transit system operators that discourage the purchase of alternative fuels for transit vehicle operation, including situations where alternative fuels that do not require capital improvements to transit vehicles are disadvantaged over fuels that do require such improvements; and

"(D) the necessary levels and type of support necessary to encourage additional use of alternative fuels for transit vehicle operation.

“(4) RECOMMENDATIONS.—The study shall recommend regulatory and legislative alternatives that will result in the increased use of alternative fuels in transit vehicles.

“(5) REPORT.—Not later than 1 year after the date of enactment of the Federal Public Transportation Act of 2004, the Secretary shall submit the study completed under this subsection to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives”.

(C) CONFORMING AMENDMENTS.—

(1) SECTION HEADING.—The heading for section 5314 is amended to read as follows:

“§ 5314. National research programs”.

(2) TABLE OF SECTIONS.—The item relating to section 5314 in the table of sections for chapter 53 is amended to read as follows:

“5314. National research programs.”.

SEC. 3017. NATIONAL TRANSIT INSTITUTE.

(a) Section 5315 is amended—

(1) by striking subsections (a) and (b) and inserting the following:

“(a) ESTABLISHMENT.—The Secretary shall award a grant to Rutgers University to conduct a national transit institute.

“(b) DUTIES.—

“(1) IN GENERAL.—In cooperation with the Federal Transit Administration, State transportation departments, public transportation authorities, and national and international entities, the institute established pursuant to subsection (a) shall develop and conduct training programs for Federal, State, and local transportation employees, United States citizens, and foreign nationals engaged or to be engaged in Government-aid public transportation work.

“(2) TRAINING PROGRAMS.—The training programs developed under paragraph (1) may include courses in recent developments, techniques, and procedures related to—

“(A) intermodal and public transportation planning;

“(B) management;

“(C) environmental factors;

“(D) acquisition and joint use rights of way;

“(E) engineering and architectural design;

“(F) procurement strategies for public transportation systems;

“(G) turnkey approaches to delivering public transportation systems;

“(H) new technologies;

“(I) emission reduction technologies;

“(J) ways to make public transportation accessible to individuals with disabilities;

“(K) construction, construction management, insurance, and risk management;

“(L) maintenance;

“(M) contract administration;

“(N) inspection;

“(O) innovative finance;

“(P) workplace safety; and

“(Q) public transportation security.”; and

(2) in subsection (d), by striking “mass” each place it appears.

SEC. 3018. BUS TESTING FACILITY.

Section 5318 is amended—

(1) in subsection (a)—

(A) by striking “ESTABLISHMENT.—The Secretary of Transportation shall establish one facility” and inserting “IN GENERAL.—The Secretary shall maintain 1 facility”; and

(B) by striking “established by renovating” and inserting “maintained at”; and

(2) in subsection (d), by striking “section 5309(m)(1)(C) of this title” and inserting “paragraphs (1)(C) and (2)(B) of section 5309(i)”.

SEC. 3019. BICYCLE FACILITIES.

Section 5319 is amended by striking “5307(k)” and inserting “5307(d)(1)(K)”.

SEC. 3020. SUSPENDED LIGHT RAIL TECHNOLOGY PILOT PROJECT.

Section 5320 is repealed.

SEC. 3021. CRIME PREVENTION AND SECURITY.

Section 5321 is repealed.

SEC. 3022. GENERAL PROVISIONS ON ASSISTANCE.

Section 5323 is amended—

(1) in subsection (a)—

(A) by amending paragraph (1) to read as follows:

“(1) IN GENERAL.—Financial assistance provided under this chapter to a State or a local governmental authority may be used to acquire an interest in, or to buy property of, a private company engaged in public transportation, for a capital project for property acquired from a private company engaged in public transportation after July 9, 1964, or to operate a public transportation facility or equipment in competition with, or in addition to, transportation service provided by an existing public transportation company, only if—

“(A) the Secretary determines that such financial assistance is essential to a program of projects required under sections 5303, 5304, and 5306;

“(B) the Secretary determines that the program provides for the participation of private companies engaged in public transportation to the maximum extent feasible; and

“(C) just compensation under State or local law will be paid to the company for its franchise or property.”; and

(B) in paragraph (2), by striking “(2)” and inserting the following:

“(2) LIMITATION.—”;

(2) by amending subsection (b) to read as follows:

“(b) NOTICE AND PUBLIC HEARING.—

“(1) IN GENERAL.—An application for a grant under this chapter for a capital project that will substantially affect a community, or the public transportation service of a community, shall include, in the environmental record for the project, evidence that the applicant has—

“(A) provided an adequate opportunity for public review and comment on the project;

“(B) held a public hearing on the project if the project affects significant economic, social, or environmental interests;

“(C) considered the economic, social, and environmental effects of the project; and

“(D) found that the project is consistent with official plans for developing the urban area.

“(2) CONTENTS OF NOTICE.—Notice of a hearing under this subsection—

“(A) shall include a concise description of the proposed project; and

“(B) shall be published in a newspaper of general circulation in the geographic area the project will serve.”;

(3) by amending subsection (c) to read as follows:

“(c) NEW TECHNOLOGY.—A grant for financial assistance under this chapter for new technology, including innovative or improved products, techniques, or methods, shall be subject to the requirements of section 5309 to the extent the Secretary determines to be appropriate.”;

(4) by amending subsection (d) to read as follows:

“(d) CONDITIONS ON BUS TRANSPORTATION SERVICE.—Financial assistance under this chapter may be used to buy or operate a bus only if the recipient agrees to comply with the following conditions on bus transportation service:

“(1) CHARTER BUS SERVICE.—

“(A) IN GENERAL.—Except as provided under subparagraph (B), a recipient may provide incidental charter bus service only within its lawful service area if—

“(i) the recipient annually publishes, by electronic and other appropriate means, a notice—

“(I) indicating its intent to offer incidental charter bus service within its lawful service area; and

“(II) soliciting notices from private bus operators that wish to appear on a list of carriers offering charter bus service in that service area;

“(ii) the recipient provides private bus operators with an annual opportunity to notify the recipient of its desire to appear on a list of carriers offering charter bus service in such service area;

“(iii) upon receiving a request for charter bus service, the recipient electronically notifies the private bus operators listed as offering charter service in that service area with the name and contact information of the requestor and the nature of the charter service request; and

“(iv) the recipient does not offer to provide charter bus service unless no private bus operator indicates that it is willing and able to provide the service within a 72-hour period after the receipt of such notice.

“(B) EXCEPTION.—A recipient that operates 2,000 or fewer vehicles in fixed-route peak hour service may provide incidental charter bus transportation directly to—

“(i) local governments; and

“(ii) social service entities with limited resources.

“(C) IRREGULARLY SCHEDULED EVENTS.—Service, other than commuter service, by a recipient to irregularly scheduled events, where the service is conducted in whole or in part outside the service area of the recipient, regardless of whether the service is contracted for individually with passengers, is subject to a rebuttable presumption that such service is charter service.

“(2) VIOLATION OF AGREEMENTS.—

“(A) COMPLAINTS.—A complaint regarding the violation of a charter bus service agreement shall be submitted to the Regional Administrator of the Federal Transit Administration, who shall—

“(i) provide a reasonable opportunity for the recipient to respond to the complaint;

“(ii) provide the recipient with an opportunity for an informal hearing; and

“(iii) issue a written decision not later than 60 days after the parties have completed their submissions.

“(B) APPEALS.—

“(i) IN GENERAL.—A decision by the Regional Administrator may be appealed to a panel comprised of the Federal Transit Administrator, personnel in the Office of the Secretary of Transportation, and other persons with expertise in surface passenger transportation issues.

“(ii) STANDARD OF REVIEW.—The panel described in clause (i) shall consider the complaint de novo on all issues of fact and law.

“(iii) WRITTEN DECISION.—The appeals panel shall issue a written decision on an appeal not later than 60 days after the completion of submissions. This decision shall be the final order of the agency and subject to judicial review in district court.

“(C) CORRECTION.—If the Secretary determines that a violation of an agreement relating to the provision of charter service has occurred, the Secretary shall correct the violation under terms of the agreement.

“(D) REMEDIES.—The Secretary may issue orders to recipients to cease and desist in actions that violate the agreement, and such orders shall be binding upon the parties. In addition to any remedy spelled out in the agreement, if a recipient has failed to correct a violation within 60 days after the receipt of a notice of violation from the Secretary, the Secretary shall withhold from the recipient the lesser of—

“(i) 5 percent of the financial assistance available to the recipient under this chapter for the next fiscal year; or

“(i) \$200,000.

“(3) REGULATIONS.—Not later than 1 year after the date of enactment of the Federal Public Transportation Act of 2004, the Secretary shall issue amended regulations that—

“(A) implement this subsection, as revised by such Act; and

“(B) impose restrictions, procedures, and remedies in connection with sightseeing service by a recipient.

“(4) PUBLIC NOTICE.—The Secretary shall make all written decisions, guidance, and other pertinent materials relating to the procedures in this subsection available to the public in electronic and other appropriate formats in a timely manner.”;

(5) by striking subsection (e);

(6) by redesignating subsection (f) as subsection (e);

(7) in subsection (e), as redesignated—

(A) by striking “(1)” and inserting the following:

“(1) IN GENERAL.—”;

(B) by striking paragraph (2);

(C) by striking “This subsection” and inserting the following:

“(2) EXCEPTIONS.—This subsection; and

(D) by adding at the end the following:

“(3) PENALTY.—If the Secretary determines that an applicant, governmental authority, or publicly owned operator has violated the agreement required under paragraph (1), the Secretary shall bar the applicant, authority, or operator from receiving Federal transit assistance in an amount the Secretary determines to be appropriate.”;

(8) by inserting after subsection (e) the following:

“(f) BOND PROCEEDS ELIGIBLE FOR LOCAL SHARE.—

“(1) IN GENERAL.—Notwithstanding any other provision of law, a recipient of assistance under section 5307 or 5309, may use the proceeds from the issuance of revenue bonds as part of the local matching funds for a capital project.

“(2) REIMBURSEMENT BY SECRETARY.—The Secretary may reimburse an eligible recipient for deposits of bond proceeds in a debt service reserve that the recipient established pursuant to section 5302(a)(1)(K) from amounts made available to the recipient under section 5307 or 5309.”;

(9) in subsection (g)—

(A) by striking “(f)” each place it appears and inserting “(e)”;

(B) by striking “103(e)(4) and 142 (a) or (c)” each place it appears and inserting “133 and 142”;

(10) by amending subsection (h) to read as follows:

“(h) TRANSFER OF LANDS OR INTERESTS IN LANDS OWNED BY THE UNITED STATES.—

(1) REQUEST BY SECRETARY.—If the Secretary determines that any part of the lands or interests in lands owned by the United States and made available as a result of a military base closure is necessary for transit purposes eligible under this chapter, including corridor preservation, the Secretary shall submit a request to the head of the Federal agency supervising the administration of such lands or interests in lands. Such request shall include a map showing the portion of such lands or interests in lands, which is desired to be transferred for public transportation purposes.

“(2) TRANSFER OF LAND.—If 4 months after submitting a request under paragraph (1), the Secretary does not receive a response from the Federal agency described in paragraph (1) that certifies that the proposed appropriation of land is contrary to the public interest or inconsistent with the purposes for which such land has been reserved, or if the head of such agency agrees to the utilization or transfer under conditions necessary

for the adequate protection and utilization of the reserve, such land or interests in land may be utilized or transferred to a State, local governmental authority, or public transportation operator for such purposes and subject to the conditions specified by such agency.

“(3) REVERSION.—If at any time the lands or interests in land utilized or transferred under paragraph (2) are no longer needed for public transportation purposes, the State, local governmental authority, or public transportation operator that received the land shall notify to the Secretary, and such lands shall immediately revert to the control of the head of the Federal agency from which the land was originally transferred.”;

(11) in subsection (j)(5), by striking “Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102-240, 105 Stat. 1914)” and inserting “Federal Public Transportation Act of 2004”;

(12) by amending subsection (l) to read as follows:

“(l) RELATIONSHIP TO OTHER LAWS.—Section 1001 of title 18 applies to a certificate, submission, or statement provided under this chapter. The Secretary may terminate financial assistance under this chapter and seek reimbursement directly, or by offsetting amounts, available under this chapter, if the Secretary determines that a recipient of such financial assistance has made a false or fraudulent statement or related act in connection with a Federal transit program.”;

(13) in subsection (m), by inserting at the end the following: “Requirements to perform preaward and postdelivery reviews of rolling stock purchases to ensure compliance with subsection (j) shall not apply to private nonprofit organizations or to grantees serving urbanized areas with a population of fewer than 1,000,000.”;

(14) in subsection (o), by striking “the Transportation Infrastructure Finance and Innovation Act of 1998” and inserting “sections 181 through 188 of title 23”;

(15) by adding at the end the following:

“(p) PROHIBITED USE OF FUNDS.—Grant funds received under this chapter may not be used to pay ordinary governmental or non-project operating expenses.”.

SEC. 3023. SPECIAL PROVISIONS FOR CAPITAL PROJECTS.

(a) IN GENERAL.—Section 5324 is amended to read as follows:

“§ 5324. Special provisions for capital projects

“(a) REAL PROPERTY AND RELOCATION SERVICES.—Whenever real property is acquired or furnished as a required contribution incident to a project, the Secretary shall not approve the application for financial assistance unless the applicant has made all payments and provided all assistance and assurances that are required of a State agency under sections 210 and 305 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4630 and 4655). The Secretary must be advised of specific references to any State law that are believed to be an exception to section 301 or 302 of such Act (42 U.S.C. 4651 and 4652).

“(b) ADVANCE REAL PROPERTY ACQUISITIONS.—

(1) IN GENERAL.—The Secretary may participate in the acquisition of real property for any project that may use the property if the Secretary determines that external market forces are jeopardizing the potential use of the property for the project and if—

“(A) there are offers on the open real estate market to convey that property for a use that is incompatible with the project under study;

“(B) there is an imminent threat of development or redevelopment of the property for a use that is incompatible with the project under study;

“(C) recent appraisals reflect a rapid increase in the fair market value of the property;

“(D) the property, because it is located near an existing transportation facility, is likely to be developed and to be needed for a future transportation improvement; or

“(E) the property owner can demonstrate that, for health, safety, or financial reasons, retaining ownership of the property poses an undue hardship on the owner in comparison to other affected property owners and requests the acquisition to alleviate that hardship.

“(2) ENVIRONMENTAL REVIEWS.—Property acquired in accordance with this subsection may not be developed in anticipation of the project until all required environmental reviews for the project have been completed.

“(3) LIMITATION.—The Secretary shall limit the size and number of properties acquired under this subsection as necessary to avoid any prejudice to the Secretary’s objective evaluation of project alternatives.

“(4) EXEMPTION.—An acquisition under this section shall be considered an exempt project under section 176 of the Clean Air Act (42 U.S.C. 7506).

“(c) RAILROAD CORRIDOR PRESERVATION.—

(1) IN GENERAL.—The Secretary may assist an applicant to acquire railroad right-of-way before the completion of the environmental reviews for any project that may use the right-of-way if the acquisition is otherwise permitted under Federal law. The Secretary may establish restrictions on such an acquisition as the Secretary determines to be necessary and appropriate.

(2) ENVIRONMENTAL REVIEWS.—Railroad right-of-way acquired under this subsection may not be developed in anticipation of the project until all required environmental reviews for the project have been completed.

“(d) CONSIDERATION OF ECONOMIC, SOCIAL, AND ENVIRONMENTAL INTERESTS.—

(1) IN GENERAL.—The Secretary may not approve an application for financial assistance for a capital project under this chapter unless the Secretary determines that the project has been developed in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). The Secretary’s findings under this paragraph shall be made a matter of public record.

(2) COOPERATION AND CONSULTATION.—In carrying out section 5301(e), the Secretary shall cooperate and consult with the Secretary of the Interior and the Administrator of the Environmental Protection Agency on each project that may have a substantial impact on the environment.”.

(b) CONFORMING AMENDMENT.—The item relating to section 5324 in the table of sections for chapter 53 is amended to read as follows: “5324. Special provisions for capital projects.”.

SEC. 3024. CONTRACT REQUIREMENTS.

(a) IN GENERAL.—Section 5325 is amended to read as follows:

“§ 5325. Contract requirements

“(a) COMPETITION.—Recipients of assistance under this chapter shall conduct all procurement transactions in a manner that provides full and open competition as determined by the Secretary.

“(b) ARCHITECTURAL, ENGINEERING, AND DESIGN CONTRACTS.—

(1) IN GENERAL.—A contract or requirement for program management, architectural engineering, construction management, a feasibility study, and preliminary engineering, design, architectural, engineering, surveying, mapping, or related services for a project for which Federal assistance is provided under this chapter shall be awarded in the same manner as a contract for architectural and engineering services is negotiated under chapter 11 of title 40, or an

equivalent qualifications-based requirement of a State. This subsection does not apply to the extent a State has adopted or adopts by law a formal procedure for procuring those services.

“(2) **ADDITIONAL REQUIREMENTS.**—When awarding a contract described in paragraph (1), recipients of assistance under this chapter shall comply with the following requirements:

“(A) Any contract or subcontract awarded under this chapter shall be performed and audited in compliance with cost principles contained in part 31 of title 48, Code of Federal Regulations (commonly known as the Federal Acquisition Regulation).

“(B) A recipient of funds under a contract or subcontract awarded under this chapter shall accept indirect cost rates established in accordance with the Federal Acquisition Regulation for 1-year applicable accounting periods by a cognizant Federal or State government agency, if such rates are not currently under dispute.

“(C) After a firm’s indirect cost rates are accepted under subparagraph (B), the recipient of the funds shall apply such rates for the purposes of contract estimation, negotiation, administration, reporting, and contract payment, and shall not be limited by administrative or de facto ceilings.

“(D) A recipient requesting or using the cost and rate data described in subparagraph (C) shall notify any affected firm before such request or use. Such data shall be confidential and shall not be accessible or provided by the group of agencies sharing cost data under this subparagraph, except by written permission of the audited firm. If prohibited by law, such cost and rate data shall not be disclosed under any circumstances.

“(C) **EFFICIENT PROCUREMENT.**—A recipient may award a procurement contract under this chapter to other than the lowest bidder if the award furthers an objective consistent with the purposes of this chapter, including improved long-term operating efficiency and lower long-term costs.

“(d) **DESIGN-BUILD PROJECTS.**—

“(1) **DEFINED TERM.**—As used in this subsection, the term ‘design-build project’—

“(A) means a project under which a recipient enters into a contract with a seller, firm, or consortium of firms to design and build an operable segment of a public transportation system that meets specific performance criteria; and

“(B) may include an option to finance, or operate for a period of time, the system or segment or any combination of designing, building, operating, or maintaining such system or segment.

“(2) **FINANCIAL ASSISTANCE FOR CAPITAL COSTS.**—Federal financial assistance under this chapter may be provided for the capital costs of a design-build project after the recipient complies with Government requirements.

“(e) **ROLLING STOCK.**—

“(1) **ACQUISITION.**—A recipient of financial assistance under this chapter may enter into a contract to expend that assistance to acquire rolling stock—

“(A) with a party selected through a competitive procurement process; or

“(B) based on—

“(i) initial capital costs; or

“(ii) performance, standardization, life cycle costs, and other factors.

“(2) **MULTIYEAR CONTRACTS.**—A recipient procuring rolling stock with Federal financial assistance under this chapter may make a multiyear contract, including options, to buy not more than 5 years of requirements for rolling stock and replacement parts. The Secretary shall allow a recipient to act on a cooperative basis to procure rolling stock

under this paragraph and in accordance with other Federal procurement requirements.

“(f) **EXAMINATION OF RECORDS.**—Upon request, the Secretary and the Comptroller General, or any of their representatives, shall have access to and the right to examine and inspect all records, documents, and papers, including contracts, related to a project for which a grant is made under this chapter.

“(g) **GRANT PROHIBITION.**—A grant awarded under this chapter may not be used to support a procurement that uses an exclusionary or discriminatory specification.

“(h) **BUS DEALER REQUIREMENTS.**—No State law requiring buses to be purchased through in-State dealers shall apply to vehicles purchased with a grant under this chapter.

“(i) **AWARDS TO RESPONSIBLE CONTRACTORS.**—

“(1) **IN GENERAL.**—Federal financial assistance under this chapter may be provided for contracts only if a recipient awards such contracts to responsible contractors possessing the ability to successfully perform under the terms and conditions of a proposed procurement.

“(2) **CRITERIA.**—Before making an award to a contractor under paragraph (1), a recipient shall consider—

“(A) the integrity of the contractor;

“(B) the contractor’s compliance with public policy;

“(C) the contractor’s past performance, including the performance reported in the Contractor Performance Assessment Reports required under section 5309(m)(4); and

“(D) the contractor’s financial and technical resources.”.

(b) **CONFORMING AMENDMENTS.**—Chapter 53 is amended by striking section 5326.

SEC. 3025. PROJECT MANAGEMENT OVERSIGHT AND REVIEW.

(a) **PROJECT MANAGEMENT PLAN REQUIREMENTS.**—Section 5327(a) is amended—

(1) in paragraph (11), by striking “and” at the end;

(2) in paragraph (12), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following:

“(13) safety and security management.”.

(b) **LIMITATIONS ON USE OF AVAILABLE AMOUNTS.**—Section 5327(c) is amended—

(1) by amending paragraph (1) to read as follows:

“(1) **IN GENERAL.**—The Secretary may not use more than 1 percent of amounts made available for a fiscal year to carry out any of sections 5307 through 5311, 5316, or 5317, or a project under the National Capital Transportation Act of 1969 (Public Law 91-143) to make a contract to oversee the construction of major projects under any of sections 5307 through 5311, 5316, or 5317 or under that Act.”;

(2) in paragraph (2)—

(A) by striking “(2)” and inserting the following:

“(2) **OTHER ALLOWABLE USES.**—”; and

(B) by inserting “and security” after “safety”; and

(3) in paragraph (3), by striking “(3) The Government shall” and inserting the following:

“(3) **FEDERAL SHARE.**—Federal funds shall be used to”.

SEC. 3026. PROJECT REVIEW.

Section 5328 is amended—

(1) in subsection (a)—

(A) in paragraph (1) by striking “(1) When the Secretary of Transportation allows a new fixed guideway project to advance into the alternatives analysis stage of project review, the Secretary shall cooperate with the applicant” and inserting the following:

“(1) **ALTERNATIVES ANALYSIS.**—The Secretary shall cooperate with an applicant un-

dertaking an alternatives analysis under subsections (e) and (f) of section 5309”;

(B) in paragraph (2)—

(i) by striking “(2)” and inserting the following:

“(2) **ADVANCEMENT TO PRELIMINARY ENGINEERING STAGE.**—”; and

(ii) by striking “is consistent with” and inserting “meets the requirements of”;

(C) in paragraph (3)—

(i) by striking “(3)” and inserting the following:

“(3) **RECORD OF DECISION.**—”;

(ii) by striking “of construction”; and

(iii) by adding before the period at the end the following: “if the Secretary determines that the project meets the requirements of subsection (e) or (f) of section 5309”; and

(D) by striking paragraph (4); and

(2) by striking subsection (c).

SEC. 3027. INVESTIGATIONS OF SAFETY AND SECURITY RISK.

(a) **IN GENERAL.**—Section 5329 is amended to read as follows:

“§ 5329. Investigation of safety hazards and security risks

“(a) **IN GENERAL.**—The Secretary may conduct investigations into safety hazards and security risks associated with a condition in equipment, a facility, or an operation financed under this chapter to establish the nature and extent of the condition and how to eliminate, mitigate, or correct it.

“(b) **SUBMISSION OF CORRECTIVE PLAN.**—If the Secretary establishes that a safety hazard or security risk warrants further protective measures, the Secretary shall require the local governmental authority receiving amounts under this chapter to submit a plan for eliminating, mitigating, or correcting it.

“(c) **WITHHOLDING OF FUNDS.**—Financial assistance under this chapter, in an amount to be determined by the Secretary, may be withheld until a plan is approved and carried out.

“(d) **PUBLIC TRANSPORTATION SECURITY.**—

“(1) **IN GENERAL.**—Not later than 90 days after the date of enactment of the Federal Public Transportation Act of 2004, the Secretary shall enter into a memorandum of understanding with the Secretary of Homeland Security to define and clarify the respective roles and responsibilities of the Department of Transportation and the Department of Homeland Security relating to public transportation security.

“(2) **CONTENTS.**—The memorandum of understanding described in paragraph (1) shall—

“(A) establish national security standards for public transportation agencies;

“(B) establish funding priorities for grants from the Department of Homeland Security to public transportation agencies;

“(C) create a method of coordination with public transportation agencies on security matters; and

“(D) address any other issues determined to be appropriate by the Secretary and the Secretary of Homeland Security.”.

(b) **CONFORMING AMENDMENT.**—The item relating to section 5329 in the table of sections for chapter 53 is amended to read as follows:

“5329. Investigation of safety hazards and security risks.”.

SEC. 3028. STATE SAFETY OVERSIGHT.

(a) **IN GENERAL.**—Section 5330 is amended—

(1) by amending the heading to read as follows:

“§ 5330. Withholding amounts for noncompliance with State safety oversight requirements”;

(2) by amending subsection (a) to read as follows:

“(a) **APPLICATION.**—This section shall only apply to—

“(1) States that have rail fixed guideway public transportation systems that are not subject to regulation by the Federal Railroad Administration; and

“(2) States that are designing rail fixed guideway public transportation systems that will not be subjected to regulation by the Federal Railroad Administration.”;

(3) in subsection (d), by striking “affected States” and inserting the following: “affected States—

“(1) shall ensure uniform safety standards and enforcement; or

“(2) may designate”; and

(4) in subsection (f), by striking “Not later than December 18, 1992, the” and inserting “The”.

(b) CONFORMING AMENDMENT.—The item relating to section 5330 in the table of sections for chapter 53 is amended to read as follows: “5330. Withholding amounts for noncompliance with State safety oversight requirements.”.

SEC. 3029. SENSITIVE SECURITY INFORMATION.

Section 40119(b) is amended—

(1) in paragraph (1)(C), by inserting “, transportation facilities or infrastructure, or transportation employees” before the period at the end; and

(2) by adding at the end the following:

“(3) A State or local government may not enact, enforce, prescribe, issue, or continue in effect any law, regulation, standard, or order to the extent it is inconsistent with this section or regulations prescribed under this section.”.

SEC. 3030. TERRORIST ATTACKS AND OTHER ACTS OF VIOLENCE AGAINST PUBLIC TRANSPORTATION SYSTEMS.

(a) IN GENERAL.—Section 1993 of title 18, United States Code, is amended—

(1) by striking “mass” each place it appears and inserting “public”;

(2) in subsection (a)(5), by inserting “controlling,” after “operating”; and

(3) in subsection (c)(5), by striking “5302(a)(7) of title 49, United States Code,” and inserting “5302(a) of title 49.”.

(b) CONFORMING AMENDMENT.—The table of contents for chapter 97 of title 18, United States Code is amended by amending the item related to section 1993 to read as follows:

“1993. Terrorist attacks and other acts of violence against public transportation systems.”.

SEC. 3031. CONTROLLED SUBSTANCES AND ALCOHOL MISUSE TESTING.

Section 5331 is amended—

(1) in subsection (a)(3), by inserting before the period at the end the following: “or sections 2303a, 7101(i), or 7302(e) of title 46. The Secretary may also decide that a form of public transportation is covered adequately, for employee alcohol and controlled substances testing purposes, under the alcohol and controlled substance statutes or regulations of an agency within the Department of Transportation or other Federal agency”; and

(2) in subsection (f), by striking paragraph (3).

SEC. 3032. EMPLOYEE PROTECTIVE ARRANGEMENTS.

Section 5333(b) is amended—

(1) in paragraph (3), by striking the period at the end and inserting “, provided that—

“(A) the protective period shall not exceed 4 years; and

“(B) the separation allowance shall not exceed 12 months.”; and

(2) by adding at the end the following:

“(4) An arrangement under this subsection shall not guarantee continuation of employment as a result of a change in private contractors through competitive bidding unless such continuation is otherwise required

under subparagraph (A), (B), or (D) of paragraph (2).

“(5) Fair and equitable arrangements to protect the interests of employees utilized by the Secretary of Labor for assistance to purchase like-kind equipment or facilities, and amendments to existing assistance agreements, shall be certified without referral.

“(6) Nothing in this subsection shall affect the level of protection provided to freight railroad employees.”.

SEC. 3033. ADMINISTRATIVE PROCEDURES.

Section 5334 is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking “5309–5311 of this title” and all that follows and inserting “5309 through 5311”;;

(B) in paragraph (9), by striking “and” at the end;

(C) in paragraph (10), by striking the period at the end and inserting “; and”; and

(D) by inserting at the end the following:

“(11) issue regulations as necessary to carry out the purposes of this chapter.”;

(2) by redesignating subsections (b), (c), (d), (e), (f), (g), (h), (i), and (j) as subsections (c), (d), (e), (f), (g), (h), (i), (j), and (k), respectively;

(3) by adding after subsection (a) the following:

“(b) PROHIBITIONS AGAINST REGULATING OPERATIONS AND CHARGES.—

“(1) IN GENERAL.—Except as directed by the President for purposes of national defense or in the event of a national or regional emergency, the Secretary may not regulate—

“(A) the operation, routes, or schedules of a public transportation system for which a grant is made under this chapter; or

“(B) the rates, fares, tolls, rentals, or other charges prescribed by any public or private transportation provider.

“(2) COMPLIANCE WITH AGREEMENT.—Nothing in this subsection shall prevent the Secretary from requiring a recipient of funds under this chapter to comply with the terms and conditions of its Federal assistance agreement.”; and

(4) in subsection (j)(1), as redesignated, by striking “carry out section 5312(a) and (b)(1) of this title” and inserting “advise and assist the Secretary in carrying out section 5312(a)”.

SEC. 3034. REPORTS AND AUDITS.

Section 5335 is amended—

(1) by striking subsection (b); and

(2) in subsection (a)—

(A) in paragraph (1), by striking “(1)”; and

(B) in paragraph (2), by striking “(2) The Secretary may make a grant under section 5307 of this title” and inserting the following:

“(b) REPORTING AND UNIFORM SYSTEMS.—The Secretary may award a grant under section 5307 or 5311”.

SEC. 3035. APPORTIONMENTS OF APPROPRIATIONS FOR FORMULA GRANTS.

Section 5336 is amended—

(1) by striking subsection (d);

(2) by striking subsection (h);

(3) by striking subsection (k);

(4) by redesignating subsections (a) through (c) as subsections (b) through (d), respectively;

(5) by adding before subsection (b), as redesignated, the following:

“(a) APPORTIONMENTS.—Of the amounts made available for each fiscal year under subsections (a)(1)(C)(vi) and (b)(2)(L) of section 5338—

“(1) there shall be apportioned, in fiscal year 2005 and each fiscal year thereafter, \$35,000,000 to certain urbanized areas with populations of less than 200,000 in accordance with subsection (k); and

“(2) any amount not apportioned under paragraph (1) shall be apportioned to urban-

ized areas in accordance with subsections (b) through (d).”;;

(6) in subsection (b), as redesignated—

(A) by striking “Of the amount made available or appropriated under section 5338(a) of this title” and inserting “Of the amount apportioned under subsection (a)(3)”; and

(B) in paragraph (2), by striking “subsections (b) and (c) of this section” and inserting “subsections (c) and (d)”;;

(7) in subsection (c)(2), as redesignated, by striking “subsection (a)(2) of this section” and inserting “subsection (b)(2)”;;

(8) in subsection (d), as redesignated, by striking “subsection (a)(2) of this section” and inserting “subsection (b)(2)”;;

(9) in subsection (e)(1), by striking “subsections (a) and (h)(2) of section 5338 of this title” and inserting “subsections (a) and (b) of section 5338”;;

(10) in subsection (g), by striking “subsection (a)(1) of this section” each place it appears and inserting “subsection (b)(1)”; and

(11) by adding at the end the following:

“(k) SMALL TRANSIT INTENSIVE CITIES FACTORS.—The amount apportioned under subsection (a)(1) shall be apportioned to urbanized areas as follows:

“(1) The Secretary shall calculate a factor equal to the sum of revenue vehicle hours operated within urbanized areas with a population of between 200,000 and 1,000,000 divided by the sum of the population of all such urbanized areas.

“(2) The Secretary shall designate as eligible for an apportionment under this subsection all urbanized areas with a population of under 200,000 for which the number of revenue vehicle hours operated within the urbanized area divided by the population of the urbanized area exceeds the factor calculated under paragraph (1).

“(3) For each urbanized area qualifying for an apportionment under paragraph (2), the Secretary shall calculate an amount equal to the product of the population of that urbanized area and the factor calculated under paragraph (1).

“(4) For each urbanized area qualifying for an apportionment under paragraph (2), the Secretary shall calculate an amount equal to the difference between the number of revenue vehicle hours within that urbanized area less the amount calculated in paragraph (3).

“(5) Each urbanized area qualifying for an apportionment under paragraph (2) shall receive an amount equal to the amount to be apportioned under this subsection multiplied by the amount calculated for that urbanized area under paragraph (4) divided by the sum of the amounts calculated under paragraph (4) for all urbanized areas qualifying for an apportionment under paragraph (2).

“(l) STUDY ON INCENTIVES IN FORMULA PROGRAMS.—

“(1) STUDY.—The Secretary shall conduct a study to assess the feasibility and appropriateness of developing and implementing an incentive funding system under sections 5307 and 5311 for operators of public transportation.

“(2) REPORT.—

“(A) IN GENERAL.—Not later than 1 year after the date of enactment of the Federal Public Transportation Act of 2004, the Secretary shall submit a report on the results of the study conducted under paragraph (1) to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

“(B) CONTENTS.—The report submitted under subparagraph (A) shall include—

“(i) an analysis of the availability of appropriate measures to be used as a basis for the distribution of incentive payments;

“(ii) the optimal number and size of any incentive programs;

“(iii) what types of systems should compete for various incentives;

“(iv) how incentives should be distributed; and

“(v) the likely effects of the incentive funding system.”

SEC. 3036. APPORTIONMENTS FOR FIXED GUIDEWAY MODERNIZATION.

Section 5337 is amended—

(1) in subsection (a), by striking “for each of fiscal years 1998 through 2003”; and

(2) by striking “section 5336(b)(2)(A)” each place it appears and inserting “section 5336(c)(2)(A)”.

SEC. 3037. AUTHORIZATIONS.

Section 5338 is amended to read as follows:

“§ 5338. Authorizations

“(a) FISCAL YEAR 2004.—

“(1) FORMULA GRANTS.—

“(A) TRUST FUND.—For fiscal year 2004, \$3,053,079,920 shall be available from the Mass Transit Account of the Highway Trust Fund to carry out sections 5307, 5309, 5310, and 5311 of this chapter and section 3038 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note).

“(B) GENERAL FUND.—In addition to the amounts made available under subparagraph (A), there are authorized to be appropriated \$763,269,980 for fiscal year 2004 to carry out sections 5307, 5309, 5310, and 5311 of this chapter and section 3038 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note).

“(C) ALLOCATION OF FUNDS.—Of the amounts made available or appropriated under this paragraph—

“(i) \$4,821,335 shall be available to the Alaska Railroad for improvements to its passenger operations under section 5307;

“(ii) \$6,908,995 shall be available to provide over-the-road bus accessibility grants under section 3038 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note);

“(iii) \$90,117,950 shall be available to provide transportation services to elderly individuals and individuals with disabilities under section 5310;

“(iv) \$239,188,058 shall be available to provide financial assistance for other than urbanized areas under section 5311;

“(v) \$3,425,608,562 shall be available to provide financial assistance for urbanized areas under section 5307; and

“(vi) \$49,705,000 shall be available to provide financial assistance for buses and bus facilities under section 5309.

“(2) JOB ACCESS AND REVERSE COMMUTE.—

“(A) TRUST FUND.—For fiscal year 2004, \$99,410,000 shall be available from the Mass Transit Account of the Highway Trust Fund to carry out section 3037 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5309 note).

“(B) GENERAL FUND.—In addition to the amounts made available under paragraph (A), there are authorized to be appropriated \$24,852,500 for fiscal year 2004 to carry out section 3037 of the Transportation Equity Act of the 21st Century (49 U.S.C. 5309 note).

“(3) CAPITAL PROGRAM GRANTS.—

“(A) TRUST FUND.—For fiscal year 2004, \$2,495,191,000 shall be available from the Mass Transit Account of the Highway Trust Fund to carry out section 5309.

“(B) GENERAL FUND.—In addition to the amounts made available under subparagraph (A), there are authorized to be appropriated \$623,797,750 for fiscal year 2004 to carry out section 5309.

“(4) PLANNING.—

“(A) TRUST FUND.—For fiscal year 2004, \$58,254,260 shall be available from the Mass Transit Account of the Highway Trust Fund to carry out section 5308.

“(B) GENERAL FUND.—In addition to the amounts made available under subparagraph (A), there are authorized to be appropriated \$14,315,040 for fiscal year 2004 to carry out section 5308.

“(C) ALLOCATION OF FUNDS.—Of the amounts made available or appropriated under this paragraph—

“(i) 82.72 percent shall be allocated for metropolitan planning under section 5308(c); and

“(ii) 17.28 percent shall be allocated for State planning under section 5308(d).

“(5) RESEARCH.—

“(A) TRUST FUND.—For fiscal year 2004, \$41,951,020 shall be available from the Mass Transit Account of the Highway Trust Fund to carry out sections 5311(b), 5312, 5313, 5314, 5315, and 5322.

“(B) GENERAL FUND.—In addition to the amounts made available under subparagraph (A), there are authorized to be appropriated \$10,736,280 for fiscal year 2004 to carry out sections 5311(b), 5312, 5313, 5314, 5315, and 5322.

“(C) ALLOCATION OF FUNDS.—Of the funds made available or appropriated under this paragraph—

“(i) not less than \$3,976,400 shall be available to carry out programs of the National Transit Institute under section 5315;

“(ii) not less than \$5,219,025 shall be available to carry out section 5311(b)(2);

“(iii) not less than \$8,201,325 shall be available to carry out section 5313; and

“(iv) the remainder shall be available to carry out national research and technology programs under sections 5312, 5314, and 5322.

“(6) UNIVERSITY TRANSPORTATION RESEARCH.—

“(A) TRUST FUND.—For fiscal year 2004, \$4,771,680 shall be available from the Mass Transit Account of the Highway Trust Fund to carry out sections 5505 and 5506.

“(B) GENERAL FUND.—In addition to amounts made available under subparagraph (A), there are authorized to be appropriated \$1,192,920 for fiscal year 2004 to carry out sections 5505 and 5506.

“(C) ALLOCATION OF FUNDS.—Of the amounts made available or appropriated under this paragraph—

“(i) \$1,988,200 shall be available for grants under 5506(f)(5) to the institution identified in section 5505(j)(3)(E), as in effect on the date of enactment of the Federal Public Transportation Act of 2004;

“(ii) \$1,988,200 shall be available for grants under section 5505(d) to the institution identified in section 5505(j)(4)(A), as in effect on the date specified in clause (i); and

“(iii) \$1,988,200 shall be available for grants under section 5505(d) to the institution identified in section 5505(j)(4)(F), as in effect on the date specified in subclause (I).

“(C) SPECIAL RULE.—Nothing in this paragraph shall be construed to limit the transportation research conducted by the centers receiving financial assistance under this section.

“(7) ADMINISTRATION.—

“(A) TRUST FUND.—For fiscal year 2004, \$60,043,640 shall be available from the Mass Transit Account of the Highway Trust Fund to carry out section 5334.

“(B) GENERAL FUND.—In addition to amounts made available under subparagraph (A), there are authorized to be appropriated \$15,010,910 for fiscal year 2004 to carry out section 5334.

“(8) GRANTS AS CONTRACTUAL OBLIGATIONS.—

“(A) GRANTS FINANCED FROM HIGHWAY TRUST FUND.—A grant or contract that is approved by the Secretary and financed with amounts made available under paragraph (1)(A), (2)(A), (3)(A), (4)(A), (5)(A), (6)(A), or (7)(A) is a contractual obligation of the

United States Government to pay the Federal share of the cost of the project.

“(B) GRANTS FINANCED FROM GENERAL FUND.—A grant or contract that is approved by the Secretary and financed with amounts appropriated in advance under paragraph (1)(B), (2)(B), (3)(B), (4)(B), (5)(B), (6)(B), or (7)(B) is a contractual obligation of the United States Government to pay the Federal share of the cost of the project only to the extent that amounts are appropriated for such purpose by an Act of Congress.

“(9) AVAILABILITY OF AMOUNTS.—Amounts made available or appropriated under paragraphs (1) through (6) shall remain available until expended.”

“(b) FORMULA GRANTS AND RESEARCH.—

“(1) IN GENERAL.—There shall be available from the Mass Transit Account of the Highway Trust Fund to carry out sections 5307, 5308, 5309, 5310 through 5316, 5322, 5335, 5340, and 5505 of this title, and sections 3037 and 3038 of the Federal Transit Act of 1998 (112 Stat. 387 et seq.)—

“(A) \$6,262,600,000 for fiscal year 2005;

“(B) \$6,577,629,000 for fiscal year 2006;

“(C) \$6,950,400,000 for fiscal year 2007;

“(D) \$7,594,760,000 for fiscal year 2008; and

“(E) \$8,275,320,000 for fiscal year 2009.

“(2) ALLOCATION OF FUNDS.—Of the amounts made available under paragraph (1) for each fiscal year—

“(A) 0.092 percent shall be available for grants to the Alaska Railroad under section 5307 for improvements to its passenger operations;

“(B) 1.75 percent shall be available to carry out section 5308;

“(C) 2.05 percent shall be available to provide financial assistance for job access and reverse commute projects under section 3037 of the Federal Transit Act of 1998 (49 U.S.C. 5309 note);

“(D) 3.00 percent shall be available to provide financial assistance for services for elderly persons and persons with disabilities under section 5310;

“(E) 0.125 percent shall be available to carry out section 3038 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note);

“(F) 6.25 percent shall be available to provide financial assistance for other than urbanized areas under section 5311;

“(G) 0.89 percent shall be available to carry out transit cooperative research programs under section 5313, the National Transit Institute under section 5315, university research centers under section 5505, and national research programs under sections 5312, 5313, 5314, and 5322, of which—

“(i) 17.0 percent shall be allocated to carry out transit cooperative research programs under section 5313;

“(ii) 7.5 percent shall be allocated to carry out programs under the National Transit Institute under section 5315, including not more than \$1,000,000 to carry out section 5315(a)(16);

“(iii) 11.0 percent shall be allocated to carry out the university centers program under section 5505; and

“(iv) any funds made available under this subparagraph that are not allocated under clauses (i) through (iii) shall be allocated to carry out national research programs under sections 5312, 5313, 5314, and 5322;

“(H) \$25,000,000 shall be available for each of the fiscal years 2005 through 2009 to carry out section 5316;

“(I) there shall be available to carry out section 5335—

“(i) \$3,700,000 in fiscal year 2005;

“(iii) \$3,900,000 in fiscal year 2006;

“(iv) \$4,200,000 in fiscal year 2007;

“(v) \$4,600,000 in fiscal year 2008; and

“(vi) \$5,000,000 in fiscal year 2009;

“(J) 6.25 percent shall be allocated in accordance with section 5340 to provide financial assistance for urbanized areas under section 5307 and other than urbanized areas under section 5311; and

“(K) 22.0 percent shall be allocated in accordance with section 5337 to provide financial assistance under section 5309(i)(3); and

“(L) any amounts not made available under subparagraphs (A) through (K) shall be allocated in accordance with section 5336 to provide financial assistance for urbanized areas under section 5307.

“(3) UNIVERSITY CENTERS PROGRAM.—

“(A) ALLOCATION.—Of the amounts allocated under paragraph (2)(G)(iii), \$1,000,000 shall be available in each of the fiscal years 2005 through 2009 for Morgan State University to provide transportation research, training, and curriculum development.

“(B) REQUIREMENTS.—The university specified under subparagraph (A) shall be considered a University Transportation Center under section 510 of title 23, and shall be subject to the requirements under subsections (c), (d), (e), and (f) of such section.

“(C) REPORT.—In addition to the report required under section 510(e)(3) of title 23, the university specified under subparagraph (A) shall annually submit a report to the Secretary that describes the university’s contribution to public transportation.

“(4) BUS GRANTS.—In addition to the amounts made available under paragraph (1), there shall be available from the Mass Transit Account of the Highway Trust Fund to carry out section 5309(i)(2)(B)—

“(A) \$839,829,000 for fiscal year 2005;

“(B) \$882,075,000 for fiscal year 2006;

“(C) \$932,064,000 for fiscal year 2007;

“(D) \$1,018,474,000 for fiscal year 2008; and

“(E) \$1,109,739,000 for fiscal year 2009.

“(c) MAJOR CAPITAL INVESTMENT GRANTS.—There are authorized to be appropriated to carry out section 5309(i)(2)(A)—

“(1) \$1,461,072,000 for fiscal year 2005;

“(2) \$1,534,568,000 for fiscal year 2006;

“(3) \$1,621,536,000 for fiscal year 2007;

“(4) \$1,771,866,000 for fiscal year 2008; and

“(5) \$1,930,641,000 for fiscal year 2009.

“(d) ADMINISTRATION.—There shall be available from the Mass Transit Account of the Highway Trust Fund to carry out section 5334—

“(1) \$86,500,000 for fiscal year 2005;

“(2) \$90,851,000 for fiscal year 2006;

“(3) \$96,000,000 for fiscal year 2007;

“(4) \$104,900,000 for fiscal year 2008; and

“(5) \$114,300,000 for fiscal year 2009.

“(e) GRANTS AS CONTRACTUAL OBLIGATIONS.—

“(1) MASS TRANSIT ACCOUNT FUNDS.—A grant or contract approved by the Secretary that is financed with amounts made available under subsection (b)(1) or (d) is a contractual obligation of the United States Government to pay the Federal share of the cost of the project.

“(2) APPROPRIATED FUNDS.—A grant or contract approved by the Secretary that is financed with amounts made available under subsection (b)(2) or (c) is a contractual obligation of the United States Government to pay the Federal share of the cost of the project only to the extent that amounts are appropriated in advance for such purpose by an Act of Congress.

“(f) AVAILABILITY OF AMOUNTS.—Amounts made available by or appropriated under subsections (b) and (c) shall remain available until expended.”.

SEC. 3038. APPORTIONMENTS BASED ON GROWING STATES FORMULA FACTORS.

(a) IN GENERAL.—Chapter 53 is amended by adding at the end the following:

“§ 5340. Apportionments based on growing States and high density State formula factors

“(a) ALLOCATION.—Of the amounts made available for each fiscal year under section 5338(b)(2)(J), the Secretary shall apportion—

“(1) 50 percent to States and urbanized areas in accordance with subsection (b); and

“(2) 50 percent to States and urbanized areas in accordance with subsection (c).

“(b) GROWING STATE APPORTIONMENTS.—

“(1) APPORTIONMENT AMONG STATES.—The amounts apportioned under paragraph (a)(1) shall provide each State with an amount equal to the total amount apportioned multiplied by a ratio equal to the population of that State forecast for the year that is 15 years after the most recent decennial census, divided by the total population of all States forecast for the year that is 15 years after the most recent decennial census. Such forecast shall be based on the population trend for each State between the most recent decennial census and the most recent estimate of population made by the Secretary of Commerce.

“(2) APPORTIONMENTS BETWEEN URBANIZED AREAS AND OTHER THAN URBANIZED AREAS IN EACH STATE.—

“(A) IN GENERAL.—The Secretary shall apportion amounts to each State under paragraph (1) so that urbanized areas in that State receive an amount equal to the amount apportioned to that State multiplied by a ratio equal to the sum of the forecast population of all urbanized areas in that State divided by the total forecast population of that State. In making the apportionment under this subparagraph, the Secretary shall utilize any available forecasts made by the State. If no forecasts are available, the Secretary shall utilize data on urbanized areas and total population from the most recent decennial census.

“(B) REMAINING AMOUNTS.—Amounts remaining for each State after apportionment under subparagraph (A) shall be apportioned to that State and added to the amount made available for grants under section 5311.

“(3) APPORTIONMENTS AMONG URBANIZED AREAS IN EACH STATE.—The Secretary shall apportion amounts made available to urbanized areas in each State under subsection (b)(2)(A) so that each urbanized area receives an amount equal to the amount apportioned under subsection (b)(2)(A) multiplied by a ratio equal to the population of each urbanized area divided by the sum of populations of all urbanized areas in the State. Amounts apportioned to each urbanized area shall be added to amounts apportioned to that urbanized area under section 5336, and made available for grants under section 5307.

“(c) HIGH DENSITY STATE APPORTIONMENTS.—Amounts to be apportioned under subsection (a)(2) shall be apportioned as follows:

“(1) ELIGIBLE STATES.—The Secretary shall designate as eligible for an apportionment under this subsection all States with a population density in excess of 370 persons per square mile.

“(2) STATE URBANIZED LAND FACTOR.—For each State qualifying for an apportionment under paragraph (1), the Secretary shall calculate an amount equal to the product of the urban land area of urbanized areas in the State times 370 persons per square mile.

“(3) STATE APPORTIONMENT FACTOR.—For each State qualifying for an apportionment under paragraph (1), the Secretary shall calculate an amount equal to the difference between the total population of the State less the amount calculated in paragraph (2).

“(4) STATE APPORTIONMENT.—Each State qualifying for an apportionment under paragraph (1) shall receive an amount equal to

the amount to be apportioned under this subsection multiplied by the amount calculated for the State under paragraph (3) divided by the sum of the amounts calculated under paragraph (3) for all States qualifying for an apportionment under paragraph (1).

“(5) APPORTIONMENTS BETWEEN URBANIZED AREAS AND OTHER THAN URBANIZED AREAS IN EACH STATE.—

“(A) IN GENERAL.—The Secretary shall apportion amounts apportioned to each State under paragraph (4) so that urbanized areas in that State receive an amount equal to the amount apportioned to that State multiplied by a ratio equal to the sum of the population of all urbanized areas in that State divided by the total population of that State.

“(B) REMAINING AMOUNTS.—Amounts remaining for each State after apportionment under subparagraph (a) shall be apportioned to that State and added to the amount made available for grants under section 5311.

“(6) APPORTIONMENTS AMONG URBANIZED AREAS IN EACH STATE.—The Secretary shall apportion amounts made available to urbanized areas in each State under subsection (c)(5)(A) so that each urbanized area receives an amount equal to the amount apportioned under subsection (c)(5)(A) multiplied by a ratio equal to the population of each urbanized area divided by the sum of populations of all urbanized areas in the State. Amounts apportioned to each urbanized area shall be added to amounts apportioned to that urbanized area under section 5336, and made available for grants under section 5307.”.

(b) CONFORMING AMENDMENT.—The table of sections for chapter 53 is amended by adding at the end the following:

“5340. Apportionments based on growing States and high density States formula factors.”.

SEC. 3039. JOB ACCESS AND REVERSE COMMUTE GRANTS.

Section 3037 of the Federal Transit Act of 1998 (49 U.S.C. 5309 note) is amended—

(1) in subsection (b)—

(A) in paragraph (1)—

(i) by striking “means an individual” and inserting the following: “means—

“(A) an individual”; and

(ii) by striking the period at the end and inserting “; or

“(B) an individual who is eligible for assistance under the State program of Temporary Assistance to Needy Families funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et. seq.) in the State in which the recipient of a grant under this section is located.”; and

(B) in paragraph (2), by striking “development of” each place it appears and inserting “development and provision of”;

(2) in subsection (i), by amending paragraph (2) to read as follows:

“(2) COORDINATION.—

“(A) IN GENERAL.—The Secretary shall coordinate activities under this section with related activities under programs of other Federal departments and agencies.

“(B) CERTIFICATION.—A recipient of funds under this section shall certify that—

“(i) the project has been derived from a locally developed, coordinated public transit human services transportation plan; and

“(ii) the plan was developed through a process that included representatives of public, private, and nonprofit transportation and human services providers and participation by the public.”;

(3) by amending subsection (j) to read as follows:

“(j) GRANT REQUIREMENTS.—

“(1) IN GENERAL.—

“(A) URBANIZED AREAS.—A grant awarded under this section to a public agency or private company engaged in public transportation in an urbanized area shall be subject

to the all of the terms and conditions to which a grant awarded under section 5307 of title 49, United States Code, is subject, to the extent the Secretary considers appropriate.

“(B) OTHER THAN URBANIZED AREAS.—A grant awarded under this section to a public agency or a private company engaged in public transportation in an area other than urbanized areas shall be subject to all of the terms and conditions to which a grant awarded under section 5311 of title 49, United States Code, is subject, to the extent the Secretary considers appropriate.

“(C) NONPROFIT ORGANIZATIONS.—A grant awarded under this section to a private nonprofit organization shall be subject to all of the terms and conditions to which a grant made under section 5310 of title 49, United States Code, is subject, to the extent the Secretary considers appropriate.

“(2) SPECIAL WARRANTY.—

“(A) IN GENERAL.—Section 5333(b) of title 49, United States Code, shall apply to grants under this section if the Secretary of Labor utilizes a Special Warranty that provides a fair and equitable arrangement to protect the interests of employees.

“(B) WAIVER.—The Secretary may waive the applicability of the Special Warranty under subparagraph (A) for private non-profit recipients on a case-by-case basis as the Secretary considers appropriate.”; and

(4) by striking subsections (k) and (l).

SEC. 3040. OVER-THE-ROAD BUS ACCESSIBILITY PROGRAM.

(a) SECTION HEADING.—The section heading for section 3038 of the Federal Transit Act of 1998 (49 U.S.C. 5310 note), is amended to read as follows:

“SEC. 3038. OVER-THE-ROAD BUS ACCESSIBILITY PROGRAM.”

(b) FUNDING.—Section 3038(g) of the Federal Transit Act of 1998 (49 U.S.C. 5310 note) is amended to read as follows:

“(g) FUNDING.—Of the amounts made available for each fiscal year under subsections (a)(1)(C)(iii) and (b)(2)(E) of section 5338 of title 49, United States Code—

“(1) 75 percent shall be available, and shall remain available until expended, for operators of over-the-road buses, used substantially or exclusively in intercity, fixed-route over-the-road bus service, to finance the incremental capital and training costs of the Department of Transportation’s final rule regarding accessibility of over-the-road buses; and

“(2) 25 percent shall be available, and shall remain available until expended, for operators of over-the-road bus service not described in paragraph (1), to finance the incremental capital and training costs of the Department of Transportation’s final rule regarding accessibility of over-the-road buses.”.

(b) CONFORMING AMENDMENT.—The item relating to section 3038 in the table of contents for the Transportation Equity Act for the 21st Century (Public Law 105-178) is amended to read as follows:

“Sec. 3038. Over-the-road bus accessibility program.”.

SEC. 3041. ALTERNATIVE TRANSPORTATION IN PARKS AND PUBLIC LANDS.

(a) IN GENERAL.—Chapter 53 is amended by inserting after section 5315 the following:

“§5316. Alternative transportation in parks and public lands

“(a) IN GENERAL.—

“(1) AUTHORIZATION.—

“(A) IN GENERAL.—The Secretary, in consultation with the Secretary of the Interior, may award a grant or enter into a contract, cooperative agreement, interagency agreement, intraagency agreement, or other transaction to carry out a qualified project

under this section to enhance the protection of America’s National Parks and public lands and increase the enjoyment of those visiting the parks and public lands by ensuring access to all, including persons with disabilities, improving conservation and park and public land opportunities in urban areas through partnering with state and local governments, and improving park and public land transportation infrastructure.

“(B) CONSULTATION WITH OTHER AGENCIES.—To the extent that projects are proposed or funded in eligible areas that are not within the jurisdiction of the Department of the Interior, the Secretary of the Interior shall consult with the heads of the relevant Federal land management agencies in carrying out the responsibilities under this section.

“(2) USE OF FUNDS.—A grant, cooperative agreement, interagency agreement, intraagency agreement, or other transaction for a qualified project under this section shall be available to finance the leasing of equipment and facilities for use in public transportation, subject to any regulation that the Secretary may prescribe limiting the grant or agreement to leasing arrangements that are more cost-effective than purchase or construction.

“(b) DEFINITIONS.—As used in this section, the following definitions shall apply:

“(1) ELIGIBLE AREA.—The term ‘eligible area’ means any federally owned or managed park, refuge, or recreational area that is open to the general public, including—

“(A) a unit of the National Park System;

“(B) a unit of the National Wildlife Refuge System;

“(C) a recreational area managed by the Bureau of Land Management; and

“(D) a recreation area managed by the Bureau of Reclamation.

“(2) FEDERAL LAND MANAGEMENT AGENCY.—The term ‘Federal land management agency’ means a Federal agency that manages an eligible area.

“(3) ALTERNATIVE TRANSPORTATION.—The term ‘alternative transportation’ means transportation by bus, rail, or any other publicly or privately owned conveyance that provides to the public general or special service on a regular basis, including sight-seeing service.

“(4) QUALIFIED PARTICIPANT.—The term ‘qualified participant’ means—

“(A) a Federal land management agency; or

“(B) a State, tribal, or local governmental authority with jurisdiction over land in the vicinity of an eligible area acting with the consent of the Federal land management agency, alone or in partnership with a Federal land management agency or other Governmental or nongovernmental participant.

“(5) QUALIFIED PROJECT.—The term ‘qualified project’ means a planning or capital project in or in the vicinity of an eligible area that—

“(A) is an activity described in section 5302, 5303, 5304, 5308, or 5309(a)(1)(A);

“(B) involves—

“(i) the purchase of rolling stock that incorporates clean fuel technology or the replacement of buses of a type in use on the date of enactment of this section with clean fuel vehicles; or

“(ii) the deployment of alternative transportation vehicles that introduce innovative technologies or methods;

“(C) relates to the capital costs of coordinating the Federal land management agency public transportation systems with other public transportation systems;

“(D) provides a nonmotorized transportation system (including the provision of facilities for pedestrians, bicycles, and non-motorized watercraft);

“(E) provides waterborne access within or in the vicinity of an eligible area, as appropriate to and consistent with this section; or

“(F) is any other alternative transportation project that—

“(i) enhances the environment;

“(ii) prevents or mitigates an adverse impact on a natural resource;

“(iii) improves Federal land management agency resource management;

“(iv) improves visitor mobility and accessibility and the visitor experience;

“(v) reduces congestion and pollution (including noise pollution and visual pollution); or

“(vi) conserves a natural, historical, or cultural resource (excluding rehabilitation or restoration of a non-transportation facility).

“(c) FEDERAL AGENCY COOPERATIVE ARRANGEMENTS.—The Secretary shall develop cooperative arrangements with the Secretary of the Interior that provide for—

“(1) technical assistance in alternative transportation;

“(2) interagency and multidisciplinary teams to develop Federal land management agency alternative transportation policy, procedures, and coordination; and

“(3) the development of procedures and criteria relating to the planning, selection, and funding of qualified projects and the implementation and oversight of the program of projects in accordance with this section.

“(d) LIMITATION ON USE OF AVAILABLE AMOUNTS.—

“(1) IN GENERAL.—The Secretary, in consultation with the Secretary of the Interior, may use not more than 10 percent of the amount made available for a fiscal year under section 5338(a)(2)(I) to carry out planning, research, and technical assistance under this section, including the development of technology appropriate for use in a qualified project.

“(2) ADDITIONAL AMOUNTS.—Amounts made available under this subsection are in addition to amounts otherwise available to the Secretary to carry out planning, research, and technical assistance under this title or any other provision of law.

“(3) MAXIMUM AMOUNT.—No qualified project shall receive more than 12 percent of the total amount made available to carry out this section under section 5338(a)(2)(I) for any fiscal year.

“(e) PLANNING PROCESS.—In undertaking a qualified project under this section,

“(1) if the qualified participant is a Federal land management agency—

“(A) the Secretary, in cooperation with the Secretary of the Interior, shall develop transportation planning procedures that are consistent with—

“(i) the metropolitan planning provisions under section 5303 of this title;

“(ii) the statewide planning provisions under section 5304 of this title; and

“(iii) the public participation requirements under section 5307(e); and

“(B) in the case of a qualified project that is at a unit of the National Park system, the planning process shall be consistent with the general management plans of the unit of the National Park system; and

“(2) if the qualified participant is a State or local governmental authority, or more than one State or local governmental authority in more than one State, the qualified participant shall—

“(A) comply with the metropolitan planning provisions under section 5303 of this title;

“(B) comply with the statewide planning provisions under section 5304 of this title;

“(C) comply with the public participation requirements under section 5307(e) of this title; and

“(D) consult with the appropriate Federal land management agency during the planning process.

“(f) COST SHARING.—

“(1) The Secretary, in cooperation with the Secretary of the Interior, shall establish the agency share of net project cost to be provided under this section to a qualified participant.

“(2) In establishing the agency share of net project cost to be provided under this section, the Secretary shall consider—

“(A) visitation levels and the revenue derived from user fees in the eligible area in which the qualified project is carried out;

“(B) the extent to which the qualified participant coordinates with a public transportation authority or private entity engaged in public transportation;

“(C) private investment in the qualified project, including the provision of contract services, joint development activities, and the use of innovative financing mechanisms;

“(D) the clear and direct benefit to the qualified participant; and

“(E) any other matters that the Secretary considers appropriate to carry out this section.

“(3) Notwithstanding any other provision of law, Federal funds appropriated to any Federal land management agency may be counted toward the non-agency share of the net project cost of a qualified project.

“(g) SELECTION OF QUALIFIED PROJECTS.—

“(1) The Secretary of the Interior, after consultation with and in cooperation with the Secretary, shall determine the final selection and funding of an annual program of qualified projects in accordance with this section.

“(2) In determining whether to include a project in the annual program of qualified projects, the Secretary of the Interior shall consider—

“(A) the justification for the qualified project, including the extent to which the qualified project would conserve resources, prevent or mitigate adverse impact, and enhance the environment;

“(B) the location of the qualified project, to ensure that the selected qualified projects—

“(i) are geographically diverse nationwide; and

“(ii) include qualified projects in eligible areas located in both urban areas and rural areas;

“(C) the size of the qualified project, to ensure that there is a balanced distribution;

“(D) the historical and cultural significance of a qualified project;

“(E) safety;

“(F) the extent to which the qualified project would—

“(i) enhance livable communities;

“(ii) reduce pollution (including noise pollution, air pollution, and visual pollution);

“(iii) reduce congestion; and

“(iv) improve the mobility of people in the most efficient manner; and

“(G) any other matters that the Secretary considers appropriate to carry out this section, including—

“(i) visitation levels;

“(ii) the use of innovative financing or joint development strategies; and

“(iii) coordination with gateway communities.

“(h) QUALIFIED PROJECTS CARRIED OUT IN ADVANCE.—

“(1) When a qualified participant carries out any part of a qualified project without assistance under this section in accordance with all applicable procedures and requirements, the Secretary, in consultation with the Secretary of the Interior, may pay the share of the net capital project cost of a qualified project if—

“(A) the qualified participant applies for the payment;

“(B) the Secretary approves the payment; and

“(C) before carrying out that part of the qualified project, the Secretary approves the plans and specifications in the same manner as plans and specifications are approved for other projects assisted under this section.

“(2)(A) The cost of carrying out part of a qualified project under paragraph (1) includes the amount of interest earned and payable on bonds issued by a State or local governmental authority, to the extent that proceeds of the bond are expended in carrying out that part.

“(B) The rate of interest under this paragraph may not exceed the most favorable rate reasonably available for the qualified project at the time of borrowing.

“(C) The qualified participant shall certify, in a manner satisfactory to the Secretary, that the qualified participant has exercised reasonable diligence in seeking the most favorable interest rate.

“(i) RELATIONSHIP TO OTHER LAWS.—

“(1) SECTION 5307.—A qualified participant under this section shall be subject to the requirements of sections 5307 and 5333(a) to the extent the Secretary determines to be appropriate.

“(2) OTHER REQUIREMENTS.—A qualified participant under this section is subject to any other terms, conditions, requirements, and provisions that the Secretary determines to be appropriate to carry out this section, including requirements for the distribution of proceeds on disposition of real property and equipment resulting from a qualified project assisted under this section.

“(3) PROJECT MANAGEMENT PLAN.—If the amount of assistance anticipated to be required for a qualified project under this section is not less than \$25,000,000—

“(A) the qualified project shall, to the extent the Secretary considers appropriate, be carried out through a full funding grant agreement, in accordance with section 5309(g); and

“(B) the qualified participant shall prepare a project management plan in accordance with section 5327(a).

“(i) ASSET MANAGEMENT.—The Secretary, in consultation with the Secretary of the Interior, may transfer the interest of the Department of Transportation in, and control over, all facilities and equipment acquired under this section to a qualified participant for use and disposition in accordance with any property management regulations that the Secretary determines to be appropriate.

“(j) COORDINATION OF RESEARCH AND DEPLOYMENT OF NEW TECHNOLOGIES.—

“(1) The Secretary, in cooperation with the Secretary of the Interior, may undertake, or make grants, cooperative agreements, contracts (including agreements with departments, agencies, and instrumentalities of the Federal Government) or other transactions for research, development, and deployment of new technologies in eligible areas that will—

“(A) conserve resources;

“(B) prevent or mitigate adverse environmental impact;

“(C) improve visitor mobility, accessibility, and enjoyment; and

“(D) reduce pollution (including noise pollution and visual pollution).

“(2) The Secretary may request and receive appropriate information from any source.

“(3) Grants, cooperative agreements, contracts or other transactions under paragraph (1) shall be awarded from amounts allocated under subsection (c)(1).

“(k) INNOVATIVE FINANCING.—A qualified project receiving financial assistance under this section shall be eligible for funding

through a state infrastructure bank or other innovative financing mechanism available to finance an eligible project under this chapter.

“(l) REPORTS.—

“(1) IN GENERAL.—The Secretary, in consultation with the Secretary of the Interior, shall annually submit a report on the allocation of amounts made available to assist qualified projects under this section to—

“(A) the Committee on Banking, Housing, and Urban Affairs of the Senate; and

“(B) the Committee on Transportation and Infrastructure of the House of Representatives.

“(2) ANNUAL AND SUPPLEMENTAL REPORTS.—

The report required under paragraph (1) shall be included in the report submitted under section 5309(m).’’

(b) CONFORMING AMENDMENTS.—The table of sections for chapter 53 is amended by inserting after the item relating to section 5315 the following:

“5316. Alternative transportation in parks and public lands.”’

SEC. 3042. OBLIGATION CEILING.

Notwithstanding any other provision of law, the total of all obligations from amounts made available from the Mass Transit Account of the Highway Trust Fund by, and amounts appropriated under, subsections (a) through (c) of section 5338 of title 49, United States Code, shall not exceed—

(1) \$7,265,876,900 for fiscal year 2004;

(2) \$8,650,000,000 for fiscal year 2005;

(3) \$9,085,123,000 for fiscal year 2006;

(4) \$9,600,000,000 for fiscal year 2007;

(5) \$10,490,000,000 for fiscal year 2008; and

(6) \$11,430,000,000 for fiscal year 2009.

SEC. 3043. ADJUSTMENTS FOR THE SURFACE TRANSPORTATION EXTENSION ACT OF 2003.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall reduce the total apportionments and allocations made for fiscal year 2004 to each grant recipient under section 5338 of title 49, United States Code, by the amount apportioned to that recipient pursuant to section 8 of the Surface Transportation Extension Act of 2003 (117 Stat. 1121).

(b) FIXED GUIDEWAY MODERNIZATION ADJUSTMENT.—In making the apportionments described in subsection (a), the Secretary shall adjust the amount apportioned for fiscal year 2004 to each urbanized area for fixed guideway modernization to reflect the apportionment method set forth in 5337(a) of title 49, United States Code.

SEC. 3044. DISADVANTAGED BUSINESS ENTERPRISE.

Section 1101(b) of the Transportation Equity Act of the 21st Century shall apply to all funds authorized or otherwise made available under this title.

SEC. 3045. INTERMODAL PASSENGER FACILITIES.

(a) IN GENERAL.—Chapter 55 of title 49, United States Code, is amended by adding at the end the following:

“SUBCHAPTER III—INTERMODAL PASSENGER FACILITIES

§ 5571. Policy and purposes

“(a) DEVELOPMENT AND ENHANCEMENT OF INTERMODAL PASSENGER FACILITIES.—It is in the economic interest of the United States to improve the efficiency of public surface transportation modes by ensuring their connection with and access to intermodal passenger terminals, thereby streamlining the transfer of passengers among modes, enhancing travel options, and increasing passenger transportation operating efficiencies.

“(b) GENERAL PURPOSES.—The purposes of this subchapter are to accelerate intermodal integration among North America’s passenger transportation modes through—

“(1) ensuring intercity public transportation access to intermodal passenger facilities;

“(2) encouraging the development of an integrated system of public transportation information; and

“(3) providing intercity bus intermodal passenger facility grants.

§ 5572. Definitions

“In this subchapter—

“(1) ‘capital project’ means a project for—

“(A) acquiring, constructing, improving, or renovating an intermodal facility that is related physically and functionally to intercity bus service and establishes or enhances coordination between intercity bus service and transportation, including aviation, commuter rail, intercity rail, public transportation, seaports, and the National Highway System, such as physical infrastructure associated with private bus operations at existing and new intermodal facilities, including special lanes, curb cuts, ticket kiosks and counters, baggage and package express storage, employee parking, office space, security, and signage; and

“(B) establishing or enhancing coordination between intercity bus service and transportation, including aviation, commuter rail, intercity rail, public transportation, and the National Highway System through an integrated system of public transportation information.

“(2) ‘commuter service’ means service designed primarily to provide daily work trips within the local commuting area.

“(3) ‘intercity bus service’ means regularly scheduled bus service for the general public which operates with limited stops over fixed routes connecting two or more urban areas not in close proximity, which has the capacity for transporting baggage carried by passengers, and which makes meaningful connections with scheduled intercity bus service to more distant points, if such service is available and may include package express service, if incidental to passenger transportation, but does not include air, commuter, water or rail service.

“(4) ‘intermodal passenger facility’ means passenger terminal that does, or can be modified to, accommodate several modes of transportation and related facilities, including some or all of the following: intercity rail, intercity bus, commuter rail, intracity rail transit and bus transportation, airport limousine service and airline ticket offices, rent-a-car facilities, taxis, private parking, and other transportation services.

“(5) ‘local governmental authority’ includes—

“(A) a political subdivision of a State;

“(B) an authority of at least one State or political subdivision of a State;

“(C) an Indian tribe; and

“(D) a public corporation, board, or commission established under the laws of the State.

“(6) ‘owner or operator of a public transportation facility’ means an owner or operator of intercity-rail, intercity-bus, commuter-rail, commuter-bus, rail-transit, bus-transit, or ferry services.

“(7) ‘recipient’ means a State or local governmental authority or a nonprofit organization that receives a grant to carry out this section directly from the Federal government.

“(8) ‘Secretary’ means the Secretary of Transportation.

“(9) ‘State’ means a State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, Guam, American Samoa, and the Virgin Islands.

“(10) ‘urban area’ means an area that includes a municipality or other built-up place that the Secretary, after considering local

patterns and trends of urban growth, decides is appropriate for a local public transportation system to serve individuals in the locality.

“§ 5573. Assurance of access to intermodal passenger facilities

“Intercity buses and other modes of transportation shall, to the maximum extent practicable, have access to publicly funded intermodal passenger facilities, including those passenger facilities seeking funding under section 5574.

“§ 5574. Intercity bus intermodal passenger facility grants

“(a) GENERAL AUTHORITY.—The Secretary of Transportation may make grants under this section to recipients in financing a capital project only if the Secretary finds that the proposed project is justified and has adequate financial commitment.

“(b) COMPETITIVE GRANT SELECTION.—The Secretary shall conduct a national solicitation for applications for grants under this section. Grantees shall be selected on a competitive basis.

“(c) SHARE OF NET PROJECT COSTS.—A grant shall not exceed 50 percent of the net project cost, as determined by the Secretary.

“(d) REGULATIONS.—The Secretary may promulgate such regulations as are necessary to carry out this section.

“§ 5575. Funding

“(a) HIGHWAY ACCOUNT.—

“(1) There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subchapter \$10,000,000 for each of fiscal years 2005 through 2009.

“(2) The funding made available under paragraph (1) shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23 and shall be subject to any obligation limitation imposed on funds for Federal-aid highways and highway safety construction programs.

“(b) PERIOD OF AVAILABILITY.—Amounts made available under subsection (a) shall remain available until expended.”

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 55 of title 49, United States Code, is amended by adding at the end the following:

“SUBCHAPTER III—INTERMODAL PASSENGER FACILITIES

Sec.

“5571. Policy and Purposes.

“5572. Definitions.

“5573. Assurance of access to intermodal facilities.

“5574. Intercity bus intermodal facility grants.

“5575. Funding.”

SA 2614. Mr. BUNNING 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 in the appropriate place

SECTION 1. TEMPORARY SPECIAL RULES FOR REFUND OF THE COAL EXCISE TAX TO CERTAIN COAL EXPORTERS.

(a) IN GENERAL.—Notwithstanding sections 6416(a)(1) and (c) and 6511 of the Internal Revenue Code of 1986, the amount of any tax imposed on exported coal under section 4121 of such Code shall be refunded to the exporter of such coal and consistent with the requirements of this section and otherwise applicable provisions of such Code.

(b) LIMITATIONS.—

(1) TIME OF FILING.—Subsection (a) shall apply only with respect to amounts of tax for which a return was filed on or after December 28, 1992, and before April 1, 2003.

(2) EXPORTERS RELATED TO PRODUCERS EXCLUDED.—Subsection (a) shall not apply with respect to the amount of tax on any coal if the exporter of such coal is also the producer of such coal—

(A) is related (within the meaning of section 144(a)(3) of such Code) to the producers or seller of such coal, or

(B) has a contract, fee arrangement, or any other agreement with the producer or seller of such coal to sell such coal to a third party on behalf of the producer or seller of such coal.

(c) REQUIREMENTS.—No refund shall be made under this section unless the exporter establishes, through statements, documentation or other evidence—

(1) the amount of the tax imposed under section 4121 of such Code on such coal;

(2) the quarter and year that such tax was required to be remitted or paid by the producer or seller of the coal to the Secretary;

(3) that the amount of such tax was included in the price paid by the exporter for such coal;

(4) that such coal was exported; and

(5) that the exporter—

(A) has not included the tax in the price of such coal and has not collected the amount of such tax from the person who purchased such coal;

(B) has repaid the amount of the tax to the ultimate purchaser of the coal to the making of the refund; or

(C) has filed with the Secretary the written consent of the ultimate purchaser of the coal to the making of the refund.

(d) PRESUMPTION OF PAYMENT.—If the requirements of Subsection (c) are met, it is presumed that the tax was paid or remitted by the exporter to the government, and the exporter shall be treated as the person (and the only person) who paid the tax.

(e) SUNSET.—This section shall not apply to any claim for refund filed after the date which is 1 year after the date of the enactment of this Act.

SA 2615. Ms. LANDRIEU (for herself, Mr. BREAUX, Mrs. LINCOLN, and Mr. PRYOR) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; 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) APPOINTMENT.—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 2616. Mr. INHOFE proposed an amendment to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; as follows:

On page 39, line 6, strike “\$38,000,000” and insert “\$50,000,000”.

On page 58, line 21, add a period after the closing quotation marks.

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 AND MAINTENANCE.

(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 and maintenance

“(a) CONSTRUCTION OF FERRY BOATS AND FERRY TERMINAL FACILITIES.—

“(1) IN GENERAL.—The Secretary shall carry out a program for construction of ferry boats and ferry terminal 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.

“(1) IN GENERAL.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) \$50,000,000 for each fiscal year to carry out this section.

“(2) AVAILABILITY.—Notwithstanding section 118(a), funds made available under paragraph (1) shall be available in advance of an annual appropriation.

(b) CONFORMING AMENDMENTS.—

(1) 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.”

(2) Section 1064 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2005) is repealed.

On page 82, line 16, insert “and” after the semicolon.

On page 82, line 18, strike “; and” and insert a period.

On page 82, strike lines 19 through 21.

On page 83, strike line 3.

On page 118, line 3, before “equipment,” insert “integrated, interoperable emergency communications.”

On page 120, line 18, after “elements,” insert “(including integrated, interoperable emergency communications).”

On page 127, line 23, strike “paragraph (1)” and insert “subsection (c)(1)(D).”

On page 128, strike lines 5 through 20 and insert the following:

“(4) DISCOVERY AND ADMISSION INTO EVIDENCE OF CERTAIN REPORTS, SURVEYS, AND INFORMATION.—Notwithstanding any other provision of law, reports, surveys, schedules, lists, or 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 not be subject to discovery or admitted into evidence in a Federal or State court proceeding or considered for other purposes in any action for damages arising from any occurrence at a location identified or addressed in such reports, surveys, schedules, lists, or other data.

On page 134, line 25, strike “be available” and insert the following: “be—

“(1) available”.

On page 135, line 2, strike the first period, the closing quotation marks, and the following period and insert “; and”.

On page 135, between lines 2 and 3, insert the following:

“(2) apportioned in accordance with section 104(b)(5).”

On page 147, after the matter following line 24, add the following:

On page 224, line 23, strike “and”.

On page 226, line 10, strike “(4)” and insert “(3)”.

On page 257, line 12, strike “B” and insert “(B)”.

On page 260, strike lines 3 through 9 and insert the following:

(2) in paragraph (5), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

“(6) if the project or program is for the purchase of alternative fuel (as defined in section 301 of the Energy Policy Act of 1992 (42 U.S.C. 13211)) or biodiesel; or

“(7) if the project or program involves the purchase of integrated, interoperable emergency communications equipment.”

On page 261, between lines 5 and 6, insert the following:

(c) RESPONSIBILITY OF STATES.—

(1) IN GENERAL.—Each State shall be responsible for ensuring that subrecipients of

Federal funds within the State under section 149 of title 23, United States Code, have emission reduction strategies for fleets that are—

(A) used in construction projects located in nonattainment and maintenance areas; and

(B) funded under title 23, United States Code.

(2) EMISSION REDUCTION STRATEGIES.—The Administrator of the Environmental Protection Agency, in consultation with the Secretary, shall develop a nonbinding list of emission reduction strategies and supporting technical information for each strategy, including—

(A) contract preferences;

(B) requirements for the use of anti-idling equipment;

(C) diesel retrofits; and

(D) such other matters as the Administrator of the Environmental Protection Agency, in consultation with the Secretary, determine to be appropriate.

(3) USE OF CMAQ FUNDS.—A State may use funds made available under this title and title 23, United States Code, for the congestion mitigation and air quality program under section 149 of title 23, United States Code, to ensure the deployment of the emission reduction strategies described in paragraph (1).

On page 288, between lines 2 and 3, insert the following:

SEC. 1622. FUNDS FOR REBUILDING FISH STOCKS.

Section 105 of the Miscellaneous Appropriations and Offsets Act, 2004 (Division H of the Consolidated Appropriations Act, 2004 (Public Law 108-199)) is repealed.

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 CAPABILITY.—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) AUTHORIZATION OF APPROPRIATIONS.—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, preconstruction, construction, and inspection of projects to replace.”; and

(II) by adding at the end the following:

“(i) 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 Inte-

rior, 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).”;

(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.”.

On page 387, line 8, strike “I and II” and insert “I, II, and III”.

On page 389, between lines 15 and 16, insert the following:

SEC. 1823. 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 and inland ports 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 or inland port;

(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.

SEC. 1824. 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”.

On page 398, strike lines 5 through 11 and insert the following:

further development and deployment of techniques to prevent and mitigate alkali silica reactivity;

(H) \$2,000,000 for fiscal year 2005 shall be remain available until expended for asphalt and asphalt-related reclamation research at the South Dakota School of Mines; and

(I) \$3,000,000 for each of fiscal years 2004 through 2009 shall be made available to carry out section 502(f)(3) of title 23, United States Code.

On page 403, in the matter following line 2, strike the item relating to section 511 and insert the following:

“511. Multistate corridor operations and management.

“512. Transportation analysis simulation system.”.

On page 404, line 7, before “communications” insert “integrated, interoperable emergency”.

On page 420, line 23, strike “enhanced” and insert “integrated, interoperable emergency”.

On page 476, line 18, strike the period and closing quotation marks.

On page 476, between lines 18 and 19, insert the following:

“§ 512. Transportation analysis simulation system

“(a) CONTINUATION OF TRANSIMS DEVELOPMENT.—

“(1) IN GENERAL.—The Secretary shall continue the 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 TRANSIMS;

“(B) continue development of TRANSIMS for applications to facilitate transportation planning, regulatory compliance, and response to natural disasters and other transportation disruptions; and

“(C) assist State transportation departments 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—

“(1) to further develop TRANSIMS for additional applications, including—

“(A) congestion analyses;

“(B) major investment studies;

“(C) economic impact analyses;

“(D) alternative analyses;

“(E) freight movement studies;

“(F) emergency evacuation studies;

“(G) port studies; and

“(H) 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 for the movement of individuals and goods;

“(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 shall be allocated for activities described in subsection (b)(3).

“(d) FUNDING.—Of the amounts made available under section 2001(a) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 for each of fiscal years 2004 through 2009, the Secretary shall use \$1,000,000 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.”.

On page 489, after line 23, add the following:

SEC. 2105. 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, Burlington Vermont, 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.—There are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) \$5,000,000 for each fiscal year to carry out this paragraph.

“(iii) AVAILABILITY; NO REDUCTION OR SET-ASIDE.—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 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 of the Transportation Equity Act for the 21st Century (112 Stat. 453) is amended by striking subsection (k) (112 Stat. 2681-478).

On page 874, line 22, strike “and”.

On page 875, strike lines 3 through 5.

On page 995, line 20, insert “(a) IN GENERAL.—” before “Section”.

On page 996, between lines 5 and 6, 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 in the first sentence—

(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.

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 December 15, 2006, the operation of passenger rail service between Boston, Massachusetts, and Portland, Maine.

On page 1310, after line 4, add the following:

TITLE VII—MISCELLANEOUS PROVISIONS

SEC. 7001. REIMBURSEMENT OF CERTAIN TRANSPORTATION COSTS INCURRED BY MEMBERS OF THE UNITED STATES ARMED FORCES ON REST AND RECOVERY 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 1 round trip by such member between 2 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.

TITLE VIII—SOLID WASTE DISPOSAL

SEC. 8001. INCREASED USE OF RECOVERED MINERAL COMPONENT IN FEDERALLY FUNDED PROJECTS INVOLVING PROCUREMENT OF CEMENT OR CONCRETE.

(a) IN GENERAL.—Subtitle F of the Solid Waste Disposal Act (42 U.S.C. 6961 et seq.) is amended by adding at the end the following:

“SEC. 6005. INCREASED USE OF RECOVERED MINERAL COMPONENT IN FEDERALLY FUNDED PROJECTS INVOLVING PROCUREMENT OF CEMENT OR CONCRETE.

“(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 in section 1001 of the Solid Waste Disposal Act (42 U.S.C. prec. 6901) is amended by adding after the item relating to section 6004 the following:

“Sec. 6005. Increased use of recovered mineral component in federally funded projects involving procurement of cement or concrete.”.

SEC. 8002. USE OF GRANULAR MINE TAILINGS.

(a) IN GENERAL.—Subtitle F of the Solid Waste Disposal Act (42 U.S.C. 6961 et seq.) (as amended by section 8001(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 in section 1001 of the Solid Waste Disposal Act (42 U.S.C. prec. 6901) (as amended by section 8001(b)) is amended by adding after the item relating to section 6005 the following:

“Sec. 6006. Use of granular mine tailings.”.

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

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 sub-

section (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.

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 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 de-

mand 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 Transportation 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 traf-

fic, 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.

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

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 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 Transportation 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.

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 PEDESTRIAN AND BICYCLE FACILITY ENHANCEMENT PROJECTS.**—Among the pedestrian and bicycle facility enhancement projects under consideration, the Secretary shall urge that a priority be given to those pedestrian and bicycle facility projects that include a coordinated physical or healthy lifestyle program”.

On page 1027, strike lines 3 through 18, and insert the following:

(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 CERTAIN RAIL PROJECTS.**—With respect to rail 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, except for any rail project involving publicly owned rail facilities or any rail project yielding a public benefit.”

(h) **HIGHWAY TRUST FUND EXPENDITURES FOR HIGHWAY USE TAX EVASION PROJECTS.**—Section 9503(c), as amended by subsection (g), is amended to add at the end the following new paragraph:

“(7) **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 xfers, 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.”.

On page 1028, lines 3 and 4, strike “paragraphs (3), (4), (5), and (6) as paragraphs (2), (3), (4), and (5), respectively.” and insert “paragraphs (3), (4), (5), (6), and (7) as paragraphs (2), (3), (4), (5), and (6), respectively.”

Beginning on page 1062, line 11, strike all through page 1064, line 2, and insert the following:

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.

On page 1081, between lines 19 and 20, insert the following:

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.

On page 1298, strike lines 16 through 24 and insert the following:

Subtitle H—Additional Revenue Provisions

PART I—ADMINISTRATIVE PROVISIONS

SEC. 5672. EXTENSION OF IRS USER FEES.

(a) IN GENERAL.—Section 7528(c) (relating to termination) is amended by striking “December 31, 2004” and inserting “September 30, 2013”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to requests after the date of the enactment of this Act.

SEC. 5673. CLARIFICATION OF RULES FOR PAYMENT OF ESTIMATED TAX FOR CERTAIN DEEMED ASSET SALES.

(a) IN GENERAL.—Paragraph (13) of section 338(h) (relating to tax on deemed sale not taken into account for estimated tax purposes) is amended by adding at the end the following: “The preceding sentence shall not apply with respect to a qualified stock purchase for which an election is made under paragraph (10).”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to trans-

actions occurring after the date of the enactment of this Act.

SEC. 5674. PARTIAL PAYMENT OF TAX LIABILITY IN INSTALLMENT AGREEMENTS.

(a) IN GENERAL.—

(1) Section 6159(a) (relating to authorization of agreements) is amended—

(A) by striking “satisfy liability for payment of” and inserting “make payment on”, and

(B) by inserting “full or partial” after “facilitate”.

(2) Section 6159(c) (relating to Secretary required to enter into installment agreements in certain cases) is amended in the matter preceding paragraph (1) by inserting “full” before “payment”.

(b) REQUIREMENT TO REVIEW PARTIAL PAYMENT AGREEMENTS EVERY TWO YEARS.—Section 6159, as amended by this Act, is amended by redesignating subsections (d), (e), and (f) as subsections (e), (f), and (g), respectively, and inserting after subsection (c) the following new subsection:

“(d) SECRETARY REQUIRED TO REVIEW INSTALLMENT AGREEMENTS FOR PARTIAL COLLECTION EVERY TWO YEARS.—In the case of an agreement entered into by the Secretary under subsection (a) for partial collection of a tax liability, the Secretary shall review the agreement at least once every 2 years.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to agreements entered into on or after the date of the enactment of this Act.

PART II—FINANCIAL INSTRUMENTS

SEC. 5675. TREATMENT OF STRIPPED INTERESTS IN BOND AND PREFERRED STOCK FUNDS, ETC.

(a) IN GENERAL.—Section 1286 (relating to tax treatment of stripped bonds) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

“(f) TREATMENT OF STRIPPED INTERESTS IN BOND AND PREFERRED STOCK FUNDS, ETC.—In the case of an account or entity substantially all of the assets of which consist of bonds, preferred stock, or a combination thereof, the Secretary may by regulations provide that rules similar to the rules of this section and 305(e), as appropriate, shall apply to interests in such account or entity to which (but for this subsection) this section or section 305(e), as the case may be, would not apply.”.

(b) CROSS REFERENCE.—Subsection (e) of section 305 is amended by adding at the end the following new paragraph:

“(7) CROSS REFERENCE.—

“For treatment of stripped interests in certain accounts or entities holding preferred stock, see section 1286(f).”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to purchases and dispositions after the date of the enactment of this Act.

SEC. 5676. APPLICATION OF EARNINGS STRIPPING RULES TO PARTNERSHIPS AND S CORPORATIONS.

(a) IN GENERAL.—Section 168(j) (relating to limitation on deduction for interest on certain indebtedness) is amended by redesignating paragraph (8) as paragraph (9) and by inserting after paragraph (7) the following new paragraph:

“(8) APPLICATION TO PARTNERSHIPS AND S CORPORATIONS.—

“(A) IN GENERAL.—This subsection shall apply to partnerships and S corporations in the same manner as it applies to C corporations.

“(B) ALLOCATIONS TO CERTAIN CORPORATE PARTNERS.—If a C corporation is a partner in a partnership—

“(i) the corporation’s allocable share of indebtedness and interest income of the part-

nership shall be taken into account in applying this subsection to the corporation, and

“(ii) if a deduction is not disallowed under this subsection with respect to any interest expense of the partnership, this subsection shall be applied separately in determining whether a deduction is allowable to the corporation with respect to the corporation’s allocable share of such interest expense.”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 5677. RECOGNITION OF CANCELLATION OF INDEBTEDNESS INCOME REALIZED ON SATISFACTION OF DEBT WITH PARTNERSHIP INTEREST.

(a) IN GENERAL.—Paragraph (8) of section 108(e) (relating to general rules for discharge of indebtedness (including discharges not in title 11 cases or insolvency)) is amended to read as follows:

“(8) INDEBTEDNESS SATISFIED BY CORPORATE STOCK OR PARTNERSHIP INTEREST.—For purposes of determining income of a debtor from discharge of indebtedness, if—

“(A) a debtor corporation transfers stock, or

“(B) a debtor partnership transfers a capital or profits interest in such partnership, to a creditor in satisfaction of its recourse or nonrecourse indebtedness, such corporation or partnership shall be treated as having satisfied the indebtedness with an amount of money equal to the fair market value of the stock or interest. In the case of any partnership, any discharge of indebtedness income recognized under this paragraph shall be included in the distributive shares of taxpayers which were the partners in the partnership immediately before such discharge.”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to cancellations of indebtedness occurring on or after the date of the enactment of this Act.

SEC. 5678. MODIFICATION OF STRADDLE RULES.

(a) RULES RELATING TO IDENTIFIED STRADDLES.—

(1) IN GENERAL.—Subparagraph (A) of section 1092(a)(2) (relating to special rule for identified straddles) is amended to read as follows:

“(A) IN GENERAL.—In the case of any straddle which is an identified straddle—

“(i) paragraph (1) shall not apply with respect to identified positions comprising the identified straddle,

“(ii) if there is any loss with respect to any identified position of the identified straddle, the basis of each of the identified offsetting positions in the identified straddle shall be increased by an amount which bears the same ratio to the loss as the unrecognized gain with respect to such offsetting position bears to the aggregate unrecognized gain with respect to all such offsetting positions, and

“(iii) any loss described in clause (ii) shall not otherwise be taken into account for purposes of this title.”.

(2) IDENTIFIED STRADDLE.—Section 1092(a)(2)(B) (defining identified straddle) is amended—

(A) by striking clause (ii) and inserting the following:

“(ii) to the extent provided by regulations, the value of each position of which (in the hands of the taxpayer immediately before the creation of the straddle) is not less than the basis of such position in the hands of the taxpayer at the time the straddle is created, and”, and

(B) by adding at the end the following new flush sentence:

“The Secretary shall prescribe regulations which specify the proper methods for clearly

identifying a straddle as an identified straddle (and the positions comprising such straddle), which specify the rules for the application of this section for a taxpayer which fails to properly identify the positions of an identified straddle, and which specify the ordering rules in cases where a taxpayer disposes of less than an entire position which is part of an identified straddle.”

(3) UNRECOGNIZED GAIN.—Section 1092(a)(3) (defining unrecognized gain) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

“(B) SPECIAL RULE FOR IDENTIFIED STRADDLES.—For purposes of paragraph (2)(A)(ii), the unrecognized gain with respect to any identified offsetting position shall be the excess of the fair market value of the position at the time of the determination over the fair market value of the position at the time the taxpayer identified the position as a position in an identified straddle.”

(4) CONFORMING AMENDMENT.—Section 1092(c)(2) is amended by striking subparagraph (B) and by redesignating subparagraph (C) as subparagraph (B).

(b) PHYSICALLY SETTLED POSITIONS.—Section 1092(d) (relating to definitions and special rules) is amended by adding at the end the following new paragraph:

“(8) SPECIAL RULES FOR PHYSICALLY SETTLED POSITIONS.—For purposes of subsection (a), if a taxpayer settles a position which is part of a straddle by delivering property to which the position relates (and such position, if terminated, would result in a realization of a loss), then such taxpayer shall be treated as if such taxpayer—

“(A) terminated the position for its fair market value immediately before the settlement, and

“(B) sold the property so delivered by the taxpayer at its fair market value.”

(c) REPEAL OF STOCK EXCEPTION.—

(1) IN GENERAL.—Section 1092(d)(3) is repealed.

(2) CONFORMING AMENDMENT.—Section 1258(d)(1) is amended by striking “; except that the term ‘personal property’ shall include stock”.

(d) REPEAL OF QUALIFIED COVERED CALL EXCEPTION.—Section 1092(c)(4) is amended by adding at the end the following new subparagraph:

“(I) TERMINATION.—This paragraph shall not apply to any position established on or after the date of the enactment of this subparagraph.”

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to positions established on or after the date of the enactment of this Act.

SEC. 5679. DENIAL OF INSTALLMENT SALE TREATMENT FOR ALL READILY TRADEABLE DEBT.

(a) IN GENERAL.—Section 453(f)(4)(B) (relating to purchaser evidences of indebtedness payable on demand or readily tradeable) is amended by striking “is issued by a corporation or a government or political subdivision thereof and”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to sales occurring on or after the date of the enactment of this Act.

PART III—CORPORATIONS AND PARTNERSHIPS

SEC. 5680. MODIFICATION OF TREATMENT OF TRANSFERS TO CREDITORS IN DIVISIVE REORGANIZATIONS.

(a) IN GENERAL.—Section 361(b)(3) (relating to treatment of transfers to creditors) is amended by adding at the end the following new sentence: “In the case of a reorganization described in section 368(a)(1)(D) with respect to which stock or securities of the cor-

poration to which the assets are transferred are distributed in a transaction which qualifies under section 355, this paragraph shall apply only to the extent that the sum of the money and the fair market value of other property transferred to such creditors does not exceed the adjusted bases of such assets transferred.”

(b) LIABILITIES IN EXCESS OF BASIS.—Section 357(c)(1)(B) is amended by inserting “with respect to which stock or securities of the corporation to which the assets are transferred are distributed in a transaction which qualifies under section 355” after “section 368(a)(1)(D)”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers of money or other property, or liabilities assumed, in connection with a reorganization occurring on or after the date of the enactment of this Act.

SEC. 5681. CLARIFICATION OF DEFINITION OF NONQUALIFIED PREFERRED STOCK.

(a) IN GENERAL.—Section 351(g)(3)(A) is amended by adding at the end the following: “Stock shall not be treated as participating in corporate growth to any significant extent unless there is a real and meaningful likelihood of the shareholder actually participating in the earnings and growth of the corporation.”

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to transactions after May 14, 2003.

SEC. 5682. MODIFICATION OF DEFINITION OF CONTROLLED GROUP OF CORPORATIONS.

(a) IN GENERAL.—Section 1563(a)(2) (relating to brother-sister controlled group) is amended by striking “possessing—” and all that follows through “(B)” and inserting “possessing”.

(b) APPLICATION OF EXISTING RULES TO OTHER CODE PROVISIONS.—Section 1563(f) (relating to other definitions and rules) is amended by adding at the end the following new paragraph:

“(5) BROTHER-SISTER CONTROLLED GROUP DEFINITION FOR PROVISIONS OTHER THAN THIS PART.—

“(A) IN GENERAL.—Except as specifically provided in an applicable provision, subsection (a)(2) shall be applied to an applicable provision as if it read as follows:

“(2) BROTHER-SISTER CONTROLLED GROUP.—Two or more corporations if 5 or fewer persons who are individuals, estates, or trusts own (within the meaning of subsection (d)(2) stock possessing—

“(A) at least 80 percent of the total combined voting power of all classes of stock entitled to vote, or at least 80 percent of the total value of shares of all classes of stock, of each corporation, and

“(B) more than 50 percent of the total combined voting power of all classes of stock entitled to vote or more than 50 percent of the total value of shares of all classes of stock of each corporation, taking into account the stock ownership of each such person only to the extent such stock ownership is identical with respect to each such corporation.”

“(B) APPLICABLE PROVISION.—For purposes of this paragraph, an applicable provision is any provision of law (other than this part) which incorporates the definition of controlled group of corporations under subsection (a).”

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 5683. MANDATORY BASIS ADJUSTMENTS IN CONNECTION WITH PARTNERSHIP DISTRIBUTIONS AND TRANSFERS OF PARTNERSHIP INTERESTS.

(a) IN GENERAL.—Section 754 is repealed.

(b) ADJUSTMENT TO BASIS OF UNDISTRICTED PARTNERSHIP PROPERTY.—Section 734 is amended—

(1) by striking “, with respect to which the election provided in section 754 is in effect,” in the matter preceding paragraph (1) of subsection (b),

(2) by striking “(as adjusted by section 732(d))” both places it appears in subsection (b),

(3) by striking the last sentence of subsection (b),

(4) by striking subsection (a) and by redesignating subsections (b) and (c) as subsections (a) and (b), respectively, and

(5) by striking “optional” in the heading.

(c) ADJUSTMENT TO BASIS OF PARTNERSHIP PROPERTY.—Section 743 is amended—

(1) by striking “with respect to which the election provided in section 754 is in effect” in the matter preceding paragraph (1) of subsection (b),

(2) by striking subsection (a) and by redesignating subsections (b) and (c) as subsections (a) and (b), respectively,

(3) by adding at the end the following new subsection:

“(c) ELECTION TO ADJUST BASIS FOR TRANSFERS UPON DEATH OF PARTNER.—Subsection (a) shall not apply and no adjustments shall be made in the case of any transfer of an interest in a partnership upon the death of a partner unless an election to do so is made by the partnership. Such an election shall apply with respect to all such transfers of interests in the partnership. Any election under section 754 in effect on the date of the enactment of this subsection shall constitute an election made under this subsection. Such election may be revoked by the partnership, subject to such limitations as may be provided by regulations prescribed by the Secretary.”, and

(4) by striking “optional” in the heading.

(d) CONFORMING AMENDMENTS.—

(1) Subsection (d) of section 732 is repealed.

(2) Section 755(a) is amended—

(A) by striking “section 734(b) (relating to the optional adjustment” and inserting “section 734(a) (relating to the adjustment”, and

(B) by striking “section 743(b) (relating to the optional adjustment” and inserting “section 743(a) (relating to the adjustment”.

(3) Section 761(e)(2) is amended by striking “optional”.

(4) Section 774(a) is amended by striking “743(b)” both places it appears and inserting “743(a)”.

(5) The item relating to section 734 in the table of sections for subpart B of part II of subchapter K of chapter 1 is amended by striking “Optional”.

(6) The item relating to section 743 in the table of sections for subpart C of part II of subchapter K of chapter 1 is amended by striking “Optional”.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to transfers and distributions made after the date of the enactment of this Act.

(2) REPEAL OF SECTION 732(d).—The amendments made by subsections (b)(2) and (d)(1) shall apply to—

(A) except as provided in subparagraph (B), transfers made after the date of the enactment of this Act, and

(B) in the case of any transfer made on or before such date to which section 732(d) applies, distributions made after the date which is 2 years after such date of enactment.

SEC. 5685. CLASS LIVES FOR UTILITY GRADING COSTS.

(a) GAS UTILITY PROPERTY.—Section 168(e)(3)(E) (defining 15-year property) 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) initial clearing and grading land improvements with respect to gas utility property.”.

(b) **ELECTRIC UTILITY PROPERTY.**—Section 168(e)(3) is amended by adding at the end the following new subparagraph:

“(F) **20-YEAR PROPERTY.**—The term ‘20-year property’ means initial clearing and grading land improvements with respect to any electric utility transmission and distribution plant.”.

(c) **CONFORMING AMENDMENTS.**—The table contained in section 168(g)(3)(B) is amended—

(1) by inserting “or (E)(iv)” after “(E)(iii)”, and

(2) by adding at the end the following new item:

“(F) 25”.

(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.

SEC. 5686. 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 sub-

section (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.

On page 521, strike line 18 and all that follows through the matter following line 18 on page 720, and insert the following:

TITLE III—PUBLIC TRANSPORTATION

SEC. 3001. SHORT TITLE.

This title may be cited as the “Federal Public Transportation Act of 2004”.

SEC. 3002. AMENDMENTS TO TITLE 49, UNITED STATES CODE; UPDATED TERMINOLOGY.

(a) **AMENDMENTS TO TITLE 49.**—Except as otherwise specifically 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 of law, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

(b) **UPDATED TERMINOLOGY.**—Except for sections 5301(f), 5302(a)(7), and 5315, chapter 53, including the chapter analysis, is amended by striking “mass transportation” each place it appears and inserting “public transportation”.

SEC. 3003. POLICIES, FINDINGS, AND PURPOSES.

(a) **DEVELOPMENT AND REVITALIZATION OF PUBLIC TRANSPORTATION SYSTEMS.**—Section 5301(a) is amended to read as follows:

“(a) **DEVELOPMENT AND REVITALIZATION OF PUBLIC TRANSPORTATION SYSTEMS.**—It is in the economic interest of the United States to foster the development and revitalization of public transportation systems, which are coordinated with other modes of transportation, that maximize the efficient, secure, and safe mobility of individuals and minimize environmental impacts.”.

(b) **GENERAL FINDINGS.**—Section 5301(b)(1) is amended—

(1) by striking “70 percent” and inserting “two-thirds”; and

(2) by striking “urban areas” and inserting “urbanized areas”.

(c) **PRESERVING THE ENVIRONMENT.**—Section 5301(e) is amended—

(1) by striking “an urban” and inserting “a”; and

(2) by striking “under sections 5309 and 5310 of this title”.

(d) **GENERAL PURPOSES.**—Section 5301(f) is amended—

(1) in paragraph (1)—

(A) by striking “improved mass” and inserting “improved public”; and

(B) by striking “public and private mass transportation companies” and inserting “public transportation companies and private companies engaged in public transportation”;

(2) in paragraph (2)—

(A) by striking “urban mass” and inserting “public”; and

(B) by striking “public and private mass transportation companies” and inserting “public transportation companies and private companies engaged in public transportation”;

(3) in paragraph (3)—

(A) by striking “urban mass” and inserting “public”; and

(B) by striking “public or private mass transportation companies” and inserting “public transportation companies or private companies engaged in public transportation”; and

(4) in paragraph (5), by striking “urban mass” and inserting “public”.

SEC. 3004. DEFINITIONS.

Section 5302(a) is amended—

(1) in paragraph (1)—

(A) in subparagraph (G)(i), by inserting “including the intercity bus and intercity rail portions of such facility or mall,” after “transportation mall,”;

(B) in subparagraph (G)(ii), by inserting “, except for the intercity bus portion of intermodal facilities or malls,” after “commercial revenue-producing facility”;

(C) in subparagraph (H)—

(i) by striking “and” after “innovative” and inserting “or”; and

(ii) by striking “or” after the semicolon at the end;

(D) in subparagraph (I), by striking the period at the end and inserting a semicolon; and

(E) by adding at the end the following:

“(J) crime prevention and security, including—

“(i) projects to refine and develop security and emergency response plans; or

“(ii) projects to detect chemical or biological agents in public transportation;

“(K) conducting emergency response drills with public transportation agencies and local first response agencies or security training for public transportation employees, except for expenses relating to operations; or

“(L) establishing a debt service reserve, made up of deposits with a bondholder's trustee, to ensure the timely payment of principal and interest on bonds issued by a grant recipient to finance an eligible project under this chapter.”;

(2) by striking paragraph (16);

(3) by redesignating paragraphs (8) through (15) as paragraphs (9) through (16), respectively;

(4) by striking paragraph (7) and inserting the following:

“(7) **MASS TRANSPORTATION.**—The term ‘mass transportation’ means public transportation.

“(8) **MOBILITY MANAGEMENT.**—The term ‘mobility management’ means a short-range planning or management activity or project that does not include operating public transportation services and—

“(A) improves coordination among public transportation providers, including private companies engaged in public transportation;

“(B) addresses customer needs by tailoring public transportation services to specific market niches; or

“(C) manages public transportation demand.”;

(5) by amending paragraph (11), as redesignated, to read as follows:

“(11) **PUBLIC TRANSPORTATION.**—The term ‘public transportation’ means transportation

by a conveyance that provides local regular and continuing general or special transportation to the public, but does not include school bus, charter bus, intercity bus or passenger rail, or sightseeing transportation.”;

(6) in subparagraphs (A) and (E) of paragraph (16), as redesignated, by striking “and” each place it appears and inserting “or”; and

(7) by amending paragraph (17) to read as follows:

“(17) URBANIZED AREA.—The term ‘urbanized area’ means an area encompassing a population of not less than 50,000 people that has been defined and designated in the most recent decennial census as an ‘urbanized area’ by the Secretary of Commerce.”.

SEC. 3005. METROPOLITAN TRANSPORTATION PLANNING.

Section 5303 is amended to read as follows: **“§ 5303. Metropolitan transportation planning**

“(a) DEFINITIONS.—As used in this section and in section 5304, the following definitions shall apply:

“(1) CONSULTATION.—A ‘consultation’ occurs when 1 party—

“(A) confers with another identified party in accordance with an established process;

“(B) prior to taking action, considers the views of the other identified party; and

“(C) periodically informs that party about action taken.

“(2) METROPOLITAN PLANNING AREA.—The term ‘metropolitan planning area’ means the geographic area determined by agreement between the metropolitan planning organization and the Governor under subsection (d).

“(3) METROPOLITAN PLANNING ORGANIZATION.—The term ‘metropolitan planning organization’ means the Policy Board of the organization designated under subsection (c).

“(4) NONMETROPOLITAN AREA.—The term ‘nonmetropolitan area’ means any geographic area outside all designated metropolitan planning areas.

“(5) NONMETROPOLITAN LOCAL OFFICIAL.—The term ‘nonmetropolitan local official’ means any elected or appointed official of general purpose local government located in a nonmetropolitan area who is responsible for transportation services for such local government.

“(b) GENERAL REQUIREMENTS.—

“(1) DEVELOPMENT OF PLANS AND PROGRAMS.—To accomplish the objectives described in section 5301(a), each metropolitan planning organization, in cooperation with the State and public transportation operators, shall develop transportation plans and programs for metropolitan planning areas of the State in which it is located.

“(2) CONTENTS.—The plans and programs developed under paragraph (1) for each metropolitan planning area shall provide for the development and integrated management and operation of transportation systems and facilities (including pedestrian walkways and bicycle transportation facilities) that will function as an intermodal transportation system for the metropolitan planning area and as an integral part of an intermodal transportation system for the State and the United States.

“(3) PROCESS OF DEVELOPMENT.—The process for developing the plans and programs shall provide for consideration of all modes of transportation and shall be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems to be addressed.

“(4) PLANNING AND PROJECT DEVELOPMENT.—The metropolitan planning organization, the State Department of Transportation, and the appropriate public transportation provider shall agree upon the approaches that will be used to evaluate alternatives and identify transportation improve-

ments that address the most complex problems and pressing transportation needs in the metropolitan area.

“(c) DESIGNATION OF METROPOLITAN PLANNING ORGANIZATIONS.—

“(1) IN GENERAL.—To carry out the transportation planning process under this section, a metropolitan planning organization shall be designated for each urbanized area—

“(A) by agreement between the Governor and units of general purpose local government that combined represent not less than 75 percent of the affected population (including the incorporated city or cities named by the Bureau of the Census in designating the urbanized area); or

“(B) in accordance with procedures established by applicable State or local law.

“(2) STRUCTURE.—Each metropolitan planning organization designated under paragraph (1) that serves an area identified as a transportation management area shall consist of—

“(A) local elected officials;

“(B) officials of public agencies that administer or operate major modes of transportation in the metropolitan area; and

“(C) appropriate State officials.

“(3) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this subsection shall be construed to interfere with the authority, under any State law in effect on December 18, 1991, of a public agency with multimodal transportation responsibilities—

“(A) to develop plans and programs for adoption by a metropolitan planning organization; and

“(B) to develop long-range capital plans, coordinate transit services and projects, and carry out other activities pursuant to State law.

“(4) CONTINUING DESIGNATION.—The designation of a metropolitan planning organization under this subsection or any other provision of law shall remain in effect until the metropolitan planning organization is redesignated under paragraph (5).

“(5) REDESIGNATION PROCEDURES.—A metropolitan planning organization may be redesignated by agreement between the Governor and units of general purpose local government that combined represent not less than 75 percent of the existing planning area population (including the incorporated city or cities named by the Bureau of the Census in designating the urbanized area) as appropriate to carry out this section.

“(6) DESIGNATION OF MORE THAN 1 METROPOLITAN PLANNING ORGANIZATION.—More than 1 metropolitan planning organization may be designated within an existing metropolitan planning area only if the Governor and the existing metropolitan planning organization determine that the size and complexity of the existing metropolitan planning area make designation of more than 1 metropolitan planning organization for the area appropriate.

“(d) METROPOLITAN PLANNING AREA BOUNDARIES.—

“(1) IN GENERAL.—For the purposes of this section, the boundaries of a metropolitan planning area shall be determined by agreement between the metropolitan planning organization and the Governor.

“(2) INCLUDED AREA.—Each metropolitan planning area—

“(A) shall encompass at least the existing urbanized area and the contiguous area expected to become urbanized within a 20-year forecast period for the transportation plan; and

“(B) may encompass the entire metropolitan statistical area or consolidated metropolitan statistical area, as defined by the Office of Management and Budget.

“(3) IDENTIFICATION OF NEW URBANIZED AREAS WITHIN EXISTING PLANNING AREA

BOUNDARIES.—The designation by the Bureau of the Census of new urbanized areas within an existing metropolitan planning area shall not require the redesignation of the existing metropolitan planning organization.

“(4) EXISTING METROPOLITAN PLANNING AREAS IN NONATTAINMENT.—Notwithstanding paragraph (2), in the case of an urbanized area designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.), the boundaries of the metropolitan planning area in existence as of the date of enactment of the Federal Public Transportation Act of 2004 shall be retained, except that the boundaries may be adjusted by agreement of the Governor and affected metropolitan planning organizations in accordance with paragraph (5).

“(5) NEW METROPOLITAN PLANNING AREAS IN NONATTAINMENT.—If an urbanized area is designated after the date of enactment of this paragraph in a nonattainment area for ozone or carbon monoxide, the boundaries of the metropolitan planning area—

“(A) shall be established in accordance with subsection (c)(1);

“(B) shall encompass the areas described in paragraph (2)(A);

“(C) may encompass the areas described in paragraph (2)(B); and

“(D) may address any nonattainment identified under the Clean Air Act (42 U.S.C. 7401 et seq.) for ozone or carbon monoxide.

“(e) COORDINATION IN MULTISTATE AREAS.—

“(1) IN GENERAL.—The Secretary shall encourage each Governor with responsibility for a portion of a multistate metropolitan area and the appropriate metropolitan planning organizations to provide coordinated transportation planning for the entire metropolitan area.

“(2) INTERSTATE COMPACTS.—States are authorized—

“(A) to enter into agreements or compacts with other States, which agreements or compacts are not in conflict with any law of the United States, for cooperative efforts and mutual assistance in support of activities authorized under this section as the activities pertain to interstate areas and localities within the States; and

“(B) to establish such agencies, joint or otherwise, as the States may determine desirable for making the agreements and compacts effective.

“(3) LAKE TAHOE REGION.—

“(A) DEFINITION.—In this paragraph, the term ‘Lake Tahoe region’ has the meaning given the term ‘region’ in subdivision (a) of article II of the Tahoe Regional Planning Compact, as set forth in the first section of Public Law 96-551 (94 Stat. 3234).

“(B) TRANSPORTATION PLANNING PROCESS.—The Secretary shall—

“(i) establish with the Federal land management agencies that have jurisdiction over land in the Lake Tahoe region a transportation planning process for the region; and

“(ii) coordinate the transportation planning process with the planning process required of State and local governments under this section and section 5304.

“(C) INTERSTATE COMPACT.—

“(i) IN GENERAL.—Subject to clause (ii) and notwithstanding subsection (c), to carry out the transportation planning process required by this section, California and Nevada may designate a metropolitan planning organization for the Lake Tahoe region, by agreement between the Governor of the State of California, the Governor of the State of Nevada, and units of general purpose local government that combined represent not less than 75 percent of the affected population (including the incorporated city or cities named by the Bureau of the Census in designating the urbanized area), or in accordance

with procedures established by applicable State or local law.

“(ii) INVOLVEMENT OF FEDERAL LAND MANAGEMENT AGENCIES.—

“(I) REPRESENTATION.—The policy board of a metropolitan planning organization designated under clause (i) shall include a representative of each Federal land management agency that has jurisdiction over land in the Lake Tahoe region.

“(II) FUNDING.—In addition to funds made available to the metropolitan planning organization under other provisions of title 23 and this chapter, not more than 1 percent of the funds allocated under section 202 of title 23 may be used to carry out the transportation planning process for the Lake Tahoe region under this subparagraph.

“(D) ACTIVITIES.—Highway projects included in transportation plans developed under this paragraph—

“(i) shall be selected for funding in a manner that facilitates the participation of the Federal land management agencies that have jurisdiction over land in the Lake Tahoe region; and

“(ii) may, in accordance with chapter 2 of title 23, be funded using funds allocated under section 202 of title 23.

“(f) COORDINATION OF METROPOLITAN PLANNING ORGANIZATIONS.—

“(1) NONATTAINMENT AREAS.—If more than 1 metropolitan planning organization has authority within a metropolitan area or an area which is designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.), each metropolitan planning organization shall consult with the other metropolitan planning organizations designated for such area and the State in the coordination of plans required by this section.

“(2) TRANSPORTATION IMPROVEMENTS LOCATED IN MULTIPLE METROPOLITAN PLANNING AREAS.—If a transportation improvement funded from the highway trust fund is located within the boundaries of more than 1 metropolitan planning area, the metropolitan planning organizations shall coordinate plans regarding the transportation improvement.

“(3) INTERREGIONAL AND INTERSTATE PROJECT IMPACTS.—Planning for National Highway System, commuter rail projects, or other projects with substantial impacts outside a single metropolitan planning area or State shall be coordinated directly with the affected, contiguous, metropolitan planning organizations and States.

“(4) COORDINATION WITH OTHER PLANNING PROCESSES.—

“(A) IN GENERAL.—The Secretary shall encourage each metropolitan planning organization to coordinate its planning process, to the maximum extent practicable, with those officials responsible for other types of planning activities that are affected by transportation, including State and local land use planning, economic development, environmental protection, airport operations, housing, and freight.

“(B) OTHER CONSIDERATIONS.—The metropolitan planning process shall develop transportation plans with due consideration of, and in coordination with, other related planning activities within the metropolitan area. This should include the design and delivery of transportation services within the metropolitan area that are provided by—

“(i) recipients of assistance under this chapter;

“(ii) governmental agencies and nonprofit organizations (including representatives of the agencies and organizations) that receive Federal assistance from a source other than the Department of Transportation to provide nonemergency transportation services; and

“(iii) recipients of assistance under section 204 of title 23.

“(g) SCOPE OF PLANNING PROCESS.—

“(1) IN GENERAL.—The goals and objectives developed through the metropolitan planning process for a metropolitan planning area under this section shall address, in relation to the performance of the metropolitan area transportation systems—

“(A) supporting the economic vitality of the metropolitan area, especially by enabling global competitiveness, productivity, and efficiency, including through services provided by public and private operators;

“(B) increasing the safety of the transportation system for motorized and non-motorized users;

“(C) increasing the security of the transportation system for motorized and non-motorized users;

“(D) increasing the accessibility and mobility of people and for freight, including through services provided by public and private operators;

“(E) protecting and enhancing the environment (including the protection of habitat, water quality, and agricultural and forest land, while minimizing invasive species), promoting energy conservation, and promoting consistency between transportation improvements and State and local land use planning and economic development patterns (including minimizing adverse health effects from mobile source air pollution and promoting the linkage of the transportation and development goals of the metropolitan area);

“(F) enhancing the integration and connectivity of the transportation system, across and between modes, for people and freight, including through services provided by public and private operators;

“(G) promoting efficient system management and operation; and

“(H) emphasizing the preservation and efficient use of the existing transportation system, including services provided by public and private operators.

“(2) SELECTION OF FACTORS.—After soliciting and considering any relevant public comments, the metropolitan planning organization shall determine which of the factors described in paragraph (1) are most appropriate to consider.

“(3) FAILURE TO CONSIDER FACTORS.—The failure to consider any factor specified in paragraph (1) shall not be reviewable by any court under title 23, this title, subchapter II of chapter 5 of title 5, or chapter 7 of title 5 in any matter affecting a transportation plan, a transportation improvement plan, a project or strategy, or the certification of a planning process.

“(h) DEVELOPMENT OF TRANSPORTATION PLAN.—

“(1) IN GENERAL.—

“(A) REQUIREMENT.—Each metropolitan planning organization shall develop a transportation plan for its metropolitan planning area in accordance with this subsection, and update such plan—

“(i) not less frequently than once every 4 years in areas designated as nonattainment, as defined in section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)), and in areas that were nonattainment that have been redesignated as attainment, in accordance with paragraph (3) of such section, with a maintenance plan under section 175A of the Clean Air Act (42 U.S.C. 7505a); or

“(ii) not less frequently than once every 5 years in areas designated as attainment, as defined in section 107(d) of the Clean Air Act.

“(B) COORDINATION FACTORS.—In developing the transportation plan under this section, each metropolitan planning organization shall consider the factors described in subsection (f) over a 20-year forecast period.

“(C) FINANCIAL ESTIMATES.—For the purpose of developing the transportation plan, the metropolitan planning organization, transit operator, and State shall cooperatively develop estimates of funds that will be available to support plan implementation.

“(2) MITIGATION ACTIVITIES.—

“(A) IN GENERAL.—A transportation plan under this subsection shall include a discussion of—

“(i) types of potential habitat, hydrological, and environmental mitigation activities that may assist in compensating for loss of habitat, wetland, and other environmental functions; and

“(ii) potential areas to carry out these activities, including a discussion of areas that may have the greatest potential to restore and maintain the habitat types and hydrological or environmental functions affected by the plan.

“(B) CONSULTATION.—The discussion described in subparagraph (A) shall be developed in consultation with Federal and State tribal wildlife, land management, and regulatory agencies.

“(3) CONTENTS.—A transportation plan under this subsection shall be in a form that the Secretary determines to be appropriate and shall contain—

“(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;

“(B) a financial plan that—

“(i) demonstrates how the adopted transportation plan can be implemented;

“(ii) indicates resources from public and private sources that are reasonably expected to be made available to carry out the plan;

“(iii) recommends any additional financing strategies for needed projects and programs; and

“(iv) may include, for illustrative purposes, additional projects that would be included in the adopted transportation plan if approved by the Secretary and reasonable additional resources beyond those identified in the financial plan were available;

“(C) operational and management strategies to improve the performance of existing transportation facilities to relieve vehicular congestion and maximize the safety and mobility of people and goods;

“(D) capital investment and other strategies to preserve the existing metropolitan transportation infrastructure and provide for multimodal capacity increases based on regional priorities and needs; and

“(E) proposed transportation and transit enhancement activities.

“(4) CONSULTATION.—

“(A) IN GENERAL.—In each metropolitan area, the metropolitan planning organization shall consult, as appropriate, with State and local agencies responsible for land use management, natural resources, environmental protection, conservation, and historic preservation concerning the development of a long-range transportation plan.

“(B) ISSUES.—The consultation shall involve—

“(i) comparison of transportation plans with State conservation plans or with maps, if available;

“(ii) comparison of transportation plans to inventories of natural or historic resources, if available; or

“(iii) consideration of areas where wildlife crossing structures may be needed to ensure connectivity between wildlife habitat linkage areas.

“(5) COORDINATION WITH CLEAN AIR ACT AGENCIES.—In metropolitan areas in non-attainment for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.), the metropolitan planning organization shall coordinate the development of a transportation plan with the process for development of the transportation control measures of the State implementation plan required by the Clean Air Act.

“(6) APPROVAL OF THE TRANSPORTATION PLAN.—Each transportation plan prepared by a metropolitan planning organization shall be—

“(A) approved by the metropolitan planning organization; and

“(B) submitted to the Governor for information purposes at such time and in such manner as the Secretary may reasonably require.

“(i) PARTICIPATION BY INTERESTED PARTIES.—

“(1) DEVELOPMENT OF PARTICIPATION PLAN.—Not less frequently than every 4 years, each metropolitan planning organization shall develop and adopt a plan for participation in the process for developing the metropolitan transportation plan and programs by—

“(A) citizens;

“(B) affected public agencies;

“(C) representatives of public transportation employees;

“(D) freight shippers;

“(E) providers of freight transportation services;

“(F) private providers of transportation;

“(G) representatives of users of public transit;

“(H) representatives of users of pedestrian walkways and bicycle transportation facilities; and

“(I) other interested parties.

“(2) CONTENTS OF PARTICIPATION PLAN.—The participation plan—

“(A) shall be developed in a manner the Secretary determines to be appropriate;

“(B) shall be developed in consultation with all interested parties; and

“(C) shall provide that all interested parties have reasonable opportunities to comment on—

“(i) the process for developing the transportation plan; and

“(ii) the contents of the transportation plan.

“(3) METHODS.—The participation plan shall provide that the metropolitan planning organization shall, to the maximum extent practicable—

“(A) hold any public meetings at convenient and accessible locations and times;

“(B) employ visualization techniques to describe plans; and

“(C) make public information available in electronically accessible format and means, such as the World Wide Web.

“(4) CERTIFICATION.—Before the metropolitan planning organizations approve a transportation plan or program, each metropolitan planning organization shall certify that it has complied with the requirements of the participation plan it has adopted.

“(j) TRANSPORTATION IMPROVEMENT PROGRAM.—

“(1) DEVELOPMENT AND UPDATE.—

“(A) IN GENERAL.—In cooperation with the State and affected operators of public transportation, a metropolitan planning organization designated for a metropolitan planning area shall develop a transportation improvement program for the area.

“(B) PARTICIPATION.—In developing the transportation improvement program, the metropolitan planning organization, in cooperation with the Governor and any affected operator of public transportation, shall provide an opportunity for partici-

tion by interested parties in the development of the program, in accordance with subsection (i).

“(C) UPDATES.—The transportation improvement program shall be updated not less than once every 4 years and shall be approved by the metropolitan planning organization and the Governor.

“(D) FUNDING ESTIMATE.—In developing the transportation improvement program, the metropolitan planning organization, operators of public transportation, and the State shall cooperatively develop estimates of funds that are reasonably expected to be available to support program implementation.

“(E) PROJECT ADVANCEMENT.—Projects listed in the transportation improvement program may be selected for advancement consistent with the project selection requirements.

“(F) MAJOR AMENDMENTS.—Major amendments to the list described in subparagraph (E), including the addition, deletion, or concept and scope change of a regionally significant project, may not be advanced without—

“(i) appropriate public involvement;

“(ii) financial planning;

“(iii) transportation conformity analyses; and

“(iv) a finding by the Federal Highway Administration and Federal Transit Administration that the amended plan was produced in a manner consistent with this section.

“(2) INCLUDED PROJECTS.—

“(A) PROJECTS UNDER CHAPTER 1 OF TITLE 23 AND THIS CHAPTER.—A transportation improvement program developed under this section for a metropolitan area shall include the projects and strategies within the metropolitan area that are proposed for funding under chapter 1 of title 23 and this chapter.

“(B) PROJECTS UNDER CHAPTER 2 OF TITLE 23.—

“(i) REGIONALLY SIGNIFICANT PROJECTS.—Regionally significant projects proposed for funding under chapter 2 of title 23 shall be identified individually in the metropolitan transportation improvement program.

“(ii) OTHER PROJECTS.—Projects proposed for funding under chapter 2 of title 23 that are not regionally significant shall be grouped in 1 line item or identified individually in the metropolitan transportation improvement program.

“(3) SELECTION OF PROJECTS.—

“(A) IN GENERAL.—Except as otherwise provided under subsection (k)(4), the selection of federally funded projects in metropolitan planning areas shall be carried out, from the approved transportation plan—

“(i) by the State, in the case of projects under chapter 1 of title 23 or section 5308, 5310, 5311, or 5317 of this title;

“(ii) by the designated recipient, in the case of projects under section 5307; and

“(iii) in cooperation with the metropolitan planning organization.

“(B) MODIFICATIONS TO PROJECT PRIORITY.—Notwithstanding any other provision of law, a project may be advanced from the transportation improvement program in place of another project in the same transportation improvement program without the approval of the Secretary.

“(4) PUBLICATION REQUIREMENTS.—

“(A) PUBLICATION OF TRANSPORTATION IMPROVEMENT PROGRAM.—A transportation improvement program involving Federal participation shall be published or otherwise made readily available by the metropolitan planning organization for public review, including, to the maximum extent practicable, in electronically accessible formats and means, such as the World Wide Web.

“(B) PUBLICATION OF ANNUAL LISTINGS OF PROJECTS.—An annual listing of projects, including investments in pedestrian walkways

and bicycle transportation facilities, for which Federal funds have been obligated in the preceding 4 years shall be published or otherwise made available for public review by the cooperative effort of the State, transit operator, and the metropolitan planning organization. This listing shall be consistent with the funding categories identified in the transportation improvement program.

“(C) RULEMAKING.—Not later than 120 days after the date of enactment of the Federal Public Transportation Act of 2004, the Secretary shall issue regulations specifying—

“(i) the types of data to be included in the list described in subparagraph (B), including—

“(I) the name, type, purpose, and geocoded location of each project;

“(II) the Federal, State, and local identification numbers assigned to each project;

“(III) amounts obligated and expended on each project, sorted by funding source and transportation mode, and the date on which each obligation was made; and

“(IV) the status of each project; and

“(ii) the media through which the list described in subparagraph (B) will be made available to the public, including written and visual components for each of the projects listed.

“(k) TRANSPORTATION MANAGEMENT AREAS.—

“(1) REQUIRED IDENTIFICATION.—The Secretary shall identify each urbanized area with a population of more than 200,000 individuals as a transportation management area.

“(2) TRANSPORTATION PLANS AND PROGRAMS.—Transportation plans and programs for a metropolitan planning area serving a transportation management area shall be based on a continuing and comprehensive transportation planning process carried out by the metropolitan planning organization in cooperation with the State and transit operators.

“(3) CONGESTION MANAGEMENT SYSTEM.—

“(A) IN GENERAL.—The transportation planning process under this section shall address congestion management through a process that provides for effective management and operation, based on a cooperatively developed and implemented metropolitan-wide strategy, of new and existing transportation facilities eligible for funding under title 23 and this chapter through the use of travel demand reduction and operational management strategies.

“(B) PHASE-IN SCHEDULE.—The Secretary shall establish a phase-in schedule that provides for full compliance with the requirements of this section not later than 1 year after the identification of transportation management areas under paragraph (1).

“(4) SELECTION OF PROJECTS.—

“(A) IN GENERAL.—All federally funded projects carried out within the boundaries of a metropolitan planning area serving a transportation management area under title 23 (except for projects carried out on the National Highway System and projects carried out under the bridge program or the interstate maintenance program) or under this chapter shall be selected for implementation from the approved transportation improvement program by the metropolitan planning organization designated for the area in consultation with the State and any affected public transit operator.

“(B) NATIONAL HIGHWAY SYSTEM PROJECTS.—Projects on the National Highway System carried out within the boundaries of a metropolitan planning area serving a transportation management area and projects carried out within such boundaries under the bridge program or the interstate maintenance program under title 23 shall be

selected for implementation from the approved transportation improvement program by the State in cooperation with the metropolitan planning organization designated for the area.

“(5) CERTIFICATION.—

“(A) IN GENERAL.—The Secretary shall—

“(i) ensure that the metropolitan planning process of a metropolitan planning organization serving a transportation management area is being carried out in accordance with Federal law; and

“(ii) subject to subparagraph (B), certify, not less frequently than once every 4 years in nonattainment and maintenance areas (as defined under the Clean Air Act) and not less frequently than once every 5 years in attainment areas (as defined under such Act), that the requirements of this paragraph are met with respect to the metropolitan planning process.

“(B) REQUIREMENTS FOR CERTIFICATION.—The Secretary may make the certification under subparagraph (A) if—

“(i) the transportation planning process complies with the requirements of this section and all other applicable Federal law; and

“(ii) a transportation plan and a transportation improvement program for the metropolitan planning area have been approved by the metropolitan planning organization and the Governor.

“(C) PENALTY FOR FAILING TO CERTIFY.—

“(i) WITHHOLDING PROJECT FUNDS.—If the metropolitan planning process of a metropolitan planning organization serving a transportation management area is not certified, the Secretary may withhold any funds otherwise available to the metropolitan planning area for projects funded under title 23 and this chapter.

“(ii) RESTORATION OF WITHHELD FUNDS.—Any funds withheld under clause (i) shall be restored to the metropolitan planning area when the metropolitan planning process is certified by the Secretary.

“(D) REVIEW OF CERTIFICATION.—In making a certification under this paragraph, the Secretary shall provide for public involvement appropriate to the metropolitan area under review.

“(1) ABBREVIATED PLANS FOR CERTAIN AREAS.—

“(1) IN GENERAL.—Subject to paragraph (2), in the case of a metropolitan area not designated as a transportation management area under this section, the Secretary may provide for the development of an abbreviated transportation plan and transportation improvement program for the metropolitan planning area that the Secretary determines is appropriate to achieve the purposes of this section, after considering the complexity of transportation problems in the area.

“(2) NONATTAINMENT AREAS.—The Secretary may not permit abbreviated plans for a metropolitan area that is in nonattainment for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.).

“(m) ADDITIONAL REQUIREMENTS FOR CERTAIN NONATTAINMENT AREAS.—

“(1) IN GENERAL.—Notwithstanding any other provisions of title 23 or this chapter, Federal funds may not be advanced for transportation management areas classified as nonattainment for ozone or carbon monoxide pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.) for any highway project that will result in a significant increase in carrying capacity for single-occupant vehicles unless the project is addressed through a congestion management process.

“(2) APPLICABILITY.—This subsection applies to any nonattainment area within the metropolitan planning area boundaries determined under subsection (d).

“(n) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to confer on a metropolitan planning organization the authority to impose legal requirements on any transportation facility, provider, or project that is not eligible under title 23 or this chapter.

“(o) AVAILABILITY OF FUNDS.—Funds set aside under section 104(f) of title 23 or section 5308 of this title shall be available to carry out this section.

“(p) CONTINUATION OF CURRENT REVIEW PRACTICE.—Any decision by the Secretary concerning a plan or program described in this section shall not be considered to be a Federal action subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).”

SEC. 3006. STATEWIDE TRANSPORTATION PLANNING.

Section 5304 is amended to read as follows:

“§ 5304. Statewide transportation planning

“(a) GENERAL REQUIREMENTS.—

“(1) DEVELOPMENT OF PLANS AND PROGRAMS.—To support the policies described in section 5301(a), each State shall develop a statewide transportation plan (referred to in this section as a “Plan”) and a statewide transportation improvement program (referred to in this section as a “Program”) for all areas of the State subject to section 5303.

“(2) CONTENTS.—The Plan and the Program developed for each State shall provide for the development and integrated management and operation of transportation systems and facilities (including pedestrian walkways and bicycle transportation facilities) that will function as an intermodal transportation system for the State and an integral part of an intermodal transportation system for the United States.

“(3) PROCESS OF DEVELOPMENT.—The process for developing the Plan and the Program shall—

“(A) provide for the consideration of all modes of transportation and the policies described in section 5301(a); and

“(B) be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems to be addressed.

“(b) COORDINATION WITH METROPOLITAN PLANNING; STATE IMPLEMENTATION PLAN.—Each State shall—

“(1) coordinate planning under this section with—

“(A) the transportation planning activities under section 5303 for metropolitan areas of the State; and

“(B) other related statewide planning activities, including trade and economic development and related multistate planning efforts; and

“(2) develop the transportation portion of the State implementation plan, as required by the Clean Air Act (42 U.S.C. 7401 et seq.).

“(c) INTERSTATE AGREEMENTS.—States may enter into agreements or compacts with other States for cooperative efforts and mutual assistance in support of activities authorized under this section related to interstate areas and localities in the States and establishing authorities the States consider desirable for making the agreements and compacts effective.

“(d) SCOPE OF PLANNING PROCESS.—

“(1) IN GENERAL.—Each State shall carry out a statewide transportation planning process that provides for the consideration of projects, strategies, and implementing projects and services that will—

“(A) support the economic vitality of the United States, the States, nonmetropolitan areas, and metropolitan areas, especially by enabling global competitiveness, productivity, and efficiency;

“(B) increase the safety of the transportation system for motorized and non-motorized users;

“(C) increase the security of the transportation system for motorized and non-motorized users;

“(D) increase the accessibility and mobility of people and freight;

“(E) protect and enhance the environment (including the protection of habitat, water quality, and agricultural and forest land, while minimizing invasive species), promote energy conservation, promote consistency between transportation improvements and State and local land use planning and economic development patterns, and improve the quality of life (including minimizing adverse health effects from mobile source air pollution and promoting the linkage of the transportation and development goals of the State);

“(F) enhance the integration and connectivity of the transportation system, across and between modes throughout the State, for people and freight;

“(G) promote efficient system management and operation; and

“(H) emphasize the preservation and efficient use of the existing transportation system.

“(2) SELECTION OF PROJECTS AND STRATEGIES.—After soliciting and considering any relevant public comments, the State shall determine which of the projects and strategies described in paragraph (1) are most appropriate.

“(3) MITIGATION ACTIVITIES.—

“(A) IN GENERAL.—A transportation plan under this subsection shall include a discussion of—

“(i) types of potential habitat, hydrological, and environmental mitigation activities that may assist in compensating for loss of habitat, wetland, and other environmental functions; and

“(ii) potential areas to carry out these activities, including a discussion of areas that may have the greatest potential to restore and maintain the habitat types and hydrological or environmental functions affected by the plan.

“(B) CONSULTATION.—The discussion described in subparagraph (A) shall be developed in consultation with Federal and State tribal wildlife, land management, and regulatory agencies.

“(4) FAILURE TO CONSIDER FACTORS.—The failure to consider any factor described in paragraph (1) shall not be reviewable by any court under title 23, this title, subchapter II of chapter 5 of title 5, or chapter 7 of title 5 in any matter affecting a Plan, a Program, a project or strategy, or the certification of a planning process.

“(e) ADDITIONAL REQUIREMENTS.—In carrying out planning under this section, each State shall consider—

“(1) with respect to nonmetropolitan areas, the concerns of affected local officials with responsibility for transportation;

“(2) the concerns of Indian tribal governments and Federal land management agencies that have jurisdiction over land within the boundaries of the State; and

“(3) coordination of Plans, Programs, and planning activities with related planning activities being carried out outside of metropolitan planning areas and between States.

“(f) STATEWIDE TRANSPORTATION PLAN.—

“(1) DEVELOPMENT.—Each State shall develop a Plan, with a minimum 20-year forecast period for all areas of the State, that provides for the development and implementation of the intermodal transportation system of the State.

“(2) CONSULTATION WITH GOVERNMENTS.—

“(A) METROPOLITAN PLANNING AREAS.—The Plan shall be developed for each metropolitan planning area in the State in cooperation with the metropolitan planning organization designated for the metropolitan planning area under section 5303.

“(B) NONMETROPOLITAN AREAS.—With respect to nonmetropolitan areas, the statewide transportation plan shall be developed in consultation with affected nonmetropolitan officials with responsibility for transportation. The consultation process shall not require the review or approval of the Secretary.

“(C) INDIAN TRIBAL AREAS.—With respect to each area of the State under the jurisdiction of an Indian tribal government, the Plan shall be developed in consultation with the tribal government and the Secretary of the Interior.

“(D) CONSULTATION, COMPARISON, AND CONSIDERATION.—

“(i) IN GENERAL.—The Plan shall be developed, as appropriate, in consultation with State and local agencies responsible for—

“(I) land use management;

“(II) natural resources;

“(III) environmental protection;

“(IV) conservation; and

“(V) historic preservation.

“(ii) COMPARISON AND CONSIDERATION.—Consultation under clause (i) shall involve—

“(I) comparison of transportation plans to State conservation plans or maps, if available;

“(II) comparison of transportation plans to inventories of natural or historic resources, if available; or

“(III) consideration of areas where wildlife crossing structures may be needed to ensure connectivity between wildlife habitat linkage areas.

“(3) PARTICIPATION BY INTERESTED PARTIES.—In developing the Plan, the State shall—

“(A) provide citizens, affected public agencies, representatives of public transportation employees, freight shippers, private providers of transportation, representatives of users of public transportation, representatives of users of pedestrian walkways and bicycle transportation facilities, providers of freight transportation services, and other interested parties with a reasonable opportunity to comment on the proposed Plan; and

“(B) to the maximum extent practicable—

“(i) hold any public meetings at convenient and accessible locations and times;

“(ii) employ visualization techniques to describe plans; and

“(iii) make public information available in electronically accessible format and means, such as the World Wide Web.

“(4) MITIGATION ACTIVITIES.—

“(A) IN GENERAL.—A Plan shall include a discussion of—

“(i) types of potential habitat, hydrological, and environmental mitigation activities that may assist in compensating for loss of habitat, wetlands, and other environmental functions; and

“(ii) potential areas to carry out these activities, including a discussion of areas that may have the greatest potential to restore and maintain the habitat types and hydrological or environmental functions affected by the plan.

“(B) CONSULTATION.—The discussion described in subparagraph (A) shall be developed in consultation with Federal and State tribal wildlife, land management, and regulatory agencies.

“(5) TRANSPORTATION STRATEGIES.—A Plan shall identify transportation strategies necessary to efficiently serve the mobility needs of people.

“(6) FINANCIAL PLAN.—The Plan may include a financial plan that—

“(A) demonstrates how the adopted Plan can be implemented;

“(B) indicates resources from public and private sources that are reasonably expected to be made available to carry out the Plan;

“(C) recommends any additional financing strategies for needed projects and programs; and

“(D) may include, for illustrative purposes, additional projects that would be included in the adopted Plan if reasonable additional resources beyond those identified in the financial plan were available.

“(7) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—A State shall not be required to select any project from the illustrative list of additional projects described in paragraph (6)(D).

“(8) EXISTING SYSTEM.—The Plan should include capital, operations and management strategies, investments, procedures, and other measures to ensure the preservation and most efficient use of the existing transportation system.

“(9) PUBLICATION OF LONG-RANGE TRANSPORTATION PLANS.—Each Plan prepared by a State shall be published or otherwise made available, including, to the maximum extent practicable, in electronically accessible formats and means, such as the World Wide Web.

“(g) STATEWIDE TRANSPORTATION IMPROVEMENT PROGRAM.—

“(1) DEVELOPMENT.—Each State shall develop a Program for all areas of the State.

“(2) CONSULTATION WITH GOVERNMENTS.—

“(A) METROPOLITAN PLANNING AREAS.—With respect to each metropolitan planning area in the State, the Program shall be developed in cooperation with the metropolitan planning organization designated for the metropolitan planning area under section 5303.

“(B) NONMETROPOLITAN AREAS.—With respect to each nonmetropolitan area in the State, the Program shall be developed in consultation with affected nonmetropolitan local officials with responsibility for transportation. The consultation process shall not require the review or approval of the Secretary.

“(C) INDIAN TRIBAL AREAS.—With respect to each area of the State under the jurisdiction of an Indian tribal government, the Program shall be developed in consultation with the tribal government and the Secretary of the Interior.

“(3) PARTICIPATION BY INTERESTED PARTIES.—In developing the Program, the State shall provide citizens, affected public agencies, representatives of public transportation employees, freight shippers, private providers of transportation, providers of freight transportation services, representatives of users of public transit, representatives of users of pedestrian walkways and bicycle transportation facilities, and other interested parties with a reasonable opportunity to comment on the proposed Program.

“(4) INCLUDED PROJECTS.—

“(A) IN GENERAL.—A Program developed under this subsection for a State shall include federally supported surface transportation expenditures within the boundaries of the State.

“(B) LISTING OF PROJECTS.—

“(i) IN GENERAL.—The Program shall cover a minimum of 4 years, identify projects by year, be fiscally constrained by year, and be updated not less than once every 4 years.

“(ii) PUBLICATION.—An annual listing of projects for which funds have been obligated in the preceding 4 years in each metropolitan planning area shall be published or otherwise made available by the cooperative effort of the State, transit operator, and the metro-

politan planning organization for public review. The listing shall be consistent with the funding categories identified in each metropolitan transportation improvement program.

“(C) INDIVIDUAL IDENTIFICATION.—

“(i) REGIONALLY SIGNIFICANT PROJECTS.—Regionally significant projects proposed for funding under chapter 2 of title 23 shall be identified individually in the transportation improvement program.

“(ii) OTHER PROJECTS.—Projects proposed for funding under chapter 2 of title 23 that are not determined to be regionally significant shall be grouped in 1 line item or identified individually.

“(D) CONSISTENCY WITH STATEWIDE TRANSPORTATION PLAN.—Each project included in the list described in subparagraph (B) shall be—

“(i) consistent with the Plan developed under this section for the State;

“(ii) identical to the project or phase of the project as described in each year of the approved metropolitan transportation improvement program; and

“(iii) in conformance with the applicable State air quality implementation plan developed under the Clean Air Act (42 U.S.C. 7401 et seq.), if the project is carried out in an area designated as nonattainment for ozone or carbon monoxide under that Act.

“(E) REQUIREMENT OF ANTICIPATED FULL FUNDING.—The Program shall not include a project, or an identified phase of a project, unless full funding can reasonably be anticipated to be available for the project within the time period contemplated for completion of the project.

“(F) FINANCIAL PLAN.—The Program may include a financial plan that—

“(i) demonstrates how the approved Program can be implemented;

“(ii) indicates resources from public and private sources that are reasonably expected to be made available to carry out the Program;

“(iii) recommends any additional financing strategies for needed projects and programs; and

“(iv) may include, for illustrative purposes, additional projects that would be included in the adopted transportation plan if reasonable additional resources beyond those identified in the financial plan were available.

“(G) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—

“(i) NO REQUIRED SELECTION.—Notwithstanding subparagraph (F), a State shall not be required to select any project from the illustrative list of additional projects described in subparagraph (F)(iv).

“(ii) REQUIRED APPROVAL BY THE SECRETARY.—A State shall not include any project from the illustrative list of additional projects described in subparagraph (F)(iv) in an approved Program without the approval of the Secretary.

“(H) PRIORITIES.—The Program shall reflect the priorities for programming and expenditures of funds, including transportation and transit enhancement activities, required by title 23 and this chapter, and transportation control measures included in the State's air quality implementation plan.

“(5) PROJECT SELECTION FOR AREAS WITH FEWER THAN 50,000 INDIVIDUALS.—

“(A) IN GENERAL.—Each State, in cooperation with the affected nonmetropolitan local officials with responsibility for transportation, shall select projects to be carried out in areas with fewer than 50,000 individuals from the approved Program (excluding projects carried out under the National Highway System, the bridge program, or the interstate maintenance program under title 23 or sections 5310 and 5311 of this title).

“(B) CERTAIN PROGRAMS.—Each State, in consultation with the affected nonmetropolitan local officials with responsibility for transportation, shall select, from the approved Program, projects to be carried out in areas with fewer than 50,000 individuals under the National Highway System, the bridge program, or the Interstate maintenance program under title 23 or under sections 5310 and 5311 of this title.

“(6) STATEWIDE TRANSPORTATION IMPROVEMENT PROGRAM APPROVAL.—A Program developed under this subsection shall be reviewed and based on a current planning finding approved by the Secretary not less frequently than once every 4 years.

“(7) PLANNING FINDING.—Not less frequently than once every 4 years, the Secretary shall determine whether the transportation planning process through which Plans and Programs are developed are consistent with this section and section 5303.

“(8) MODIFICATIONS TO PROJECT PRIORITY.—Notwithstanding any other provision of law, a project included in the approved Program may be advanced in place of another project in the program without the approval of the Secretary.

“(h) FUNDING.—Funds set aside pursuant to section 104(i) of title 23 and 5308 of this title shall be available to carry out this section.

“(i) TREATMENT OF CERTAIN STATE LAWS AS CONGESTION MANAGEMENT SYSTEMS.—For purposes of this section and section 5303, State laws, rules, or regulations pertaining to congestion management systems or programs may constitute the congestion management system under section 5303(i)(3) if the Secretary determines that the State laws, rules, or regulations are consistent with, and fulfill the intent of, the purposes of section 5303.

“(j) CONTINUATION OF CURRENT REVIEW PRACTICE.—Any decision by the Secretary under this section, regarding a metropolitan or statewide transportation plan or the Program, shall not be considered to be a Federal action subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).”

SEC. 3007. TRANSPORTATION MANAGEMENT AREAS.

Section 5305 is repealed.

SEC. 3008. PRIVATE ENTERPRISE PARTICIPATION.

Section 5306 is amended—

(1) in subsection (a)—

(A) by striking “5305 of this title” and inserting “5308”; and

(B) by inserting “, as determined by local policies, criteria, and decision making,” after “feasible”;

(2) in subsection (b) by striking “5303-5305 of this title” and inserting “5303, 5304, and 5308”; and

(3) by adding at the end the following:

“(c) REGULATIONS.—Not later than 1 year after the date of enactment of the Federal Public Transportation Act of 2004, the Secretary shall issue regulations describing how the requirements under this chapter relating to subsection (a) shall be enforced.

SEC. 3009. URBANIZED AREA FORMULA GRANTS.

(a) TECHNICAL AMENDMENTS.—Section 5307 is amended—

(1) by striking subsections (h), (j) and (k); and

(2) by redesignating subsections (i), (l), (m), and (n) as subsections (h), (i), (j), and (k), respectively.

(b) DEFINITIONS.—Section 5307(a) is amended—

(1) by amending paragraph (2)(A) to read as follows:

“(A) an entity designated, in accordance with the planning process under sections 5303, 5304, and 5306, by the chief executive of-

ficer of a State, responsible local officials, and publicly owned operators of public transportation, to receive and apportion amounts under sections 5336 and 5337 that are attributable to transportation management areas designated under section 5303; or”;

(2) by adding at the end the following:

“(3) SUBRECIPIENT.—The term ‘subrecipient’ means a State or local governmental authority, a nonprofit organization, or a private operator of public transportation service that may receive a Federal transit program grant indirectly through a recipient, rather than directly from the Federal Government.”

(c) GENERAL AUTHORITY.—Section 5307(b) is amended—

(1) by amending paragraph (1) to read as follows:

“(1) IN GENERAL.—The Secretary of Transportation may award grants under this section for—

“(A) capital projects, including associated capital maintenance items;

“(B) planning, including mobility management;

“(C) transit enhancements;

“(D) operating costs of equipment and facilities for use in public transportation in an urbanized area with a population of less than 200,000; and

“(E) operating costs of equipment and facilities for use in public transportation in a portion or portions of an urbanized area with a population of at least 200,000, but not more than 225,000, if—

“(i) the urbanized area includes parts of more than 1 State;

“(ii) the portion of the urbanized area includes only 1 State;

“(iii) the population of the portion of the urbanized area is less than 30,000; and

“(iv) the grants will not be used to provide public transportation outside of the portion of the urbanized area.”;

(2) by amending paragraph (2) to read as follows:

“(2) SPECIAL RULE FOR FISCAL YEARS 2004 THROUGH 2006—

“(A) INCREASED FLEXIBILITY.—The Secretary may award grants under this section, from funds made available to carry out this section for each of the fiscal years 2004 through 2006, to finance the operating cost of equipment and facilities for use in mass transportation in an urbanized area with a population of at least 200,000, as determined by the 2000 decennial census of population if—

“(i) the urbanized area had a population of less than 200,000, as determined by the 1990 decennial census of population;

“(ii) a portion of the urbanized area was a separate urbanized area with a population of less than 200,000, as determined by the 1990 decennial census of population;

“(iii) the area was not designated as an urbanized area, as determined by the 1990 decennial census of population; or

“(iv) a portion of the area was not designated as an urbanized area, as determined by the 1990 decennial census, and received assistance under section 5311 in fiscal year 2002.

“(B) MAXIMUM AMOUNTS IN FISCAL YEAR 2004.—In fiscal year 2004—

“(i) amounts made available to any urbanized area under clause (i) or (ii) of subparagraph (A) shall be not more than the amount apportioned in fiscal year 2002 to the urbanized area with a population of less than 200,000, as determined in the 1990 decennial census of population;

“(ii) amounts made available to any urbanized area under subparagraph (A)(iii) shall be not more than the amount apportioned to the urbanized area under this section for fiscal year 2003; and

“(iii) each portion of any area not designated as an urbanized area, as determined by the 1990 decennial census, and eligible to receive funds under subparagraph (A)(iv), shall receive an amount of funds to carry out this section that is not less than the amount the portion of the area received under section 5311 for fiscal year 2002.

“(C) MAXIMUM AMOUNTS IN FISCAL YEAR 2005.—In fiscal year 2005—

“(i) amounts made available to any urbanized area under clause (i) or (ii) of subparagraph (A) shall be not more than 50 percent of the amount apportioned in fiscal year 2002 to the urbanized area with a population of less than 200,000, as determined in the 1990 decennial census of population;

“(ii) amounts made available to any urbanized area under subparagraph (A)(iii) shall be not more than 50 percent of the amount apportioned to the urbanized area under this section for fiscal year 2003; and

“(iii) each portion of any area not designated as an urbanized area, as determined by the 1990 decennial census, and eligible to receive funds under subparagraph (A)(iv), shall receive an amount of funds to carry out this section that is not less 50 percent of the amount the portion of the area received under section 5311 for fiscal year 2002.

“(D) MAXIMUM AMOUNTS IN FISCAL YEAR 2006.—In fiscal year 2006—

“(i) amounts made available to any urbanized area under clause (i) or (ii) of subparagraph (A) shall be not more than 25 percent of the amount apportioned in fiscal year 2002 to the urbanized area with a population of less than 200,000, as determined in the 1990 decennial census of population;

“(ii) amounts made available to any urbanized area under subparagraph (A)(iii) shall be not more than 25 percent of the amount apportioned to the urbanized area under this section for fiscal year 2003; and

“(iii) each portion of any area not designated as an urbanized area, as determined by the 1990 decennial census, and eligible to receive funds under subparagraph (A)(iv), shall receive an amount of funds to carry out this section that is not less than 25 percent of the amount the portion of the area received under section 5311 in fiscal year 2002.”; and

(3) by striking paragraph (4).

(d) PUBLIC PARTICIPATION REQUIREMENTS.—Section 5307(c)(5) is amended by striking “section 5336” and inserting “sections 5336 and 5337”.

(e) GRANT RECIPIENT REQUIREMENTS.—Section 5307(d)(1) is amended—

(1) in subparagraph (A), by inserting “, including safety and security aspects of the program” after “program”;

(2) in subparagraph (E), by striking “section” and all that follows and inserting “section, the recipient will comply with sections 5323 and 5325.”;

(3) in subparagraph (H), by striking “sections 5301(a) and (d), 5303-5306, and 5310(a)-(d) of this title” and inserting “subsections (a) and (d) of section 5301 and sections 5303 through 5306”;

(4) in subparagraph (I) by striking “and” at the end;

(5) in subparagraph (J), by striking the period at the end and inserting “; and”; and

(6) by adding at the end the following:

“(K) if located in an urbanized area with a population of at least 200,000, will expend not less than 1 percent of the amount the recipient receives each fiscal year under this section for transit enhancement activities described in section 5302(a)(15).”

(f) GOVERNMENT'S SHARE OF COSTS.—Section 5307(e) is amended—

(1) by striking the first sentence and inserting the following:

“(1) CAPITAL PROJECTS.—A grant for a capital project under this section shall cover 80 percent of the net project cost.”;

(2) by striking “A grant for operating expenses” and inserting the following:

“(2) OPERATING EXPENSES.—A grant for operating expenses”;

(3) by striking the fourth sentence and inserting the following:

“(3) REMAINING COSTS.—The remainder of the net project cost shall be provided in cash from non-Federal sources or revenues derived from the sale of advertising and concessions and amounts received under a service agreement with a State or local social service agency or a private social service organization.”; and

(4) by adding at the end the following: “The prohibitions on the use of funds for matching requirements under section 403(a)(5)(C)(vii) of the Social Security Act (42 U.S.C. 603(a)(5)(C)(vii)) shall not apply to the remainder.”.

(g) UNDERTAKING PROJECTS IN ADVANCE.—Section 5307(g) is amended by striking paragraph (4).

(h) RELATIONSHIP TO OTHER LAWS.—Section 5307(k), as redesignated, is amended to read as follows:

“(k) RELATIONSHIP TO OTHER LAWS.—

“(1) APPLICABLE PROVISIONS.—Sections 5301, 5302, 5303, 5304, 5306, 5315(c), 5318, 5319, 5323, 5325, 5327, 5329, 5330, 5331, 5332, 5333 and 5335 apply to this section and to any grant made under this section.

“(2) INAPPLICABLE PROVISIONS.—

“(A) IN GENERAL.—Except as provided under this section, no other provision of this chapter applies to this section or to a grant made under this section.

“(B) TITLE 5.—The provision of assistance under this chapter shall not be construed as bringing within the application of chapter 15 of title 5, any nonsupervisory employee of a public transportation system (or any other agency or entity performing related functions) to which such chapter is otherwise inapplicable.”.

SEC. 3010. PLANNING PROGRAMS.

(a) IN GENERAL.—Section 5308 is amended to read as follows:

“§ 5308. Planning programs

“(a) GRANTS AUTHORIZED.—Under criteria established by the Secretary, the Secretary may award grants to States, authorities of the States, metropolitan planning organizations, and local governmental authorities, make agreements with other departments, agencies, or instrumentalities of the Government, or enter into contracts with private nonprofit or for-profit entities to—

“(1) develop transportation plans and programs;

“(2) plan, engineer, design, and evaluate a public transportation project; or

“(3) conduct technical studies relating to public transportation, including—

“(A) studies related to management, planning, operations, capital requirements, and economic feasibility;

“(B) evaluations of previously financed projects;

“(C) peer reviews and exchanges of technical data, information, assistance, and related activities in support of planning and environmental analyses among metropolitan planning organizations and other transportation planners; and

“(D) other similar and related activities preliminary to, and in preparation for, constructing, acquiring, or improving the operation of facilities and equipment.

“(b) PURPOSE.—To the extent practicable, the Secretary shall ensure that amounts appropriated pursuant to section 5338 to carry out this section and sections 5303, 5304, and 5306 are used to support balanced and com-

prehensive transportation planning that considers the relationships among land use and all transportation modes, without regard to the programmatic source of the planning amounts.

“(c) METROPOLITAN PLANNING PROGRAM.—

“(1) ALLOCATIONS TO STATES.—

“(A) IN GENERAL.—The Secretary shall allocate 80 percent of the amount made available under subsection (g)(3)(A) to States to carry out sections 5303 and 5306 in a ratio equal to the population in urbanized areas in each State, divided by the total population in urbanized areas in all States, as shown by the latest available decennial census of population.

“(B) MINIMUM ALLOCATION.—Each State shall receive not less than 0.5 percent of the total amount allocated under this paragraph.

“(2) AVAILABILITY OF FUNDS.—A State receiving an allocation under paragraph (1) shall promptly distribute such funds to metropolitan planning organizations in the State under a formula—

“(A) developed by the State in cooperation with the metropolitan planning organizations;

“(B) approved by the Secretary of Transportation;

“(C) that considers population in urbanized areas; and

“(D) that provides an appropriate distribution for urbanized areas to carry out the cooperative processes described in this section.

“(3) SUPPLEMENTAL ALLOCATIONS.—

“(A) IN GENERAL.—The Secretary shall allocate 20 percent of the amount made available under subsection (g)(3)(A) to States to supplement allocations made under paragraph (1) for metropolitan planning organizations.

“(B) ALLOCATION FORMULA.—Amounts under this paragraph shall be allocated under a formula that reflects the additional cost of carrying out planning, programming, and project selection responsibilities in complex metropolitan planning areas under sections 5303, 5304, and 5306.

“(d) STATE PLANNING AND RESEARCH PROGRAM.—

“(1) IN GENERAL.—The Secretary shall allocate amounts made available pursuant to subsection (g)(3)(B) to States for grants and contracts to carry out sections 5304, 5306, 5315, and 5322 so that each State receives an amount equal to the ratio of the population in urbanized areas in that State, divided by the total population in urbanized areas in all States, as shown by the latest available decennial census.

“(2) MINIMUM ALLOCATION.—Each State shall receive not less than 0.5 percent of the amount allocated under this subsection.

“(3) REALLOCATION.—A State may authorize part of the amount made available under this subsection to be used to supplement amounts available under subsection (c).

“(e) PLANNING CAPACITY BUILDING PROGRAM.—

“(1) ESTABLISHMENT.—The Secretary shall establish a Planning Capacity Building Program (referred to in this subsection as the “Program”) to support and fund innovative practices and enhancements in transportation planning.

“(2) PURPOSE.—The purpose of the Program shall be to promote activities that support and strengthen the planning processes required under this section and sections 5303 and 5304.

“(3) ADMINISTRATION.—The Program shall be administered by the Federal Transit Administration in cooperation with the Federal Highway Administration.

“(4) USE OF FUNDS.—

“(A) IN GENERAL.—Appropriations authorized under subsection (g)(1) to carry out this subsection may be used—

“(i) to provide incentive grants to States, metropolitan planning organizations, and public transportation operators; and

“(ii) to conduct research, disseminate information, and provide technical assistance.

“(B) GRANTS, CONTRACTS, COOPERATIVE AGREEMENTS.—In carrying out the activities described in subparagraph (A), the Secretary may—

“(i) expend appropriated funds directly; or

“(ii) award grants to, or enter into contracts, cooperative agreements, and other transactions with, a Federal agency, State agency, local governmental authority, association, nonprofit or for-profit entity, or institution of higher education.

“(f) GOVERNMENT’S SHARE OF COSTS.—Amounts made available to carry out subsections (c), (d), and (e) may not exceed 80 percent of the costs of the activity unless the Secretary of Transportation determines that it is in the interest of the Government not to require State or local matching funds.

“(g) ALLOCATION OF FUNDS.—Of the amounts made available under section 5338(b)(2)(B) for fiscal year 2005 and each fiscal year thereafter to carry out this section—

“(1) \$5,000,000 shall be allocated for the Planning Capacity Building Program established under subsection (e);

“(2) \$20,000,000 shall be allocated for grants under subsection (a)(2) for alternatives analyses required by section 5309(e)(2)(A); and

“(3) of the remaining amount—

“(A) 82.72 percent shall be allocated for the metropolitan planning program described in subsection (d); and

“(B) 17.28 percent shall be allocated to carry out subsection (b).

“(h) REALLOCATIONS.—Any amount allocated under this section that has not been used 3 years after the end of the fiscal year in which the amount was allocated shall be reallocated among the States.”.

(b) CONFORMING AMENDMENT.—The item relating to section 5308 in the table of sections for chapter 53 is amended to read as follows: “5308. Planning programs.”.

SEC. 3011. CAPITAL INVESTMENT PROGRAM.

(a) SECTION HEADING.—The section heading of section 5309 is amended to read as follows:

“§ 5309. Capital investment grants”.

(b) GENERAL AUTHORITY.—Section 5309(a) is amended—

(1) in paragraph (1)—

(A) by striking “(1) The Secretary of Transportation may make grants and loans” and inserting the following:

“(1) GRANTS AUTHORIZED.—The Secretary may award grants”;

(B) in subparagraph (A), by striking “alternatives analysis related to the development of systems.”;

(C) by striking subparagraphs (B), (C), (D), and (G);

(D) by redesignating subparagraphs (E), (F), and (H) as subparagraphs (B), (C), and (D), respectively;

(E) in subparagraph (C), as redesignated, by striking the semicolon at the end and inserting “, including programs of bus and bus-related projects for assistance to subrecipients which are public agencies, private companies engaged in public transportation, or private nonprofit organizations; and”;

(F) in subparagraph (D), as redesignated—

(i) by striking “to support fixed guideway systems”;

(ii) by striking “dedicated bus and high occupancy vehicle”;

(2) by amending paragraph (2) to read as follows:

“(2) GRANTEE REQUIREMENTS.—

“(A) GRANTEE IN URBANIZED AREA.—The Secretary shall require that any grants awarded under this section to a recipient or

subrecipient located in an urbanized area shall be subject to all terms, conditions, requirements, and provisions that the Secretary determines to be necessary or appropriate for the purposes of this section, including requirements for the disposition of net increases in the value of real property resulting from the project assisted under this section.

“(B) GRANTEE NOT IN URBANIZED AREA.—The Secretary shall require that any grants awarded under this section to a recipient or subrecipient not located in an urbanized area shall be subject to the same terms, conditions, requirements, and provisions as a recipient or subrecipient of assistance under section 5311.

“(C) SUBRECIPIENT.—The Secretary shall require that any private, nonprofit organization that is a subrecipient of a grant awarded under this section shall be subject to the same terms, conditions, requirements, and provisions as a 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.”; and

(3) by adding at the end the following:

“(3) CERTIFICATION.—An applicant that has submitted the certifications required under subparagraphs (A), (B), (C), and (H) of section 5307(d)(1) shall be deemed to have provided sufficient information upon which the Secretary may make the findings required under this subsection.”.

(c) DEFINED TERM.—Section 5309(b) is amended to read as follows:

“(b) DEFINED TERM.—As used in this section, the term ‘alternatives analysis’ means a study conducted as part of the transportation planning process required under sections 5303 and 5304, which includes—

“(1) an assessment of a wide range of public transportation alternatives designed to address a transportation problem in a corridor or subarea;

“(2) sufficient information to enable the Secretary to make the findings of project justification and local financial commitment required under this section;

“(3) the selection of a locally preferred alternative; and

“(4) the adoption of the locally preferred alternative as part of the long-range transportation plan required under section 5303.”.

(d) GRANT REQUIREMENTS.—Section 5309(d) is amended to read as follows:

“(d) GRANT REQUIREMENTS.—The Secretary may not approve a grant for a project under this section unless the Secretary determines that—

“(1) the project is part of an approved transportation plan and program of projects required under sections 5303, 5304, and 5306; and

“(2) the applicant has, or will have—

“(A) the legal, financial, and technical capacity to carry out the project, including safety and security aspects of the project;

“(B) satisfactory continuing control over the use of the equipment or facilities; and

“(C) the capability and willingness to maintain the equipment or facilities.”.

(e) MAJOR CAPITAL INVESTMENT PROJECTS OF \$75,000,000 OR MORE.—Section 5309(e) is amended to read as follows:

“(e) MAJOR CAPITAL INVESTMENT PROJECTS OF \$75,000,000 OR MORE.—

“(1) FULL FUNDING GRANT AGREEMENT.—The Secretary shall enter into a full funding grant agreement, based on the evaluations and ratings required under this subsection, with each grantee receiving not less than

\$75,000,000 under this subsection for a new fixed guideway capital project that—

“(A) is authorized for final design and construction; and

“(B) has been rated as medium, medium-high, or high, in accordance with paragraph (5)(B).

“(2) DETERMINATIONS.—The Secretary may not award a grant under this subsection for a new fixed guideway capital project unless 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, operating efficiencies, economic development effects, and public transportation supportive land use patterns and policies; and

“(C) supported by an acceptable degree of local financial commitment, including evidence of stable and dependable financing sources to construct the project, and maintain and operate the entire public transportation system, while ensuring that the extent and quality of existing public transportation services are not degraded.

“(3) EVALUATION OF PROJECT JUSTIFICATION.—In making the determinations under paragraph (2)(B) for a major capital investment grant, the Secretary shall analyze, evaluate, and consider—

“(A) the results of the alternatives analysis and preliminary engineering for the proposed project;

“(B) the reliability of the forecasts of costs and utilization made by the recipient and the contractors to the recipient;

“(C) the direct and indirect costs of relevant alternatives;

“(D) factors such as—

“(i) congestion relief;

“(ii) improved mobility;

“(iii) air pollution;

“(iv) noise pollution;

“(v) energy consumption; and

“(vi) all associated ancillary and mitigation costs necessary to carry out each alternative analyzed;

“(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;

“(F) the cost of suburban sprawl;

“(G) the degree to which the project increases the mobility of the public transportation dependent population or promotes economic development;

“(H) population density and current transit ridership in the transportation corridor;

“(I) the technical capability of the grant recipient to construct the project;

“(J) any adjustment to the project justification necessary to reflect differences in local land, construction, and operating costs; and

“(K) other factors that the Secretary determines to be appropriate to carry out this chapter.

“(4) EVALUATION OF LOCAL FINANCIAL COMMITMENT.—

“(A) IN GENERAL.—In evaluating a project under paragraph (2)(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 local source of capital and operating financing is stable, reliable, and available within the proposed project timetable; and

“(iii) local resources are available to recapitalize and operate the overall proposed public transportation system, including essential feeder bus and other services nec-

essary to achieve the projected ridership levels, while ensuring that the extent and quality of existing public transportation services are not degraded.

“(B) EVALUATION CRITERIA.—In assessing the stability, reliability, and availability of proposed sources of local financing under paragraph (2)(C), the Secretary shall consider—

“(i) the reliability of the forecasts of costs and utilization made by the recipient and the contractors to the recipient;

“(ii) existing grant commitments;

“(iii) the degree to which financing sources are dedicated to the proposed purposes;

“(iv) any debt obligation that exists, or is proposed by the recipient, for the proposed project or other public transportation purpose; and

“(v) the extent to which the project has a local financial commitment that exceeds the required non-Federal share of the cost of the project, provided that if the Secretary gives priority to financing projects that include more than the non-Federal share required under subsection (h), the Secretary shall give equal consideration to differences in the fiscal capacity of State and local governments.

“(5) PROJECT ADVANCEMENT AND RATINGS.—

“(A) PROJECT ADVANCEMENT.—A proposed project under this subsection shall not advance from alternatives analysis to preliminary engineering or from preliminary engineering to final design and construction unless the Secretary determines that the project meets the requirements of this section and there is a reasonable likelihood that the project will continue to meet such requirements.

“(B) RATINGS.—In making a determination under subparagraph (A), the Secretary shall evaluate and rate the project on a 5-point scale (high, medium-high, medium, medium-low, or low) based on the results of the 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 by regulation.

“(6) APPLICABILITY.—This subsection shall not apply to projects for which the Secretary has issued a letter of intent or entered into a full funding grant agreement before the date of enactment of the Federal Public Transportation Act of 2004.

“(7) RULEMAKING.—Not later than 240 days after the date of enactment of the Federal Public Transportation Act of 2004, the Secretary shall issue regulations on the manner by which the Secretary shall evaluate and rate projects based on the results of alternatives analysis, project justification, and local financial commitment, in accordance with this subsection.

“(8) POLICY GUIDANCE.—

“(A) PUBLICATION.—The Secretary shall publish policy guidance regarding the new starts project review and evaluation process—

“(i) not later than 120 days after the date of enactment of the Federal Public Transportation Act of 2004; and

“(ii) each time significant changes are made by the Secretary to the new starts project review and evaluation process and criteria, but not less frequently than once every 2 years.

“(B) PUBLIC COMMENT AND RESPONSE.—The Secretary shall—

“(i) invite public comment to the policy guidance published under subparagraph (A); and

“(ii) publish a response to the comments received under clause (i).”.

(f) MAJOR CAPITAL INVESTMENT PROJECTS OF LESS THAN \$75,000,000.—Section 5309(f) is amended to read as follows:

“(f) MAJOR CAPITAL INVESTMENT PROJECTS OF LESS THAN \$75,000,000.—

“(1) PROJECT CONSTRUCTION GRANT AGREEMENT.—

“(A) IN GENERAL.—The Secretary shall enter into a project construction grant agreement, based on evaluations and ratings required under this subsection, with each grantee receiving less than \$75,000,000 under this subsection for a new fixed guideway or corridor improvement capital project that—

“(i) is authorized by law; and
“(ii) has been rated as medium, medium-high, or high, in accordance with paragraph (3)(B).

“(B) CONTENTS.—

“(i) IN GENERAL.—An agreement under this paragraph shall specify—

“(I) the scope of the project to be constructed;

“(II) the estimated net cost of the project;

“(III) the schedule under which the project shall be constructed;

“(IV) the maximum amount of funding to be obtained under this subsection;

“(V) the proposed schedule for obligation of future Federal grants; and

“(VI) the sources of non-Federal funding.

“(ii) ADDITIONAL FUNDING.—The agreement may include a commitment on the part of the Secretary to provide funding for the project in future fiscal years.

“(C) FULL FUNDING GRANT AGREEMENT.—An agreement under this paragraph shall be considered a full funding grant agreement for the purposes of subsection (g).

“(2) SELECTION PROCESS.—

“(A) SELECTION CRITERIA.—The Secretary may not award a grant under this subsection for a proposed project unless the Secretary determines that the project is—

“(i) based on the results of planning and alternatives analysis;

“(ii) justified based on a review of its public transportation supportive land use policies, cost effectiveness, and effect on local economic development; and

“(iii) supported by an acceptable degree of local financial commitment.

“(B) PLANNING AND ALTERNATIVES.—In evaluating a project under subparagraph (A)(i), the Secretary shall analyze and consider the results of planning and alternatives analysis for the project.

“(C) PROJECT JUSTIFICATION.—In making the determinations under subparagraph (A)(ii), the Secretary shall—

“(i) determine the degree to which local land use policies are supportive of the public transportation project and the degree to which the project is likely to achieve local developmental goals;

“(ii) determine the cost effectiveness of the project at the time of the initiation of revenue service;

“(iii) determine the degree to which the project will have a positive effect on local economic development;

“(iv) consider the reliability of the forecasts of costs and ridership associated with the project; and

“(v) consider other factors that the Secretary determines to be appropriate to carry out this subsection.

“(D) LOCAL FINANCIAL COMMITMENT.—For purposes of subparagraph (A)(iii), the Secretary shall require that each proposed local source of capital and operating financing is stable, reliable, and available within the proposed project timetable.

“(3) ADVANCEMENT OF PROJECT TO DEVELOPMENT AND CONSTRUCTION.—

“(A) IN GENERAL.—A proposed project under this subsection may not advance from the planning and alternatives analysis stage

to project development and construction unless—

“(i) the Secretary finds that the project meets the requirements of this subsection and there is a reasonable likelihood that the project will continue to meet such requirements; and

“(ii) the metropolitan planning organization has adopted the locally preferred alternative for the project into the long-range transportation plan.

“(B) EVALUATION.—In making the findings under subparagraph (A), the Secretary shall evaluate and rate the project as high, medium-high, medium, medium-low, or low, based on the results of the analysis of the project justification criteria and the degree of local financial commitment, as required under this subsection.

“(4) IMPACT REPORT.—

“(A) IN GENERAL.—Not later than 240 days after the date of enactment of the Federal Public Transportation Act of 2004, the Federal Transit Administration shall submit a report on the methodology to be used in evaluating the land use and economic development impacts of non-fixed guideway or partial fixed guideway projects to—

“(i) the Committee on Banking, Housing, and Urban Affairs of the Senate; and

“(ii) the Committee on Transportation and Infrastructure of the House of Representatives.

“(B) CONTENTS.—The report submitted under subparagraph (A) shall address any qualitative and quantitative differences between fixed guideway and non-fixed guideway projects with respect to land use and economic development impacts.

“(5) REGULATIONS.—Not later than 120 days after the date of enactment of the Federal Public Transportation Act of 2004, the Secretary shall issue regulations establishing an evaluation and rating process for proposed projects under this subsection that is based on the results of project justification and local financial commitment, as required under this subsection.”.

(g) FULL FUNDING GRANT AGREEMENTS.—Section 5309(g)(2) is amended by adding at the end the following:

“(C) BEFORE AND AFTER STUDY.—

“(i) IN GENERAL.—Each full funding grant agreement shall require the applicant to conduct a study that—

“(I) describes and analyzes the impacts of the new start project on transit services and transit ridership;

“(II) evaluates the consistency of predicted and actual project characteristics and performance; and

“(III) identifies sources of differences between predicted and actual outcomes.

“(ii) INFORMATION COLLECTION AND ANALYSIS PLAN.—

“(I) SUBMISSION OF PLAN.—Applicants seeking a full funding grant agreement shall submit a complete plan for the collection and analysis of information to identify the impacts of the new start project and the accuracy of the forecasts prepared during the development of the project. Preparation of this plan shall be included in the full funding grant agreement as an eligible activity.

“(II) CONTENTS OF PLAN.—The plan submitted under subclause (I) shall provide for—

“(aa) the collection of data on the current transit system regarding transit service levels and ridership patterns, including origins and destinations, access modes, trip purposes, and rider characteristics;

“(bb) documentation of the predicted scope, service levels, capital costs, operating costs, and ridership of the project;

“(cc) collection of data on the transit system 2 years after the opening of the new start project, including analogous information on transit service levels and ridership

patterns and information on the as-built scope and capital costs of the new start project; and

“(dd) analysis of the consistency of predicted project characteristics with the after data.

“(D) COLLECTION OF DATA ON CURRENT SYSTEM.—To be eligible for a full funding grant agreement, recipients shall have collected data on the current system, according to the plan required, before the beginning of construction of the proposed new start project. Collection of this data shall be included in the full funding grant agreement as an eligible activity.

“(E) PUBLIC PRIVATE PARTNERSHIP PILOT PROGRAM.—

“(i) AUTHORIZATION.—The Secretary may establish a pilot program to demonstrate the advantages of public-private partnerships for certain fixed guideway systems development projects.

“(ii) IDENTIFICATION OF QUALIFIED PROJECTS.—The Secretary shall identify qualified public-private partnership projects as permitted by applicable State and local enabling laws and work with project sponsors to enhance project delivery and reduce overall costs.”.

(h) FEDERAL SHARE OF NET PROJECT COST.—Section 5309(h) is amended to read as follows:

“(h) FEDERAL SHARE OF ADJUSTED NET PROJECT COST.—

“(1) IN GENERAL.—The Secretary shall estimate the net project cost based on engineering studies, studies of economic feasibility, and information on the expected use of equipment or facilities.

“(2) ADJUSTMENT FOR COMPLETION UNDER BUDGET.—The Secretary may adjust the final net project cost of a major capital investment project evaluated under subsections (e) and (f) to include the cost of eligible activities not included in the originally defined project if the Secretary determines that the originally defined project has been completed at a cost that is significantly below the original estimate.

“(3) MAXIMUM FEDERAL SHARE.—

“(A) IN GENERAL.—A grant for the project shall be for 80 percent of the net project cost, or the net project cost as adjusted under paragraph (2), unless the grant recipient requests a lower grant percentage.

“(B) EXCEPTIONS.—The Secretary may provide a higher grant percentage than requested by the grant recipient if—

“(i) the Secretary determines that the net project cost of the project is not more than 10 percent higher than the net project cost estimated at the time the project was approved for advancement into preliminary engineering; and

“(ii) the ridership estimated for the project is not less than 90 percent of the ridership estimated for the project at the time the project was approved for advancement into preliminary engineering.

“(4) OTHER SOURCES.—The costs not funded by a grant under this section may be funded from—

“(A) an undistributed cash surplus;

“(B) a replacement or depreciation cash fund or reserve; or

“(C) new capital, including any Federal funds that are eligible to be expended for transportation.

“(5) PLANNED EXTENSION TO FIXED GUIDEWAY SYSTEM.—In addition to amounts allowed under paragraph (1), a planned extension to a fixed guideway system may include the cost of rolling stock previously purchased if the Secretary determines that only non-Federal funds were used and that the purchase was made for use on the extension. A refund or reduction of the costs not funded by a grant under this section may be made

only if a refund of a proportional amount of the grant is made at the same time.

“(6) EXCEPTION.—The prohibitions on the use of funds for matching requirements under section 403(a)(5)(C)(vii) of the Social Security Act (42 U.S.C. 603(a)(5)(C)(vii)) shall not apply to amounts allowed under paragraph (4).”.

(i) LOAN PROVISIONS AND FISCAL CAPACITY CONSIDERATIONS.—Section 5309 is amended—

(1) by striking subsections (i), (j), (k), and (l);

(2) by redesignating subsections (m) and (n) as subsections (i) and (j), respectively;

(3) by striking subsection (o) (as added by section 3009(i) of the Federal Transit Act of 1998); and

(4) by redesignating subsections (o) and (p) as subsections (k) and (l), respectively.

(j) ALLOCATING AMOUNTS.—Section 5309(i), as redesignated, is amended to read as follows:

“(i) ALLOCATING AMOUNTS.—

“(1) FISCAL YEAR 2004.—Of the amounts made available or appropriated for fiscal year 2004 under section 5338(a)(3)—

“(A) \$1,315,983,615 shall be allocated for projects of not less than \$75,000,000 for major capital projects for new fixed guideway systems and extensions of such systems under subsection (e) and projects for new fixed guideway or corridor improvement capital projects under subsection (f);

“(B) \$1,199,387,615 shall be allocated for capital projects for fixed guideway modernization; and

“(C) \$603,617,520 shall be allocated for capital projects for buses and bus-related equipment and facilities.

“(2) IN GENERAL.—Of the amounts made available or appropriated for fiscal year 2005 and each fiscal year thereafter for grants under this section pursuant to subsections (b)(4) and (c) of section 5338—

“(A) the amounts appropriated under section 5338(c) shall be allocated for major capital projects for—

“(i) new fixed guideway systems and extensions of not less than \$75,000,000, in accordance with subsection (e); and

“(ii) projects for new fixed guideway or corridor improvement capital projects, in accordance with subsection (f); and

“(B) the 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 than 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.”.

(k) REPORTS.—Section 5309 is amended by inserting at the end the following:

“(m) REPORTS.—

“(1) ANNUAL REPORT ON FUNDING RECOMMENDATIONS.—

“(A) IN GENERAL.—Not later than the first Monday of February of each year, the Secretary shall submit a report on funding recommendations to—

“(i) the Committee on Transportation and Infrastructure of the House of Representatives;

“(ii) the Committee on Banking, Housing, and Urban Affairs of the Senate;

“(iii) the Subcommittee on Transportation of the Committee on Appropriations of the House of Representatives; and

“(iv) the Subcommittee on Transportation of the Committee on Appropriations of the Senate.

“(B) CONTENTS.—The report submitted under subparagraph (A) shall contain—

“(i) a proposal on the allocation of amounts to finance grants for capital investment projects among grant applicants;

“(ii) a recommendation of projects to be funded based on—

“(I) the evaluations and ratings determined under subsection (e) and (f); and

“(II) existing commitments and anticipated funding levels for the subsequent 3 fiscal years; and

“(iii) detailed ratings and evaluations on each project recommended for funding.

“(2) TRIENNIAL REPORTS ON PROJECT RATINGS.—

“(A) IN GENERAL.—Not later than the first Monday of February, the first Monday of June, and the first Monday of October of each year, the Secretary shall submit a report on project ratings to—

“(i) the Committee on Transportation and Infrastructure of the House of Representatives;

“(ii) the Committee on Banking, Housing, and Urban Affairs of the Senate;

“(iii) the Subcommittee on Transportation of the Committee on Appropriations of the House of Representatives; and

“(iv) the Subcommittee on Transportation of the Committee on Appropriations of the Senate.

“(B) CONTENTS.—Each report submitted under subparagraph (A) shall contain—

“(i) a summary of the ratings of all capital investment projects for which funding was requested under this section;

“(ii) detailed ratings and evaluations on the project of each applicant that had significant changes to the finance or project proposal or has completed alternatives analysis or preliminary engineering since the date of the latest report; and

“(iii) all relevant information supporting the evaluation and rating of each updated project, including a summary of the financial plan of each updated project.

“(3) BEFORE AND AFTER STUDY REPORTS.—Not later than the first Monday of August of each year, the Secretary shall submit a report containing a summary of the results of the studies conducted under subsection (g)(2) to—

“(A) the Committee on Transportation and Infrastructure of the House of Representatives;

“(B) the Committee on Banking, Housing, and Urban Affairs of the Senate;

“(C) the Subcommittee on Transportation of the Committee on Appropriations of the House of Representatives; and

“(D) the Subcommittee on Transportation of the Committee on Appropriations of the Senate.

“(4) CONTRACTOR PERFORMANCE ASSESSMENT REPORT.—

“(A) IN GENERAL.—Not later than 180 days after the enactment of the Federal Public Transportation Act of 2004, and each year thereafter, the Secretary shall submit a report analyzing the consistency and accuracy of cost and ridership estimates made by each contractor to public transportation agencies developing major investment projects to the committees and subcommittees listed under paragraph (3).

“(B) CONTENTS.—The report submitted under subparagraph (A) shall compare the cost and ridership estimates made at the time projects are approved for entrance into preliminary engineering with—

“(i) estimates made at the time projects are approved for entrance into final design;

“(ii) costs and ridership when the project commences revenue operation; and

“(iii) costs and ridership when the project has been in operation for 2 years.

“(5) ANNUAL GENERAL ACCOUNTING OFFICE REVIEW.—

“(A) REVIEW.—The Comptroller General of the United States shall conduct an annual review of the processes and procedures for evaluating and rating projects and recommending projects and the Secretary’s implementation of such processes and procedures.

“(B) REPORT.—Not later than 90 days after the submission of each report required under paragraph (1), the Comptroller General shall submit a report to Congress that summarizes the results of the review conducted under subparagraph (A).

“(6) CONTRACTOR PERFORMANCE INCENTIVE REPORT.—Not later than 180 days after the enactment of the Federal Public Transportation Act of 2004, the Secretary shall submit a report to the committees and subcommittees listed under paragraph (3) on the suitability of allowing contractors to public transportation agencies that undertake major capital investments under this section to receive performance incentive awards if a project is completed for less than the original estimated cost.”.

SEC. 3012. NEW FREEDOM FOR ELDERLY PERSONS AND PERSONS WITH DISABILITIES.

(a) IN GENERAL.—Section 5310 is amended to read as follows:

“§ 5310. New freedom for elderly persons and persons with disabilities

“(a) GENERAL AUTHORITY.—

“(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, 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) 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.

“(2) REMAINING COSTS.—The costs of a capital project under this section that are not funded through a grant under this section—

“(A) may be funded from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, a service agreement with a State or local social service agency or a private social service organization, or new capital; and

“(B) may be derived from amounts appropriated to or made available to any Federal agency (other than the Department of Transportation, except for Federal Lands Highway funds) that are eligible to be expended for transportation.

“(3) EXCEPTION.—For purposes of paragraph (2), the prohibitions on the use of funds for matching requirements under section 403(a)(5)(C)(vii) of the Social Security Act (42 U.S.C. 603(a)(5)(C)(vii)) shall not apply to Federal or State funds to be used for transportation purposes.

“(d) GRANT REQUIREMENTS.—

“(1) IN GENERAL.—A grant recipient under this section shall be subject to the requirements of a grant recipient under section 5307 to the extent the Secretary determines to be appropriate.

“(2) CERTIFICATION REQUIREMENTS.—

“(A) FUND TRANSFERS.—A grant recipient under this section that transfers funds to a project funded under section 5336 in accordance with subsection (b)(2) shall certify that the project for which the funds are requested has been coordinated with private nonprofit providers of services under this section.

“(B) PROJECT SELECTION AND PLAN DEVELOPMENT.—Each grant recipient under this section shall certify that—

“(i) the projects selected were derived from a locally developed, coordinated public transit-human services transportation plan; and

“(ii) the plan was developed through a process that included representatives of public, private, and nonprofit transportation and human services providers and participation by the public.

“(C) ALLOCATIONS TO SUBRECIPIENTS.—Each grant recipient under this section shall certify that allocations of the grant to subrecipients, if any, are distributed on a fair and equitable basis.

“(e) STATE PROGRAM OF PROJECTS.—

“(1) SUBMISSION TO SECRETARY.—Each State shall annually submit a program of transportation projects to the Secretary for approval with an assurance that the program provides for maximum feasible coordination

between transportation services funded under this section and transportation services assisted by other Federal sources.

“(2) USE OF FUNDS.—Each State may use amounts made available to carry out this section to provide transportation services for elderly individuals and individuals with disabilities if such services are included in an approved State program of projects.

“(f) LEASING VEHICLES.—Vehicles acquired under this section may be leased to local governmental authorities to improve transportation services designed to meet the needs of elderly individuals and individuals with disabilities.

“(g) MEAL DELIVERY FOR HOMEBOUND INDIVIDUALS.—Public transportation service providers receiving assistance under this section or section 5311(c) may coordinate and assist in regularly providing meal delivery service for homebound individuals if the delivery service does not conflict with providing public transportation service or reduce service to public transportation passengers.

“(h) TRANSFERS OF FACILITIES AND EQUIPMENT.—With the consent of the recipient in possession of a facility or equipment acquired with a grant under this section, a State may transfer the facility or equipment to any recipient eligible to receive assistance under this chapter if the facility or equipment will continue to be used as required under this section.

“(i) FARES NOT REQUIRED.—This section does not require that elderly individuals and individuals with disabilities be charged a fare.”

(b) CONFORMING AMENDMENT.—The item relating to section 5310 in the table of sections for chapter 53 is amended to read as follows: “5310. New freedom for elderly persons and persons with disabilities.”

SEC. 3013. FORMULA GRANTS FOR OTHER THAN URBANIZED AREAS.

(a) DEFINITIONS.—Section 5311(a) is amended to read as follows:

“(a) DEFINITIONS.—As used in this section, the following definitions shall apply:

“(1) RECIPIENT.—The term ‘recipient’ means a State or Indian tribe that receives a Federal transit program grant directly from the Federal Government.

“(2) SUBRECIPIENT.—The term ‘subrecipient’ means a State or local governmental authority, a nonprofit organization, or a private operator of public transportation or intercity bus service that receives Federal transit program grant funds indirectly through a recipient.”

(b) GENERAL AUTHORITY.—Section 5311(b) is amended—

(1) by amending paragraph (1) to read as follows:

“(1) GRANTS AUTHORIZED.—Except as provided under paragraph (2), the Secretary may award grants under this section to recipients located in areas other than urbanized areas for—

“(A) public transportation capital projects;

“(B) operating costs of equipment and facilities for use in public transportation; and

“(C) the acquisition of public transportation services.”

(2) by redesignating paragraph (2) as paragraph (3);

(3) by inserting after paragraph (1) the following:

“(2) STATE PROGRAM.—

“(A) IN GENERAL.—A project eligible for a grant under this section shall be included in a State program for public transportation service projects, including agreements with private providers of public transportation service.

“(B) SUBMISSION TO SECRETARY.—Each State shall annually submit the program described in subparagraph (A) to the Secretary.

“(C) APPROVAL.—The Secretary may not approve the program unless the Secretary determines that—

“(i) the program provides a fair distribution of amounts in the State; and

“(ii) the program provides the maximum feasible coordination of public transportation service assisted under this section with transportation service assisted by other Federal sources.”

(4) in paragraph (3), as redesignated—

(A) by striking “(3) The Secretary of Transportation” and inserting the following:

“(3) RURAL TRANSPORTATION ASSISTANCE PROGRAM.—

“(A) ESTABLISHMENT.—The Secretary”;

(B) by striking “make” and inserting “use not more than 2 percent of the amount made available to carry out this section to award”; and

(C) by adding at the end the following:

“(B) DATA COLLECTION.—

“(i) REPORT.—Each grantee under this section shall submit an annual report to the Secretary containing information on capital investment, operations, and service provided with funds received under this section, including—

“(I) total annual revenue;

“(II) sources of revenue;

“(III) total annual operating costs;

“(IV) total annual capital costs;

“(V) fleet size and type, and related facilities;

“(VI) revenue vehicle miles; and

“(VII) ridership.”; and

(5) by adding after paragraph (3) the following:

“(4) Of the amount made available to carry out paragraph (3)—

“(A) not more than 15 percent may be used to carry out projects of a national scope; and

“(B) any amounts not used under subparagraph (A) shall be allocated to the States.”

(c) APPORTIONMENTS.—Section 5311(c) is amended to read as follows:

“(c) APPORTIONMENTS.—

“(1) PUBLIC TRANSPORTATION ON INDIAN RESERVATIONS.—Of the amounts made available or appropriated for each fiscal year pursuant to subsections (a)(1)(C)(v) and (b)(2)(F) of section 5338, the following amounts shall be apportioned for grants to Indian tribes for any purpose eligible under this section, under such terms and conditions as may be established by the Secretary:

“(A) \$6,000,000 for fiscal year 2005.

“(B) \$8,000,000 for fiscal year 2006.

“(C) \$10,000,000 for fiscal year 2007.

“(D) \$12,000,000 for fiscal year 2008.

“(E) \$15,000,000 for fiscal year 2009.

“(2) REMAINING AMOUNTS.—Of the amounts made available or appropriated for each fiscal year pursuant to subsections (a)(1)(C)(v) and (b)(2)(F) of section 5338 that are not apportioned under paragraph (1)—

“(A) 20 percent shall be apportioned to the States in accordance with paragraph (3); and

“(B) 80 percent shall be apportioned to the States in accordance with paragraph (4).

“(3) APPORTIONMENTS BASED ON LAND AREA IN NONURBANIZED AREAS.—

“(A) IN GENERAL.—Subject to subparagraph (B), each State shall receive an amount that is equal to the amount apportioned under paragraph (2)(A) multiplied by the ratio of the land area in areas other than urbanized areas in that State and divided by the land area in all areas other than urbanized areas in the United States, as shown by the most recent decennial census of population.

“(B) MAXIMUM APPORTIONMENT.—No State shall receive more than 5 percent of the amount apportioned under this paragraph.

“(4) APPORTIONMENTS BASED ON POPULATION IN NONURBANIZED AREAS.—Each State shall receive an amount equal to the amount apportioned under paragraph (2)(B) multiplied

by the ratio of the population of areas other than urbanized areas in that State divided by the population of all areas other than urbanized areas in the United States, as shown by the most recent decennial census of population.”.

(d) USE FOR ADMINISTRATIVE, PLANNING, AND TECHNICAL ASSISTANCE.—Section 5311(e) is amended—

(1) by striking “AND TECHNICAL ASSISTANCE.—(1) The Secretary of Transportation” and inserting “, PLANNING, AND TECHNICAL ASSISTANCE.—The Secretary”;

(2) by striking “to a recipient”; and

(3) by striking paragraph (2).

(e) INTERCITY BUS TRANSPORTATION.—Section 5311(f) is amended—

(1) in paragraph (1)—

(A) by striking “(1)” and inserting the following:

“(1) IN GENERAL.—”; and

(B) by striking “after September 30, 1993,”; and

(2) in paragraph (2)—

(A) by striking “A State” and inserting “After consultation with affected intercity bus service providers, a State”; and

(B) by striking “of Transportation”.

(f) FEDERAL SHARE OF COSTS.—Section 5311(g) is amended to read as follows:

“(g) FEDERAL SHARE OF COSTS.—

“(1) MAXIMUM FEDERAL SHARE.—

“(A) CAPITAL PROJECTS.—

“(i) IN GENERAL.—Except as provided under clause (ii), a grant awarded under this section for any purpose other than operating assistance may not exceed 80 percent of the net capital costs of the project, as determined by the Secretary.

“(ii) EXCEPTION.—A State described in section 120(d) of title 23 shall receive a Federal share of the net capital costs in accordance with the formula under that section.

“(B) OPERATING ASSISTANCE.—

“(i) IN GENERAL.—Except as provided under clause (ii), 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.

“(ii) EXCEPTION.—A State described in section 120(d) of title 23 shall receive a Federal share of the net operating costs equal to 62.5 percent of the Federal share provided for under subparagraph (A)(ii).

“(2) OTHER FUNDING SOURCES.—Funds for a project under this section that are not provided for by a grant under this section—

“(A) may be provided from—

“(i) an undistributed cash surplus;

“(ii) a replacement or depreciation cash fund or reserve;

“(iii) a service agreement with a State or local social service agency or a private social service organization; or

“(iv) new capital; and

“(B) may be derived from amounts appropriated to or made available to a Federal agency (other than the Department of Transportation, except for Federal Land Highway funds) that are eligible to be expended for transportation.

“(3) USE OF FEDERAL GRANT.—A State carrying out a program of operating assistance under this section may not limit the level or extent of use of the Federal grant for the payment of operating expenses.

“(4) EXCEPTION.—For purposes of paragraph (2)(B), the prohibitions on the use of funds for matching requirements under section 403(a)(5)(c)(vii) of the Social Security Act (42 U.S.C. 603(a)(5)(c)(vii)) shall not apply to Federal or State funds to be used for transportation purposes.”.

(g) WAIVER CONDITION.—Section 5311(j)(1) is amended by striking “but the Secretary of Labor may waive the application of section 5333(b)” and inserting “if the Secretary of Labor utilizes a Special Warranty that pro-

vides a fair and equitable arrangement to protect the interests of employees”.

SEC. 3014. RESEARCH, DEVELOPMENT, DEMONSTRATION, AND DEPLOYMENT PROJECTS.

(a) IN GENERAL.—Section 5312 is amended—

(1) by amending subsection (a) to read as follows:

“(a) RESEARCH, DEVELOPMENT, AND DEMONSTRATION PROJECTS.—

“(1) IN GENERAL.—The Secretary may make grants, contracts, cooperative agreements, or other transactions (including agreements with departments, agencies, and instrumentalities of the United States Government) for research, development, demonstration or deployment projects, or evaluation of technology of national significance to public transportation that the Secretary determines will improve public transportation service or help public transportation service meet the total transportation needs at a minimum cost.

“(2) INFORMATION.—The Secretary may request and receive appropriate information from any source.

“(3) SAVINGS PROVISION.—This subsection does not limit the authority of the Secretary under any other law.”;

(2) by striking subsections (b) and (c);

(3) by redesignating subsections (d) and (e) as (b) and (c), respectively.

(4) in subsection (b), as redesignated—

(A) in paragraph (2), by striking “other agreements” and inserting “other transactions”; and

(B) in paragraph (5), by striking “within the Mass Transit Account of the Highway Trust Fund”; and

(5) in subsection (c), as redesignated—

(A) in paragraph (2), by striking “public and private” and inserting “public or private”; and

(B) in paragraph (3), by striking “within the Mass Transit Account of the Highway Trust Fund”.

(b) CONFORMING AMENDMENTS.—

(1) SECTION HEADING.—The heading of section 5312 is amended to read as follows:

“**§ 5312. Research, development, demonstration, and deployment projects**”.

(2) TABLE OF SECTIONS.—The item relating to section 5312 in the table of sections for chapter 53 is amended to read as follows:

“5312. Research, development, demonstration, and deployment projects.”.

SEC. 3015. TRANSIT COOPERATIVE RESEARCH PROGRAM.

(a) IN GENERAL.—Section 5313 is amended—

(1) by striking subsection (b);

(2) in subsection (a)—

(A) in paragraph (1), by striking “(1) The amounts made available under paragraphs (1) and (2)(C)(ii) of section 5338(c) of this title” and inserting “The amounts made available under subsections (a)(5)(C)(iii) and (b)(2)(G)(i) of section 5338”; and

(B) in paragraph (2), by striking “(2)” and inserting the following:

“(b) FEDERAL ASSISTANCE.—”; and

(3) by amending subsection (c) to read as follows:

“(c) FEDERAL SHARE.—If there would be a clear and direct financial benefit to an entity under a grant or contract financed under this section, the Secretary shall establish a Federal share consistent with such benefit.”.

(b) CONFORMING AMENDMENTS.—

(1) SECTION HEADING.—The heading of section 5313 is amended to read as follows:

“**§ 5313. Transit cooperative research program**”.

(2) TABLE OF SECTIONS.—The item relating to section 5313 in the table of sections for chapter 53 is amended to read as follows:

“5313. Transit cooperative research program.”.

SEC. 3016. NATIONAL RESEARCH PROGRAMS.

(a) IN GENERAL.—Section 5314 is amended—

(1) in subsection (a)—

(A) by amending paragraph (1) to read as follows:

“(1) AVAILABILITY OF FUNDS.—The Secretary may use amounts made available under subsections (a)(5)(C)(iv) and (b)(2)(G)(iv) of section 5338 for grants, contracts, cooperative agreements, or other transactions for the purposes described in sections 5312, 5315, and 5322.”;

(B) in paragraph (2), by striking “(2) Of” and inserting the following:

“(2) ADA COMPLIANCE.—From”;

(C) by amending paragraph (3) to read as follows:

“(3) SPECIAL DEMONSTRATION INITIATIVES.—The Secretary may use not more than 25 percent of the amounts made available under paragraph (1) for special demonstration initiatives, subject to terms that the Secretary determines to be consistent with this chapter. For a nonrenewable grant of not more than \$100,000, the Secretary shall provide expedited procedures for complying with the requirements of this chapter.”;

(D) in paragraph (4)—

(i) by striking subparagraph (B); and

(ii) by redesignating subparagraph (C) as subparagraph (B); and

(E) by adding at the end the following:

“(6) MEDICAL TRANSPORTATION DEMONSTRATION GRANTS.—

“(A) GRANTS AUTHORIZED.—The Secretary may award demonstration grants, from funds made available under paragraph (1), to eligible entities to provide transportation services to individuals to access dialysis treatments and other medical treatments for renal disease.

“(B) ELIGIBLE ENTITIES.—An entity shall be eligible to receive a grant under this paragraph if the entity—

“(i) meets the conditions described in section 501(c)(3) of the Internal Revenue Code of 1986; or

“(ii) is an agency of a State or unit of local government.

“(C) USE OF FUNDS.—Grant funds received under this paragraph may be used to provide transportation services to individuals to access dialysis treatments and other medical treatments for renal disease.

“(D) APPLICATION.—

“(i) IN GENERAL.—Each eligible entity desiring a grant under this paragraph shall submit an application to the Secretary at such time, at such place, and containing such information as the Secretary may reasonably require.

“(ii) SELECTION OF GRANTEES.—In awarding grants under this paragraph, the Secretary shall give preference to eligible entities from communities with—

“(I) high incidence of renal disease; and

“(II) limited access to dialysis facilities.

“(E) RULEMAKING.—The Secretary shall issue regulations to implement and administer the grant program established under this paragraph.

“(F) REPORT.—The Secretary shall submit a report on the results of the demonstration projects funded under this paragraph to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.”; and

(2) by amending subsection (b) to read as follows:

“(b) FEDERAL SHARE.—If there would be a clear and direct financial benefit to an entity under a grant, contract, cooperative agreement, or other transaction financed under subsection (a) or section 5312, 5313,

5315, or 5322, the Secretary shall establish a Federal share consistent with such benefit.”.

(c) NATIONAL TECHNICAL ASSISTANCE CENTER FOR SENIOR TRANSPORTATION; ALTERNATIVE FUELS STUDY.—Section 5314 is amended by adding at the end the following:

“(c) NATIONAL TECHNICAL ASSISTANCE CENTER FOR SENIOR TRANSPORTATION.—

“(1) ESTABLISHMENT.—The Secretary shall award grants 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 under this paragraph may be used to—

“(i) evaluate the state of transportation services for senior citizens;

“(ii) recognize barriers to mobility that senior citizens encounter in their communities;

“(iii) establish partnerships and promote coordination among community stakeholders, including public, not-for-profit, and for-profit providers of transportation services for senior citizens;

“(iv) identify future transportation needs of senior citizens within local communities; and

“(v) establish strategies to meet the unique needs of healthy and frail senior citizens.

“(C) SELECTION OF GRANTEE.—The Secretary shall select grantees under this subsection based on a fair representation of various geographical locations throughout the United States.

“(5) ALLOCATIONS.—From the funds made available for each fiscal year under subsections (a)(5)(C)(iv) and (b)(2)(G)(iv) of sec-

tion 5338, \$3,000,000 shall be allocated to carry out this subsection.

“(d) ALTERNATIVE FUELS STUDY.—

“(1) STUDY.—The Secretary shall conduct a study of the actions necessary to facilitate the purchase of increased volumes of alternative fuels (as defined in section 301 of the Energy Policy Act of 1992 (42 U.S.C. 13211)) for use in public transit vehicles

“(2) SCOPE OF STUDY.—The study conducted under this subsection shall focus on the incentives necessary to increase the use of alternative fuels in public transit vehicles, including buses, fixed guideway vehicles, and ferries.

“(3) CONTENTS.—The study shall consider—

“(A) the environmental benefits of increased use of alternative fuels in transit vehicles;

“(B) existing opportunities available to transit system operators that encourage the purchase of alternative fuels for transit vehicle operation;

“(C) existing barriers to transit system operators that discourage the purchase of alternative fuels for transit vehicle operation, including situations where alternative fuels that do not require capital improvements to transit vehicles are disadvantaged over fuels that do require such improvements; and

“(D) the necessary levels and type of support necessary to encourage additional use of alternative fuels for transit vehicle operation.

“(4) RECOMMENDATIONS.—The study shall recommend regulatory and legislative alternatives that will result in the increased use of alternative fuels in transit vehicles.

“(5) REPORT.—Not later than 1 year after the date of enactment of the Federal Public Transportation Act of 2004, the Secretary shall submit the study completed under this subsection to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives”.

(c) CONFORMING AMENDMENTS.—

(1) SECTION HEADING.—The heading for section 5314 is amended to read as follows:

“§ 5314. National research programs”.

(2) TABLE OF SECTIONS.—The item relating to section 5314 in the table of sections for chapter 53 is amended to read as follows:

“5314. National research programs.”.

SEC. 3017. NATIONAL TRANSIT INSTITUTE.

(a) Section 5315 is amended—

(1) by striking subsections (a) and (b) and inserting the following:

“(a) ESTABLISHMENT.—The Secretary shall award a grant to Rutgers University to conduct a national transit institute.

“(b) DUTIES.—

“(1) IN GENERAL.—In cooperation with the Federal Transit Administration, State transportation departments, public transportation authorities, and national and international entities, the institute established pursuant to subsection (a) shall develop and conduct training programs for Federal, State, and local transportation employees, United States citizens, and foreign nationals engaged or to be engaged in Government-aid public transportation work.

“(2) TRAINING PROGRAMS.—The training programs developed under paragraph (1) may include courses in recent developments, techniques, and procedures related to—

“(A) intermodal and public transportation planning;

“(B) management;

“(C) environmental factors;

“(D) acquisition and joint use rights of way;

“(E) engineering and architectural design;

“(F) procurement strategies for public transportation systems;

“(G) turnkey approaches to delivering public transportation systems;

“(H) new technologies;

“(I) emission reduction technologies;

“(J) ways to make public transportation accessible to individuals with disabilities;

“(K) construction, construction management, insurance, and risk management;

“(L) maintenance;

“(M) contract administration;

“(N) inspection;

“(O) innovative finance;

“(P) workplace safety; and

“(Q) public transportation security.”; and (2) in subsection (d), by striking “mass” each place it appears.

SEC. 3018. BUS TESTING FACILITY.

Section 5318 is amended—

(1) in subsection (a)—

(A) by striking “ESTABLISHMENT.—The Secretary of Transportation shall establish one facility” and inserting “IN GENERAL.—The Secretary shall maintain 1 facility”; and

(B) by striking “established by renovating” and inserting “maintained at”; and (2) in subsection (d), by striking “section 5309(m)(1)(C) of this title” and inserting “paragraphs (1)(C) and (2)(B) of section 5309(i)”.

SEC. 3019. BICYCLE FACILITIES.

Section 5319 is amended by striking “5307(k)” and inserting “5307(d)(1)(K)”.

SEC. 3020. SUSPENDED LIGHT RAIL TECHNOLOGY PILOT PROJECT.

Section 5320 is repealed.

SEC. 3021. CRIME PREVENTION AND SECURITY.

Section 5321 is repealed.

SEC. 3022. GENERAL PROVISIONS ON ASSISTANCE.

Section 5323 is amended—

(1) in subsection (a)—

(A) by amending paragraph (1) to read as follows:

“(1) IN GENERAL.—Financial assistance provided under this chapter to a State or a local governmental authority may be used to acquire an interest in, or to buy property of, a private company engaged in public transportation, for a capital project for property acquired from a private company engaged in public transportation after July 9, 1964, or to operate a public transportation facility or equipment in competition with, or in addition to, transportation service provided by an existing public transportation company, only if—

“(A) the Secretary determines that such financial assistance is essential to a program of projects required under sections 5303, 5304, and 5306;

“(B) the Secretary determines that the program provides for the participation of private companies engaged in public transportation to the maximum extent feasible; and

“(C) just compensation under State or local law will be paid to the company for its franchise or property.”; and

(B) in paragraph (2), by striking “(2)” and inserting the following:

“(2) LIMITATION.—”;

(2) by amending subsection (b) to read as follows:

“(b) NOTICE AND PUBLIC HEARING.—

“(1) IN GENERAL.—An application for a grant under this chapter for a capital project that will substantially affect a community, or the public transportation service of a community, shall include, in the environmental record for the project, evidence that the applicant has—

“(A) provided an adequate opportunity for public review and comment on the project;

“(B) held a public hearing on the project if the project affects significant economic, social, or environmental interests;

“(C) considered the economic, social, and environmental effects of the project; and

“(D) found that the project is consistent with official plans for developing the urban area.

“(2) CONTENTS OF NOTICE.—Notice of a hearing under this subsection—

“(A) shall include a concise description of the proposed project; and

“(B) shall be published in a newspaper of general circulation in the geographic area the project will serve.”;

(3) by amending subsection (c) to read as follows:

“(c) NEW TECHNOLOGY.—A grant for financial assistance under this chapter for new technology, including innovative or improved products, techniques, or methods, shall be subject to the requirements of section 5309 to the extent the Secretary determines to be appropriate.”;

(4) by amending subsection (d) to read as follows:

“(d) CONDITIONS ON BUS TRANSPORTATION SERVICE.—Financial assistance under this chapter may be used to buy or operate a bus only if the recipient agrees to comply with the following conditions on bus transportation service:

“(1) CHARTER BUS SERVICE.—

“(A) IN GENERAL.—Except as provided under subparagraph (B), a recipient may provide incidental charter bus service only within its lawful service area if—

“(i) the recipient annually publishes, by electronic and other appropriate means, a notice—

“(I) indicating its intent to offer incidental charter bus service within its lawful service area; and

“(II) soliciting notices from private bus operators that wish to appear on a list of carriers offering charter bus service in that service area;

“(ii) the recipient provides private bus operators with an annual opportunity to notify the recipient of its desire to appear on a list of carriers offering charter bus service in such service area;

“(iii) upon receiving a request for charter bus service, the recipient electronically notifies the private bus operators listed as offering charter service in that service area with the name and contact information of the requestor and the nature of the charter service request; and

“(iv) the recipient does not offer to provide charter bus service unless no private bus operator indicates that it is willing and able to provide the service within a 72-hour period after the receipt of such notice.

“(B) EXCEPTION.—A recipient that operates 2,000 or fewer vehicles in fixed-route peak hour service may provide incidental charter bus transportation directly to—

“(i) local governments; and

“(ii) social service entities with limited resources.

“(C) IRREGULARLY SCHEDULED EVENTS.—Service, other than commuter service, by a recipient to irregularly scheduled events, where the service is conducted in whole or in part outside the service area of the recipient, regardless of whether the service is contracted for individually with passengers, is subject to a rebuttable presumption that such service is charter service.

“(2) VIOLATION OF AGREEMENTS.—

“(A) COMPLAINTS.—A complaint regarding the violation of a charter bus service agreement shall be submitted to the Regional Administrator of the Federal Transit Administration, who shall—

“(i) provide a reasonable opportunity for the recipient to respond to the complaint;

“(ii) provide the recipient with an opportunity for an informal hearing; and

“(iii) issue a written decision not later than 60 days after the parties have completed their submissions.

“(B) APPEALS.—

“(i) IN GENERAL.—A decision by the Regional Administrator may be appealed to a

panel comprised of the Federal Transit Administrator, personnel in the Office of the Secretary of Transportation, and other persons with expertise in surface passenger transportation issues.

“(ii) STANDARD OF REVIEW.—The panel described in clause (i) shall consider the complaint de novo on all issues of fact and law.

“(iii) WRITTEN DECISION.—The appeals panel shall issue a written decision on an appeal not later than 60 days after the completion of submissions. This decision shall be the final order of the agency and subject to judicial review in district court.

“(C) CORRECTION.—If the Secretary determines that a violation of an agreement relating to the provision of charter service has occurred, the Secretary shall correct the violation under terms of the agreement.

“(D) REMEDIES.—The Secretary may issue orders to recipients to cease and desist in actions that violate the agreement, and such orders shall be binding upon the parties. In addition to any remedy spelled out in the agreement, if a recipient has failed to correct a violation within 60 days after the receipt of a notice of violation from the Secretary, the Secretary shall withhold from the recipient the lesser of—

“(i) 5 percent of the financial assistance available to the recipient under this chapter for the next fiscal year; or

“(ii) \$200,000.

“(3) REGULATIONS.—Not later than 1 year after the date of enactment of the Federal Public Transportation Act of 2004, the Secretary shall issue amended regulations that—

“(A) implement this subsection, as revised by such Act; and

“(B) impose restrictions, procedures, and remedies in connection with sightseeing service by a recipient.

“(4) PUBLIC NOTICE.—The Secretary shall make all written decisions, guidance, and other pertinent materials relating to the procedures in this subsection available to the public in electronic and other appropriate formats in a timely manner.”;

(5) by striking subsection (e);

(6) by redesignating subsection (f) as subsection (e);

(7) in subsection (e), as redesignated—

(A) by striking “(1)” and inserting the following:

“(1) IN GENERAL.—”;

(B) by striking paragraph (2);

(C) by striking “This subsection” and inserting the following:

“(2) EXCEPTIONS.—This subsection; and

(D) by adding at the end the following:

“(3) PENALTY.—If the Secretary determines that an applicant, governmental authority, or publicly owned operator has violated the agreement required under paragraph (1), the Secretary shall bar the applicant, authority, or operator from receiving Federal transit assistance in an amount the Secretary determines to be appropriate.”;

(8) by inserting after subsection (e) the following:

“(f) BOND PROCEEDS ELIGIBLE FOR LOCAL SHARE.—

“(1) IN GENERAL.—Notwithstanding any other provision of law, a recipient of assistance under section 5307 or 5309, may use the proceeds from the issuance of revenue bonds as part of the local matching funds for a capital project.

“(2) REIMBURSEMENT BY SECRETARY.—The Secretary may reimburse an eligible recipient for deposits of bond proceeds in a debt service reserve that the recipient established pursuant to section 5302(a)(1)(K) from amounts made available to the recipient under section 5307 or 5309.”;

(9) in subsection (g)—

(A) by striking “(f)” each place it appears and inserting “(e)”;

(B) by striking “103(e)(4) and 142 (a) or (c)” each place it appears and inserting “133 and 142”;

(10) by amending subsection (h) to read as follows:

“(h) TRANSFER OF LANDS OR INTERESTS IN LANDS OWNED BY THE UNITED STATES.—

“(1) REQUEST BY SECRETARY.—If the Secretary determines that any part of the lands or interests in lands owned by the United States and made available as a result of a military base closure is necessary for transit purposes eligible under this chapter, including corridor preservation, the Secretary shall submit a request to the head of the Federal agency supervising the administration of such lands or interests in lands. Such request shall include a map showing the portion of such lands or interests in lands, which is desired to be transferred for public transportation purposes.

“(2) TRANSFER OF LAND.—If 4 months after submitting a request under paragraph (1), the Secretary does not receive a response from the Federal agency described in paragraph (1) that certifies that the proposed appropriation of land is contrary to the public interest or inconsistent with the purposes for which such land has been reserved, or if the head of such agency agrees to the utilization or transfer under conditions necessary for the adequate protection and utilization of the reserve, such land or interests in land may be utilized or transferred to a State, local governmental authority, or public transportation operator for such purposes and subject to the conditions specified by such agency.

“(3) REVERSION.—If at any time the lands or interests in land utilized or transferred under paragraph (2) are no longer needed for public transportation purposes, the State, local governmental authority, or public transportation operator that received the land shall notify to the Secretary, and such lands shall immediately revert to the control of the head of the Federal agency from which the land was originally transferred.”;

(11) in subsection (j)(5), by striking “Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102-240, 105 Stat. 1914)” and inserting “Federal Public Transportation Act of 2004”;

(12) by amending subsection (l) to read as follows:

“(1) RELATIONSHIP TO OTHER LAWS.—Section 1001 of title 18 applies to a certificate, submission, or statement provided under this chapter. The Secretary may terminate financial assistance under this chapter and seek reimbursement directly, or by offsetting amounts, available under this chapter, if the Secretary determines that a recipient of such financial assistance has made a false or fraudulent statement or related act in connection with a Federal transit program.”;

(13) in subsection (m), by inserting at the end the following: “Requirements to perform preaward and postdelivery reviews of rolling stock purchases to ensure compliance with subsection (j) shall not apply to private nonprofit organizations or to grantees serving urbanized areas with a population of fewer than 1,000,000.”;

(14) in subsection (o), by striking “the Transportation Infrastructure Finance and Innovation Act of 1998” and inserting “sections 181 through 188 of title 23”;

(15) by adding at the end the following:

“(p) PROHIBITED USE OF FUNDS.—Grant funds received under this chapter may not be used to pay ordinary governmental or non-project operating expenses.”.

SEC. 3023. SPECIAL PROVISIONS FOR CAPITAL PROJECTS.

(a) IN GENERAL.—Section 5324 is amended to read as follows:

“§ 5324. Special provisions for capital projects

“(a) REAL PROPERTY AND RELOCATION SERVICES.—Whenever real property is acquired or furnished as a required contribution incident to a project, the Secretary shall not approve the application for financial assistance unless the applicant has made all payments and provided all assistance and assurances that are required of a State agency under sections 210 and 305 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4630 and 4655). The Secretary must be advised of specific references to any State law that are believed to be an exception to section 301 or 302 of such Act (42 U.S.C. 4651 and 4652).

“(b) ADVANCE REAL PROPERTY ACQUISITIONS.—

“(1) IN GENERAL.—The Secretary may participate in the acquisition of real property for any project that may use the property if the Secretary determines that external market forces are jeopardizing the potential use of the property for the project and if—

“(A) there are offers on the open real estate market to convey that property for a use that is incompatible with the project under study;

“(B) there is an imminent threat of development or redevelopment of the property for a use that is incompatible with the project under study;

“(C) recent appraisals reflect a rapid increase in the fair market value of the property;

“(D) the property, because it is located near an existing transportation facility, is likely to be developed and to be needed for a future transportation improvement; or

“(E) the property owner can demonstrate that, for health, safety, or financial reasons, retaining ownership of the property poses an undue hardship on the owner in comparison to other affected property owners and requests the acquisition to alleviate that hardship.

“(2) ENVIRONMENTAL REVIEWS.—Property acquired in accordance with this subsection may not be developed in anticipation of the project until all required environmental reviews for the project have been completed.

“(3) LIMITATION.—The Secretary shall limit the size and number of properties acquired under this subsection as necessary to avoid any prejudice to the Secretary’s objective evaluation of project alternatives.

“(4) EXEMPTION.—An acquisition under this section shall be considered an exempt project under section 176 of the Clean Air Act (42 U.S.C. 7506).

“(c) RAILROAD CORRIDOR PRESERVATION.—

“(1) IN GENERAL.—The Secretary may assist an applicant to acquire railroad right-of-way before the completion of the environmental reviews for any project that may use the right-of-way if the acquisition is otherwise permitted under Federal law. The Secretary may establish restrictions on such an acquisition as the Secretary determines to be necessary and appropriate.

“(2) ENVIRONMENTAL REVIEWS.—Railroad right-of-way acquired under this subsection may not be developed in anticipation of the project until all required environmental reviews for the project have been completed.

“(d) CONSIDERATION OF ECONOMIC, SOCIAL, AND ENVIRONMENTAL INTERESTS.—

“(1) IN GENERAL.—The Secretary may not approve an application for financial assistance for a capital project under this chapter unless the Secretary determines that the project has been developed in accordance with the National Environmental Policy Act

of 1969 (42 U.S.C. 4321 et seq.). The Secretary’s findings under this paragraph shall be made a matter of public record.

“(2) COOPERATION AND CONSULTATION.—In carrying out section 5301(e), the Secretary shall cooperate and consult with the Secretary of the Interior and the Administrator of the Environmental Protection Agency on each project that may have a substantial impact on the environment.”.

(b) CONFORMING AMENDMENT.—The item relating to section 5324 in the table of sections for chapter 53 is amended to read as follows: “5324. Special provisions for capital projects.”.

SEC. 3024. CONTRACT REQUIREMENTS.

(a) IN GENERAL.—Section 5325 is amended to read as follows:

“§ 5325. Contract requirements

“(a) COMPETITION.—Recipients of assistance under this chapter shall conduct all procurement transactions in a manner that provides full and open competition as determined by the Secretary.

“(b) ARCHITECTURAL, ENGINEERING, AND DESIGN CONTRACTS.—

“(1) IN GENERAL.—A contract or requirement for program management, architectural engineering, construction management, a feasibility study, and preliminary engineering, design, architectural, engineering, surveying, mapping, or related services for a project for which Federal assistance is provided under this chapter shall be awarded in the same manner as a contract for architectural and engineering services is negotiated under chapter 11 of title 40, or an equivalent qualifications-based requirement of a State. This subsection does not apply to the extent a State has adopted or adopts by law a formal procedure for procuring those services.

“(2) ADDITIONAL REQUIREMENTS.—When awarding a contract described in paragraph (1), recipients of assistance under this chapter shall comply with the following requirements:

“(A) Any contract or subcontract awarded under this chapter shall be performed and audited in compliance with cost principles contained in part 31 of title 48, Code of Federal Regulations (commonly known as the Federal Acquisition Regulation).

“(B) A recipient of funds under a contract or subcontract awarded under this chapter shall accept indirect cost rates established in accordance with the Federal Acquisition Regulation for 1-year applicable accounting periods by a cognizant Federal or State government agency, if such rates are not currently under dispute.

“(C) After a firm’s indirect cost rates are accepted under subparagraph (B), the recipient of the funds shall apply such rates for the purposes of contract estimation, negotiation, administration, reporting, and contract payment, and shall not be limited by administrative or de facto ceilings.

“(D) A recipient requesting or using the cost and rate data described in subparagraph (C) shall notify any affected firm before such request or use. Such data shall be confidential and shall not be accessible or provided by the group of agencies sharing cost data under this subparagraph, except by written permission of the audited firm. If prohibited by law, such cost and rate data shall not be disclosed under any circumstances.

“(c) EFFICIENT PROCUREMENT.—A recipient may award a procurement contract under this chapter to other than the lowest bidder if the award furthers an objective consistent with the purposes of this chapter, including improved long-term operating efficiency and lower long-term costs.

“(d) DESIGN-BUILD PROJECTS.—

“(1) DEFINED TERM.—As used in this subsection, the term ‘design-build project’—

“(A) means a project under which a recipient enters into a contract with a seller, firm, or consortium of firms to design and build an operable segment of a public transportation system that meets specific performance criteria; and

“(B) may include an option to finance, or operate for a period of time, the system or segment or any combination of designing, building, operating, or maintaining such system or segment.

“(2) FINANCIAL ASSISTANCE FOR CAPITAL COSTS.—Federal financial assistance under this chapter may be provided for the capital costs of a design-build project after the recipient complies with Government requirements.

“(e) ROLLING STOCK.—

“(1) ACQUISITION.—A recipient of financial assistance under this chapter may enter into a contract to expend that assistance to acquire rolling stock—

“(A) with a party selected through a competitive procurement process; or

“(B) based on—

“(i) initial capital costs; or

“(ii) performance, standardization, life cycle costs, and other factors.

“(2) MULTIYEAR CONTRACTS.—A recipient procuring rolling stock with Federal financial assistance under this chapter may make a multiyear contract, including options, to buy not more than 5 years of requirements for rolling stock and replacement parts. The Secretary shall allow a recipient to act on a cooperative basis to procure rolling stock under this paragraph and in accordance with other Federal procurement requirements.

“(f) EXAMINATION OF RECORDS.—Upon request, the Secretary and the Comptroller General, or any of their representatives, shall have access to and the right to examine and inspect all records, documents, and papers, including contracts, related to a project for which a grant is made under this chapter.

“(g) GRANT PROHIBITION.—A grant awarded under this chapter may not be used to support a procurement that uses an exclusionary or discriminatory specification.

“(h) BUS DEALER REQUIREMENTS.—No State law requiring buses to be purchased through in-State dealers shall apply to vehicles purchased with a grant under this chapter.

“(i) AWARDS TO RESPONSIBLE CONTRACTORS.—

“(1) IN GENERAL.—Federal financial assistance under this chapter may be provided for contracts only if a recipient awards such contracts to responsible contractors possessing the ability to successfully perform under the terms and conditions of a proposed procurement.

“(2) CRITERIA.—Before making an award to a contractor under paragraph (1), a recipient shall consider—

“(A) the integrity of the contractor;

“(B) the contractor’s compliance with public policy;

“(C) the contractor’s past performance, including the performance reported in the Contractor Performance Assessment Reports required under section 5309(m)(4); and

“(D) the contractor’s financial and technical resources.”.

(b) CONFORMING AMENDMENTS.—Chapter 53 is amended by striking section 5326.

SEC. 3025. PROJECT MANAGEMENT OVERSIGHT AND REVIEW.

(a) PROJECT MANAGEMENT PLAN REQUIREMENTS.—Section 5327(a) is amended—

(1) in paragraph (11), by striking “and” at the end;

(2) in paragraph (12), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following:

“(13) safety and security management.”.

(b) LIMITATIONS ON USE OF AVAILABLE AMOUNTS.—Section 5327(c) is amended—

(1) by amending paragraph (1) to read as follows:

“(1) IN GENERAL.—The Secretary may not use more than 1 percent of amounts made available for a fiscal year to carry out any of sections 5307 through 5311, 5316, or 5317, or a project under the National Capital Transportation Act of 1969 (Public Law 91-143) to make a contract to oversee the construction of major projects under any of sections 5307 through 5311, 5316, or 5317 or under that Act.”;

(2) in paragraph (2)—

(A) by striking “(2)” and inserting the following:

“(2) OTHER ALLOWABLE USES.—”;

(B) by inserting “and security” after “safety”;

(3) in paragraph (3), by striking “(3) The Government shall” and inserting the following:

“(3) FEDERAL SHARE.—Federal funds shall be used to”.

SEC. 3026. PROJECT REVIEW.

Section 5328 is amended—

(1) in subsection (a)—

(A) in paragraph (1) by striking “(1) When the Secretary of Transportation allows a new fixed guideway project to advance into the alternatives analysis stage of project review, the Secretary shall cooperate with the applicant” and inserting the following:

“(1) ALTERNATIVES ANALYSIS.—The Secretary shall cooperate with an applicant undertaking an alternatives analysis under subsections (e) and (f) of section 5309”;

(B) in paragraph (2)—

(i) by striking “(2)” and inserting the following:

“(2) ADVANCEMENT TO PRELIMINARY ENGINEERING STAGE.—”;

(ii) by striking “is consistent with” and inserting “meets the requirements of”;

(C) in paragraph (3)—

(i) by striking “(3)” and inserting the following:

“(3) RECORD OF DECISION.—”;

(ii) by striking “of construction”;

(iii) by adding before the period at the end the following: “if the Secretary determines that the project meets the requirements of subsection (e) or (f) of section 5309”;

(D) by striking paragraph (4);

(E) by striking subsection (c).

SEC. 3027. INVESTIGATIONS OF SAFETY AND SECURITY RISK.

(a) IN GENERAL.—Section 5329 is amended to read as follows:

“§ 5329. Investigation of safety hazards and security risks

“(a) IN GENERAL.—The Secretary may conduct investigations into safety hazards and security risks associated with a condition in equipment, a facility, or an operation financed under this chapter to establish the nature and extent of the condition and how to eliminate, mitigate, or correct it.

“(b) SUBMISSION OF CORRECTIVE PLAN.—If the Secretary establishes that a safety hazard or security risk warrants further protective measures, the Secretary shall require the local governmental authority receiving amounts under this chapter to submit a plan for eliminating, mitigating, or correcting it.

“(c) WITHHOLDING OF FUNDS.—Financial assistance under this chapter, in an amount to be determined by the Secretary, may be withheld until a plan is approved and carried out.

“(d) PUBLIC TRANSPORTATION SECURITY.—

“(1) IN GENERAL.—Not later than 90 days after the date of enactment of the Federal Public Transportation Act of 2004, the Secretary shall enter into a memorandum of understanding with the Secretary of Homeland Security to define and clarify the respective roles and responsibilities of the Department

of Transportation and the Department of Homeland Security relating to public transportation security.

“(2) CONTENTS.—The memorandum of understanding described in paragraph (1) shall—

“(A) establish national security standards for public transportation agencies;

“(B) establish funding priorities for grants from the Department of Homeland Security to public transportation agencies;

“(C) create a method of coordination with public transportation agencies on security matters; and

“(D) address any other issues determined to be appropriate by the Secretary and the Secretary of Homeland Security.”.

(b) CONFORMING AMENDMENT.—The item relating to section 5329 in the table of sections for chapter 53 is amended to read as follows: “5329. Investigation of safety hazards and security risks.”.

SEC. 3028. STATE SAFETY OVERSIGHT.

(a) IN GENERAL.—Section 5330 is amended—

(1) by amending the heading to read as follows:

“§ 5330. Withholding amounts for noncompliance with State safety oversight requirements”;

(2) by amending subsection (a) to read as follows:

“(a) APPLICATION.—This section shall only apply to—

“(1) States that have rail fixed guideway public transportation systems that are not subject to regulation by the Federal Railroad Administration; and

“(2) States that are designing rail fixed guideway public transportation systems that will not be subjected to regulation by the Federal Railroad Administration.”;

(3) in subsection (d), by striking “affected States” and inserting the following: “affected States—

“(1) shall ensure uniform safety standards and enforcement; or

“(2) may designate”;

(4) in subsection (f), by striking “Not later than December 18, 1992, the” and inserting “The”.

(b) CONFORMING AMENDMENT.—The item relating to section 5330 in the table of sections for chapter 53 is amended to read as follows:

“5330. Withholding amounts for noncompliance with State safety oversight requirements.”.

SEC. 3029. SENSITIVE SECURITY INFORMATION.

Section 40119(b) is amended—

(1) in paragraph (1)(C), by inserting “, transportation facilities or infrastructure, or transportation employees” before the period at the end; and

(2) by adding at the end the following:

“(3) A State or local government may not enact, enforce, prescribe, issue, or continue in effect any law, regulation, standard, or order to the extent it is inconsistent with this section or regulations prescribed under this section.”.

SEC. 3030. TERRORIST ATTACKS AND OTHER ACTS OF VIOLENCE AGAINST PUBLIC TRANSPORTATION SYSTEMS.

(a) IN GENERAL.—Section 1993 of title 18, United States Code, is amended—

(1) by striking “mass” each place it appears and inserting “public”;

(2) in subsection (a)(5), by inserting “controlling,” after “operating”;

(3) in subsection (c)(5), by striking “5302(a)(7) of title 49, United States Code,” and inserting “5302(a) of title 49.”;

(b) CONFORMING AMENDMENT.—The table of contents for chapter 97 of title 18, United States Code is amended by amending the item related to section 1993 to read as follows:

“1993. Terrorist attacks and other acts of violence against public transportation systems.”.

SEC. 3031. CONTROLLED SUBSTANCES AND ALCOHOL MISUSE TESTING.

Section 5331 is amended—

(1) in subsection (a)(3), by inserting before the period at the end the following: “or sections 2303a, 7101(i), or 7302(e) of title 46. The Secretary may also decide that a form of public transportation is covered adequately, for employee alcohol and controlled substances testing purposes, under the alcohol and controlled substance statutes or regulations of an agency within the Department of Transportation or other Federal agency”;

(2) in subsection (f), by striking paragraph (3).

SEC. 3032. EMPLOYEE PROTECTIVE ARRANGEMENTS.

Section 5333(b) is amended—

(1) in paragraph (3), by striking the period at the end and inserting “, provided that—

“(A) the protective period shall not exceed 4 years; and

“(B) the separation allowance shall not exceed 12 months.”;

(2) by adding at the end the following:

“(4) An arrangement under this subsection shall not guarantee continuation of employment as a result of a change in private contractors through competitive bidding unless such continuation is otherwise required under subparagraph (A), (B), or (D) of paragraph (2).

“(5) Fair and equitable arrangements to protect the interests of employees utilized by the Secretary of Labor for assistance to purchase like-kind equipment or facilities, and amendments to existing assistance agreements, shall be certified without referral.

“(6) Nothing in this subsection shall affect the level of protection provided to freight railroad employees.”.

SEC. 3033. ADMINISTRATIVE PROCEDURES.

Section 5334 is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking “5309-5311 of this title” and all that follows and inserting “5309 through 5311”;

(B) in paragraph (9), by striking “and” at the end;

(C) in paragraph (10), by striking the period at the end and inserting “; and”;

(D) by inserting at the end the following:

“(11) issue regulations as necessary to carry out the purposes of this chapter.”;

(2) by redesignating subsections (b), (c), (d), (e), (f), (g), (h), (i), and (j) as subsections (c), (d), (e), (f), (g), (h), (i), (j), and (k), respectively;

(3) by adding after subsection (a) the following:

“(b) PROHIBITIONS AGAINST REGULATING OPERATIONS AND CHARGES.—

“(1) IN GENERAL.—Except as directed by the President for purposes of national defense or in the event of a national or regional emergency, the Secretary may not regulate—

“(A) the operation, routes, or schedules of a public transportation system for which a grant is made under this chapter; or

“(B) the rates, fares, tolls, rentals, or other charges prescribed by any public or private transportation provider.

“(2) COMPLIANCE WITH AGREEMENT.—Nothing in this subsection shall prevent the Secretary from requiring a recipient of funds under this chapter to comply with the terms and conditions of its Federal assistance agreement.”;

(4) in subsection (j)(1), as redesignated, by striking “carry out section 5312(a) and (b)(1) of this title” and inserting “advise and assist the Secretary in carrying out section 5312(a)”.

SEC. 3034. REPORTS AND AUDITS.

Section 5335 is amended—

(1) by striking subsection (b); and

(2) in subsection (a)—

(A) in paragraph (1), by striking “(1)”; and

(B) in paragraph (2), by striking “(2) The Secretary may make a grant under section 5307 of this title” and inserting the following:

“(b) REPORTING AND UNIFORM SYSTEMS.—The Secretary may award a grant under section 5307 or 5311”.

SEC. 3035. APPORTIONMENTS OF APPROPRIATIONS FOR FORMULA GRANTS.

Section 5336 is amended—

(1) by striking subsection (d);

(2) by striking subsection (h);

(3) by striking subsection (k);

(4) by redesignating subsections (a) through (c) as subsections (b) through (d), respectively;

(5) by adding before subsection (b), as redesignated, the following:

“(a) APPORTIONMENTS.—Of the amounts made available for each fiscal year under subsections (a)(1)(C)(vi) and (b)(2)(L) of section 5338—

“(1) there shall be apportioned, in fiscal year 2005 and each fiscal year thereafter, \$35,000,000 to certain urbanized areas with populations of less than 200,000 in accordance with subsection (k); and

“(2) any amount not apportioned under paragraph (1) shall be apportioned to urbanized areas in accordance with subsections (b) through (d).”;

(6) in subsection (b), as redesignated—

(A) by striking “Of the amount made available or appropriated under section 5338(a) of this title” and inserting “Of the amount apportioned under subsection (a)(3)”; and

(B) in paragraph (2), by striking “subsections (b) and (c) of this section” and inserting “subsections (c) and (d).”;

(7) in subsection (c)(2), as redesignated, by striking “subsection (a)(2) of this section” and inserting “subsection (b)(2).”;

(8) in subsection (d), as redesignated, by striking “subsection (a)(2) of this section” and inserting “subsection (b)(2).”;

(9) in subsection (e)(1), by striking “subsections (a) and (h)(2) of section 5338 of this title” and inserting “subsections (a) and (b) of section 5338”;

(10) in subsection (g), by striking “subsection (a)(1) of this section” each place it appears and inserting “subsection (b)(1).”; and

(11) by adding at the end the following:

“(k) SMALL TRANSIT INTENSIVE CITIES FACTORS.—The amount apportioned under subsection (a)(1) shall be apportioned to urbanized areas as follows:

“(1) The Secretary shall calculate a factor equal to the sum of revenue vehicle hours operated within urbanized areas with a population of between 200,000 and 1,000,000 divided by the sum of the population of all such urbanized areas.

“(2) The Secretary shall designate as eligible for an apportionment under this subsection all urbanized areas with a population of under 200,000 for which the number of revenue vehicle hours operated within the urbanized area divided by the population of the urbanized area exceeds the factor calculated under paragraph (1).

“(3) For each urbanized area qualifying for an apportionment under paragraph (2), the Secretary shall calculate an amount equal to the product of the population of that urbanized area and the factor calculated under paragraph (1).

“(4) For each urbanized area qualifying for an apportionment under paragraph (2), the Secretary shall calculate an amount equal to the difference between the number of revenue vehicle hours within that urbanized

area less the amount calculated in paragraph (3).

“(5) Each urbanized area qualifying for an apportionment under paragraph (2) shall receive an amount equal to the amount to be apportioned under this subsection multiplied by the amount calculated for that urbanized area under paragraph (4) divided by the sum of the amounts calculated under paragraph (4) for all urbanized areas qualifying for an apportionment under paragraph (2).

(1) STUDY ON INCENTIVES IN FORMULA PROGRAMS.—

“(1) STUDY.—The Secretary shall conduct a study to assess the feasibility and appropriateness of developing and implementing an incentive funding system under sections 5307 and 5311 for operators of public transportation.

(2) REPORT.—

“(A) IN GENERAL.—Not later than 1 year after the date of enactment of the Federal Public Transportation Act of 2004, the Secretary shall submit a report on the results of the study conducted under paragraph (1) to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

“(B) CONTENTS.—The report submitted under subparagraph (A) shall include—

“(i) an analysis of the availability of appropriate measures to be used as a basis for the distribution of incentive payments;

“(ii) the optimal number and size of any incentive programs;

“(iii) what types of systems should compete for various incentives;

“(iv) how incentives should be distributed; and

“(v) the likely effects of the incentive funding system.”.

SEC. 3036. APPORTIONMENTS FOR FIXED GUIDEWAY MODERNIZATION.

Section 5337 is amended—

(1) in subsection (a), by striking “for each of fiscal years 1998 through 2003”; and

(2) by striking “section 5336(b)(2)(A)” each place it appears and inserting “section 5336(c)(2)(A).”.

SEC. 3037. AUTHORIZATIONS.

Section 5338 is amended to read as follows:

“§ 5338. Authorizations

“(a) FISCAL YEAR 2004.—

“(1) FORMULA GRANTS.—

“(A) TRUST FUND.—For fiscal year 2004, \$3,053,079,920 shall be available from the Mass Transit Account of the Highway Trust Fund to carry out sections 5307, 5309, 5310, and 5311 of this chapter and section 3038 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note).

“(B) GENERAL FUND.—In addition to the amounts made available under subparagraph (A), there are authorized to be appropriated \$763,269,980 for fiscal year 2004 to carry out sections 5307, 5309, 5310, and 5311 of this chapter and section 3038 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note).

“(C) ALLOCATION OF FUNDS.—Of the amounts made available or appropriated under this paragraph—

“(i) \$4,821,335 shall be available to the Alaska Railroad for improvements to its passenger operations under section 5307;

“(ii) \$6,908,995 shall be available to provide over-the-road bus accessibility grants under section 3038 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note);

“(iii) \$90,117,950 shall be available to provide transportation services to elderly individuals and individuals with disabilities under section 5310;

“(iv) \$239,188,058 shall be available to provide financial assistance for other than urbanized areas under section 5311;

“(v) \$3,425,608,562 shall be available to provide financial assistance for urbanized areas under section 5307; and

“(vi) \$49,705,000 shall be available to provide financial assistance for buses and bus facilities under section 5309.

“(2) JOB ACCESS AND REVERSE COMMUTE.—

“(A) TRUST FUND.—For fiscal year 2004, \$99,410,000 shall be available from the Mass Transit Account of the Highway Trust Fund to carry out section 3037 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5309 note).

“(B) GENERAL FUND.—In addition to the amounts made available under paragraph (A), there are authorized to be appropriated \$24,852,500 for fiscal year 2004 to carry out section 3037 of the Transportation Equity Act of the 21st Century (49 U.S.C. 5309 note).

“(3) CAPITAL PROGRAM GRANTS.—

“(A) TRUST FUND.—For fiscal year 2004, \$2,495,191,000 shall be available from the Mass Transit Account of the Highway Trust Fund to carry out section 5309.

“(B) GENERAL FUND.—In addition to the amounts made available under subparagraph (A), there are authorized to be appropriated \$623,797,750 for fiscal year 2004 to carry out section 5309.

“(4) PLANNING.—

“(A) TRUST FUND.—For fiscal year 2004, \$58,254,260 shall be available from the Mass Transit Account of the Highway Trust Fund to carry out section 5308.

“(B) GENERAL FUND.—In addition to the amounts made available under subparagraph (A), there are authorized to be appropriated \$14,315,040 for fiscal year 2004 to carry out section 5308.

“(C) ALLOCATION OF FUNDS.—Of the amounts made available or appropriated under this paragraph—

“(i) 82.72 percent shall be allocated for metropolitan planning under section 5308(c); and

“(ii) 17.28 percent shall be allocated for State planning under section 5308(d).

“(5) RESEARCH.—

“(A) TRUST FUND.—For fiscal year 2004, \$41,951,020 shall be available from the Mass Transit Account of the Highway Trust Fund to carry out sections 5311(b), 5312, 5313, 5314, 5315, and 5322.

“(B) GENERAL FUND.—In addition to the amounts made available under subparagraph (A), there are authorized to be appropriated \$10,736,280 for fiscal year 2004 to carry out sections 5311(b), 5312, 5313, 5314, 5315, and 5322.

“(C) ALLOCATION OF FUNDS.—Of the funds made available or appropriated under this paragraph—

“(i) not less than \$3,976,400 shall be available to carry out programs of the National Transit Institute under section 5315;

“(ii) not less than \$5,219,025 shall be available to carry out section 5311(b)(2);

“(iii) not less than \$8,201,325 shall be available to carry out section 5313; and

“(iv) the remainder shall be available to carry out national research and technology programs under sections 5312, 5314, and 5322.

“(6) UNIVERSITY TRANSPORTATION RESEARCH.—

“(A) TRUST FUND.—For fiscal year 2004, \$4,771,680 shall be available from the Mass Transit Account of the Highway Trust Fund to carry out sections 5505 and 5506.

“(B) GENERAL FUND.—In addition to amounts made available under subparagraph (A), there are authorized to be appropriated \$1,192,920 for fiscal year 2004 to carry out sections 5505 and 5506.

“(C) ALLOCATION OF FUNDS.—Of the amounts made available or appropriated under this paragraph—

“(i) \$1,988,200 shall be available for grants under 5506(f)(5) to the institution identified in section 5505(j)(3)(E), as in effect on the day

before the date of enactment of the Federal Public Transportation Act of 2004;

“(ii) \$1,988,200 shall be available for grants under section 5505(d) to the institution identified in section 5505(j)(4)(A), as in effect on the date specified in clause (i); and

“(iii) \$1,988,200 shall be available for grants under section 5505(d) to the institution identified in section 5505(j)(4)(F), as in effect on the date specified in subclause (I).

“(C) SPECIAL RULE.—Nothing in this paragraph shall be construed to limit the transportation research conducted by the centers receiving financial assistance under this section.

“(7) ADMINISTRATION.—

“(A) TRUST FUND.—For fiscal year 2004, \$60,043,640 shall be available from the Mass Transit Account of the Highway Trust Fund to carry out section 5334.

“(B) GENERAL FUND.—In addition to amounts made available under subparagraph (A), there are authorized to be appropriated \$15,010,910 for fiscal year 2004 to carry out section 5334.

“(8) GRANTS AS CONTRACTUAL OBLIGATIONS.—

“(A) GRANTS FINANCED FROM HIGHWAY TRUST FUND.—A grant or contract that is approved by the Secretary and financed with amounts made available under paragraph (1)(A), (2)(A), (3)(A), (4)(A), (5)(A), (6)(A), or (7)(A) is a contractual obligation of the United States Government to pay the Federal share of the cost of the project.

“(B) GRANTS FINANCED FROM GENERAL FUND.—A grant or contract that is approved by the Secretary and financed with amounts appropriated in advance under paragraph (1)(B), (2)(B), (3)(B), (4)(B), (5)(B), (6)(B), or (7)(B) is a contractual obligation of the United States Government to pay the Federal share of the cost of the project only to the extent that amounts are appropriated for such purpose by an Act of Congress.

“(9) AVAILABILITY OF AMOUNTS.—Amounts made available or appropriated under paragraphs (1) through (6) shall remain available until expended.”

“(b) FORMULA GRANTS AND RESEARCH.—

“(1) IN GENERAL.—There shall be available from the Mass Transit Account of the Highway Trust Fund to carry out sections 5307, 5308, 5309, 5310 through 5316, 5322, 5335, 5340, and 5505 of this title, and sections 3037 and 3038 of the Federal Transit Act of 1998 (112 Stat. 387 et seq.)—

“(A) \$6,262,600,000 for fiscal year 2005;

“(B) \$6,577,629,000 for fiscal year 2006;

“(C) \$6,950,400,000 for fiscal year 2007;

“(D) \$7,594,760,000 for fiscal year 2008; and

“(E) \$8,275,320,000 for fiscal year 2009.

“(2) ALLOCATION OF FUNDS.—Of the amounts made available under paragraph (1) for each fiscal year—

“(A) 0.092 percent shall be available for grants to the Alaska Railroad under section 5307 for improvements to its passenger operations;

“(B) 1.75 percent shall be available to carry out section 5308;

“(C) 2.05 percent shall be available to provide financial assistance for job access and reverse commute projects under section 3037 of the Federal Transit Act of 1998 (49 U.S.C. 5309 note);

“(D) 3.00 percent shall be available to provide financial assistance for services for elderly persons and persons with disabilities under section 5310;

“(E) 0.125 percent shall be available to carry out section 3038 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note);

“(F) 6.25 percent shall be available to provide financial assistance for other than urbanized areas under section 5311;

“(G) 0.89 percent shall be available to carry out transit cooperative research programs under section 5313, the National Transit Institute under section 5315, university research centers under section 5505, and national research programs under sections 5312, 5313, 5314, and 5322, of which—

“(i) 17.0 percent shall be allocated to carry out transit cooperative research programs under section 5313;

“(ii) 7.5 percent shall be allocated to carry out programs under the National Transit Institute under section 5315, including not more than \$1,000,000 to carry out section 5315(a)(16);

“(iii) 11.0 percent shall be allocated to carry out the university centers program under section 5505; and

“(iv) any funds made available under this subparagraph that are not allocated under clauses (i) through (iii) shall be allocated to carry out national research programs under sections 5312, 5313, 5314, and 5322;

“(H) \$25,000,000 shall be available for each of the fiscal years 2005 through 2009 to carry out section 5316;

“(I) there shall be available to carry out section 5335—

“(i) \$3,700,000 in fiscal year 2005;

“(iii) \$3,900,000 in fiscal year 2006;

“(iv) \$4,200,000 in fiscal year 2007;

“(v) \$4,600,000 in fiscal year 2008; and

“(vi) \$5,000,000 in fiscal year 2009;

“(J) 6.25 percent shall be allocated in accordance with section 5340 to provide financial assistance for urbanized areas under section 5307 and other than urbanized areas under section 5311; and

“(K) 22.0 percent shall be allocated in accordance with section 5337 to provide financial assistance under section 5309(i)(3); and

“(L) any amounts not made available under subparagraphs (A) through (K) shall be allocated in accordance with section 5336 to provide financial assistance for urbanized areas under section 5307.

“(3) UNIVERSITY CENTERS PROGRAM.—

“(A) ALLOCATION.—Of the amounts allocated under paragraph (2)(G)(iii), \$1,000,000 shall be available in each of the fiscal years 2005 through 2009 for Morgan State University to provide transportation research, training, and curriculum development.

“(B) REQUIREMENTS.—The university specified under subparagraph (A) shall be considered a University Transportation Center under section 510 of title 23, and shall be subject to the requirements under subsections (c), (d), (e), and (f) of such section.

“(C) REPORT.—In addition to the report required under section 510(e)(3) of title 23, the university specified under subparagraph (A) shall annually submit a report to the Secretary that describes the university's contribution to public transportation.

“(4) BUS GRANTS.—In addition to the amounts made available under paragraph (1), there shall be available from the Mass Transit Account of the Highway Trust Fund to carry out section 5309(i)(2)(B)—

“(A) \$839,829,000 for fiscal year 2005;

“(B) \$882,075,000 for fiscal year 2006;

“(C) \$932,064,000 for fiscal year 2007;

“(D) \$1,018,474,000 for fiscal year 2008; and

“(E) \$1,109,739,000 for fiscal year 2009.

“(c) MAJOR CAPITAL INVESTMENT GRANTS.—There are authorized to be appropriated to carry out section 5309(i)(2)(A)—

“(1) \$1,461,072,000 for fiscal year 2005;

“(2) \$1,534,568,000 for fiscal year 2006;

“(3) \$1,621,536,000 for fiscal year 2007;

“(4) \$1,771,866,000 for fiscal year 2008; and

“(5) \$1,930,641,000 for fiscal year 2009.

“(d) ADMINISTRATION.—There shall be available from the Mass Transit Account of the Highway Trust Fund to carry out section 5334—

“(1) \$86,500,000 for fiscal year 2005;

“(2) \$90,851,000 for fiscal year 2006;

“(3) \$96,000,000 for fiscal year 2007;

“(4) \$104,900,000 for fiscal year 2008; and

“(5) \$114,300,000 for fiscal year 2009.

“(e) GRANTS AS CONTRACTUAL OBLIGATIONS.—

“(1) MASS TRANSIT ACCOUNT FUNDS.—A grant or contract approved by the Secretary that is financed with amounts made available under subsection (b)(1) or (d) is a contractual obligation of the United States Government to pay the Federal share of the cost of the project.

“(2) APPROPRIATED FUNDS.—A grant or contract approved by the Secretary that is financed with amounts made available under subsection (b)(2) or (c) is a contractual obligation of the United States Government to pay the Federal share of the cost of the project only to the extent that amounts are appropriated in advance for such purpose by an Act of Congress.

“(f) AVAILABILITY OF AMOUNTS.—Amounts made available by or appropriated under subsections (b) and (c) shall remain available until expended.”

SEC. 3038. APPORTIONMENTS BASED ON GROWING STATES FORMULA FACTORS.

(a) IN GENERAL.—Chapter 53 is amended by adding at the end the following:

“§ 5340. Apportionments based on growing States and high density State formula factors

“(a) ALLOCATION.—Of the amounts made available for each fiscal year under section 5338(b)(2)(J), the Secretary shall apportion—

“(1) 50 percent to States and urbanized areas in accordance with subsection (b); and

“(2) 50 percent to States and urbanized areas in accordance with subsection (c).

“(b) GROWING STATE APPORTIONMENTS.—

“(1) APPORTIONMENT AMONG STATES.—The amounts apportioned under paragraph (a)(1) shall provide each State with an amount equal to the total amount apportioned multiplied by a ratio equal to the population of that State forecast for the year that is 15 years after the most recent decennial census, divided by the total population of all States forecast for the year that is 15 years after the most recent decennial census. Such forecast shall be based on the population trend for each State between the most recent decennial census and the most recent estimate of population made by the Secretary of Commerce.

“(2) APPORTIONMENTS BETWEEN URBANIZED AREAS AND OTHER THAN URBANIZED AREAS IN EACH STATE.—

“(A) IN GENERAL.—The Secretary shall apportion amounts to each State under paragraph (1) so that urbanized areas in that State receive an amount equal to the amount apportioned to that State multiplied by a ratio equal to the sum of the forecast population of all urbanized areas in that State divided by the total forecast population of that State. In making the apportionment under this subparagraph, the Secretary shall utilize any available forecasts made by the State. If no forecasts are available, the Secretary shall utilize data on urbanized areas and total population from the most recent decennial census.

“(B) REMAINING AMOUNTS.—Amounts remaining for each State after apportionment under subparagraph (A) shall be apportioned to that State and added to the amount made available for grants under section 5311.

“(3) APPORTIONMENTS AMONG URBANIZED AREAS IN EACH STATE.—The Secretary shall apportion amounts made available to urbanized areas in each State under subsection (b)(2)(A) so that each urbanized area receives an amount equal to the amount apportioned under subsection (b)(2)(A) multiplied by a ratio equal to the population of each urbanized area divided by the sum of populations

of all urbanized areas in the State. Amounts apportioned to each urbanized area shall be added to amounts apportioned to that urbanized area under section 5336, and made available for grants under section 5307.

“(c) HIGH DENSITY STATE APPORTIONMENTS.—Amounts to be apportioned under subsection (a)(2) shall be apportioned as follows:

“(1) ELIGIBLE STATES.—The Secretary shall designate as eligible for an apportionment under this subsection all States with a population density in excess of 370 persons per square mile.

“(2) STATE URBANIZED LAND FACTOR.—For each State qualifying for an apportionment under paragraph (1), the Secretary shall calculate an amount equal to the product of the urban land area of urbanized areas in the State times 370 persons per square mile.

“(3) STATE APPORTIONMENT FACTOR.—For each State qualifying for an apportionment under paragraph (1), the Secretary shall calculate an amount equal to the difference between the total population of the State less the amount calculated in paragraph (2).

“(4) STATE APPORTIONMENT.—Each State qualifying for an apportionment under paragraph (1) shall receive an amount equal to the amount to be apportioned under this subsection multiplied by the amount calculated for the State under paragraph (3) divided by the sum of the amounts calculated under paragraph (3) for all States qualifying for an apportionment under paragraph (1).

“(5) APPORTIONMENTS BETWEEN URBANIZED AREAS AND OTHER THAN URBANIZED AREAS IN EACH STATE.—

“(A) IN GENERAL.—The Secretary shall apportion amounts apportioned to each State under paragraph (4) so that urbanized areas in that State receive an amount equal to the amount apportioned to that State multiplied by a ratio equal to the sum of the population of all urbanized areas in that State divided by the total population of that State.

“(B) REMAINING AMOUNTS.—Amounts remaining for each State after apportionment under subparagraph (a) shall be apportioned to that State and added to the amount made available for grants under section 5311.

“(6) APPORTIONMENTS AMONG URBANIZED AREAS IN EACH STATE.—The Secretary shall apportion amounts made available to urbanized areas in each State under subsection (c)(5)(A) so that each urbanized area receives an amount equal to the amount apportioned under subsection (c)(5)(A) multiplied by a ratio equal to the population of each urbanized area divided by the sum of populations of all urbanized areas in the State. Amounts apportioned to each urbanized area shall be added to amounts apportioned to that urbanized area under section 5336, and made available for grants under section 5307.”

(b) CONFORMING AMENDMENT.—The table of sections for chapter 53 is amended by adding at the end the following:

“5340. Apportionments based on growing States and high density States formula factors.”

SEC. 3039. JOB ACCESS AND REVERSE COMMUTE GRANTS.

Section 3037 of the Federal Transit Act of 1998 (49 U.S.C. 5309 note) is amended—

(1) in subsection (b)—
(A) in paragraph (1)—
(i) by striking “means an individual” and inserting the following: “means—
“(A) an individual””; and

(ii) by striking the period at the end and inserting “; or

“(B) an individual who is eligible for assistance under the State program of Temporary Assistance to Needy Families funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et. seq.) in the State

in which the recipient of a grant under this section is located.”; and

(B) in paragraph (2), by striking “development of” each place it appears and inserting “development and provision of”;

(2) in subsection (i), by amending paragraph (2) to read as follows:

“(2) COORDINATION.—

“(A) IN GENERAL.—The Secretary shall coordinate activities under this section with related activities under programs of other Federal departments and agencies.

“(B) CERTIFICATION.—A recipient of funds under this section shall certify that—

“(i) the project has been derived from a locally developed, coordinated public transit human services transportation plan; and

“(ii) the plan was developed through a process that included representatives of public, private, and nonprofit transportation and human services providers and participation by the public.”;

(3) by amending subsection (j) to read as follows:

“(j) GRANT REQUIREMENTS.—

“(1) IN GENERAL.—

“(A) URBANIZED AREAS.—A grant awarded under this section to a public agency or private company engaged in public transportation in an urbanized area shall be subject to the all of the terms and conditions to which a grant awarded under section 5307 of title 49, United States Code, is subject, to the extent the Secretary considers appropriate.

“(B) OTHER THAN URBANIZED AREAS.—A grant awarded under this section to a public agency or a private company engaged in public transportation in an area other than urbanized areas shall be subject to all of the terms and conditions to which a grant awarded under section 5311 of title 49, United States Code, is subject, to the extent the Secretary considers appropriate.

“(C) NONPROFIT ORGANIZATIONS.—A grant awarded under this section to a private nonprofit organization shall be subject to all of the terms and conditions to which a grant made under section 5310 of title 49, United States Code, is subject, to the extent the Secretary considers appropriate.

“(2) SPECIAL WARRANTY.—

“(A) IN GENERAL.—Section 5333(b) of title 49, United States Code, shall apply to grants under this section if the Secretary of Labor utilizes a Special Warranty that provides a fair and equitable arrangement to protect the interests of employees.

“(B) WAIVER.—The Secretary may waive the applicability of the Special Warranty under subparagraph (A) for private nonprofit recipients on a case-by-case basis as the Secretary considers appropriate.”; and

(4) by striking subsections (k) and (l).

SEC. 3040. OVER-THE-ROAD BUS ACCESSIBILITY PROGRAM.

(a) SECTION HEADING.—The section heading for section 3038 of the Federal Transit Act of 1998 (49 U.S.C. 5310 note), is amended to read as follows:

“SEC. 3038. OVER-THE-ROAD BUS ACCESSIBILITY PROGRAM.”

(b) FUNDING.—Section 3038(g) of the Federal Transit Act of 1998 (49 U.S.C. 5310 note) is amended to read as follows:

“(g) FUNDING.—Of the amounts made available for each fiscal year under subsections (a)(1)(C)(iii) and (b)(2)(E) of section 5338 of title 49, United States Code—

“(1) 75 percent shall be available, and shall remain available until expended, for operators of over-the-road buses, used substantially or exclusively in intercity, fixed-route over-the-road bus service, to finance the incremental capital and training costs of the Department of Transportation’s final rule regarding accessibility of over-the-road buses; and

“(2) 25 percent shall be available, and shall remain available until expended, for operators of over-the-road bus service not described in paragraph (1), to finance the incremental capital and training costs of the Department of Transportation’s final rule regarding accessibility of over-the-road buses.”

(b) CONFORMING AMENDMENT.—The item relating to section 3038 in the table of contents for the Transportation Equity Act for the 21st Century (Public Law 105-178) is amended to read as follows:

“Sec. 3038. Over-the-road bus accessibility program.”

SEC. 3041. ALTERNATIVE TRANSPORTATION IN PARKS AND PUBLIC LANDS.

(a) IN GENERAL.—Chapter 53 is amended by inserting after section 5315 the following:

“§ 5316. Alternative transportation in parks and public lands

“(a) IN GENERAL.—

“(1) AUTHORIZATION.—

“(A) IN GENERAL.—The Secretary, in consultation with the Secretary of the Interior, may award a grant or enter into a contract, cooperative agreement, interagency agreement, intraagency agreement, or other transaction to carry out a qualified project under this section to enhance the protection of America’s National Parks and public lands and increase the enjoyment of those visiting the parks and public lands by ensuring access to all, including persons with disabilities, improving conservation and park and public land opportunities in urban areas through partnering with state and local governments, and improving park and public land transportation infrastructure.

“(B) CONSULTATION WITH OTHER AGENCIES.—To the extent that projects are proposed or funded in eligible areas that are not within the jurisdiction of the Department of the Interior, the Secretary of the Interior shall consult with the heads of the relevant Federal land management agencies in carrying out the responsibilities under this section.

“(2) USE OF FUNDS.—A grant, cooperative agreement, interagency agreement, intraagency agreement, or other transaction for a qualified project under this section shall be available to finance the leasing of equipment and facilities for use in public transportation, subject to any regulation that the Secretary may prescribe limiting the grant or agreement to leasing arrangements that are more cost-effective than purchase or construction.

“(b) DEFINITIONS.—As used in this section, the following definitions shall apply:

“(1) ELIGIBLE AREA.—The term ‘eligible area’ means any federally owned or managed park, refuge, or recreational area that is open to the general public, including—

“(A) a unit of the National Park System;

“(B) a unit of the National Wildlife Refuge System;

“(C) a recreational area managed by the Bureau of Land Management; and

“(D) a recreation area managed by the Bureau of Reclamation.

“(2) FEDERAL LAND MANAGEMENT AGENCY.—The term ‘Federal land management agency’ means a Federal agency that manages an eligible area.

“(3) ALTERNATIVE TRANSPORTATION.—The term ‘alternative transportation’ means transportation by bus, rail, or any other publicly or privately owned conveyance that provides to the public general or special service on a regular basis, including sight-seeing service.

“(4) QUALIFIED PARTICIPANT.—The term ‘qualified participant’ means—

“(A) a Federal land management agency; or

“(B) a State, tribal, or local governmental authority with jurisdiction over land in the

vicinity of an eligible area acting with the consent of the Federal land management agency, alone or in partnership with a Federal land management agency or other Governmental or nongovernmental participant.

“(5) QUALIFIED PROJECT.—The term ‘qualified project’ means a planning or capital project in or in the vicinity of an eligible area that—

“(A) is an activity described in section 5302, 5303, 5304, 5308, or 5309(a)(1)(A);

“(B) involves—

“(i) the purchase of rolling stock that incorporates clean fuel technology or the replacement of buses of a type in use on the date of enactment of this section with clean fuel vehicles; or

“(ii) the deployment of alternative transportation vehicles that introduce innovative technologies or methods;

“(C) relates to the capital costs of coordinating the Federal land management agency public transportation systems with other public transportation systems;

“(D) provides a nonmotorized transportation system (including the provision of facilities for pedestrians, bicycles, and nonmotorized watercraft);

“(E) provides waterborne access within or in the vicinity of an eligible area, as appropriate to and consistent with this section; or

“(F) is any other alternative transportation project that—

“(i) enhances the environment;

“(ii) prevents or mitigates an adverse impact on a natural resource;

“(iii) improves Federal land management agency resource management;

“(iv) improves visitor mobility and accessibility and the visitor experience;

“(v) reduces congestion and pollution (including noise pollution and visual pollution); or

“(vi) conserves a natural, historical, or cultural resource (excluding rehabilitation or restoration of a non-transportation facility).

“(c) FEDERAL AGENCY COOPERATIVE ARRANGEMENTS.—The Secretary shall develop cooperative arrangements with the Secretary of the Interior that provide for—

“(1) technical assistance in alternative transportation;

“(2) interagency and multidisciplinary teams to develop Federal land management agency alternative transportation policy, procedures, and coordination; and

“(3) the development of procedures and criteria relating to the planning, selection, and funding of qualified projects and the implementation and oversight of the program of projects in accordance with this section.

“(d) LIMITATION ON USE OF AVAILABLE AMOUNTS.—

“(1) IN GENERAL.—The Secretary, in consultation with the Secretary of the Interior, may use not more than 10 percent of the amount made available for a fiscal year under section 5338(a)(2)(I) to carry out planning, research, and technical assistance under this section, including the development of technology appropriate for use in a qualified project.

“(2) ADDITIONAL AMOUNTS.—Amounts made available under this subsection are in addition to amounts otherwise available to the Secretary to carry out planning, research, and technical assistance under this title or any other provision of law.

“(3) MAXIMUM AMOUNT.—No qualified project shall receive more than 12 percent of the total amount made available to carry out this section under section 5338(a)(2)(I) for any fiscal year.

“(e) PLANNING PROCESS.—In undertaking a qualified project under this section,

“(1) if the qualified participant is a Federal land management agency—

“(A) the Secretary, in cooperation with the Secretary of the Interior, shall develop transportation planning procedures that are consistent with—

“(i) the metropolitan planning provisions under section 5303 of this title;

“(ii) the statewide planning provisions under section 5304 of this title; and

“(iii) the public participation requirements under section 5307(e); and

“(B) in the case of a qualified project that is at a unit of the National Park system, the planning process shall be consistent with the general management plans of the unit of the National Park system; and

“(2) if the qualified participant is a State or local governmental authority, or more than one State or local governmental authority in more than one State, the qualified participant shall—

“(A) comply with the metropolitan planning provisions under section 5303 of this title;

“(B) comply with the statewide planning provisions under section 5304 of this title;

“(C) comply with the public participation requirements under section 5307(e) of this title; and

“(D) consult with the appropriate Federal land management agency during the planning process.

“(f) COST SHARING.—

“(1) The Secretary, in cooperation with the Secretary of the Interior, shall establish the agency share of net project cost to be provided under this section to a qualified participant.

“(2) In establishing the agency share of net project cost to be provided under this section, the Secretary shall consider—

“(A) visitation levels and the revenue derived from user fees in the eligible area in which the qualified project is carried out;

“(B) the extent to which the qualified participant coordinates with a public transportation authority or private entity engaged in public transportation;

“(C) private investment in the qualified project, including the provision of contract services, joint development activities, and the use of innovative financing mechanisms;

“(D) the clear and direct benefit to the qualified participant; and

“(E) any other matters that the Secretary considers appropriate to carry out this section.

“(3) Notwithstanding any other provision of law, Federal funds appropriated to any Federal land management agency may be counted toward the non-agency share of the net project cost of a qualified project.

“(g) SELECTION OF QUALIFIED PROJECTS.—

“(1) The Secretary of the Interior, after consultation with and in cooperation with the Secretary, shall determine the final selection and funding of an annual program of qualified projects in accordance with this section.

“(2) In determining whether to include a project in the annual program of qualified projects, the Secretary of the Interior shall consider—

“(A) the justification for the qualified project, including the extent to which the qualified project would conserve resources, prevent or mitigate adverse impact, and enhance the environment;

“(B) the location of the qualified project, to ensure that the selected qualified projects—

“(i) are geographically diverse nationwide; and

“(ii) include qualified projects in eligible areas located in both urban areas and rural areas;

“(C) the size of the qualified project, to ensure that there is a balanced distribution;

“(D) the historical and cultural significance of a qualified project;

“(E) safety;

“(F) the extent to which the qualified project would—

“(i) enhance livable communities;

“(ii) reduce pollution (including noise pollution, air pollution, and visual pollution);

“(iii) reduce congestion; and

“(iv) improve the mobility of people in the most efficient manner; and

“(G) any other matters that the Secretary considers appropriate to carry out this section, including—

“(i) visitation levels;

“(ii) the use of innovative financing or joint development strategies; and

“(iii) coordination with gateway communities.

“(h) QUALIFIED PROJECTS CARRIED OUT IN ADVANCE.—

“(1) When a qualified participant carries out any part of a qualified project without assistance under this section in accordance with all applicable procedures and requirements, the Secretary, in consultation with the Secretary of the Interior, may pay the share of the net capital project cost of a qualified project if—

“(A) the qualified participant applies for the payment;

“(B) the Secretary approves the payment; and

“(C) before carrying out that part of the qualified project, the Secretary approves the plans and specifications in the same manner as plans and specifications are approved for other projects assisted under this section.

“(2)(A) The cost of carrying out part of a qualified project under paragraph (1) includes the amount of interest earned and payable on bonds issued by a State or local governmental authority, to the extent that proceeds of the bond are expended in carrying out that part.

“(B) The rate of interest under this paragraph may not exceed the most favorable rate reasonably available for the qualified project at the time of borrowing.

“(C) The qualified participant shall certify, in a manner satisfactory to the Secretary, that the qualified participant has exercised reasonable diligence in seeking the most favorable interest rate.

“(i) RELATIONSHIP TO OTHER LAWS.—

“(1) SECTION 5307.—A qualified participant under this section shall be subject to the requirements of sections 5307 and 5333(a) to the extent the Secretary determines to be appropriate.

“(2) OTHER REQUIREMENTS.—A qualified participant under this section is subject to any other terms, conditions, requirements, and provisions that the Secretary determines to be appropriate to carry out this section, including requirements for the distribution of proceeds on disposition of real property and equipment resulting from a qualified project assisted under this section.

“(3) PROJECT MANAGEMENT PLAN.—If the amount of assistance anticipated to be required for a qualified project under this section is not less than \$25,000,000—

“(A) the qualified project shall, to the extent the Secretary considers appropriate, be carried out through a full funding grant agreement, in accordance with section 5309(g); and

“(B) the qualified participant shall prepare a project management plan in accordance with section 5327(a).

“(i) ASSET MANAGEMENT.—The Secretary, in consultation with the Secretary of the Interior, may transfer the interest of the Department of Transportation in, and control over, all facilities and equipment acquired under this section to a qualified participant for use and disposition in accordance with

any property management regulations that the Secretary determines to be appropriate.

“(j) COORDINATION OF RESEARCH AND DEPLOYMENT OF NEW TECHNOLOGIES.—

“(1) The Secretary, in cooperation with the Secretary of the Interior, may undertake, or make grants, cooperative agreements, contracts (including agreements with departments, agencies, and instrumentalities of the Federal Government) or other transactions for research, development, and deployment of new technologies in eligible areas that will—

- “(A) conserve resources;
- “(B) prevent or mitigate adverse environmental impact;
- “(C) improve visitor mobility, accessibility, and enjoyment; and
- “(D) reduce pollution (including noise pollution and visual pollution).

“(2) The Secretary may request and receive appropriate information from any source.

“(3) Grants, cooperative agreements, contracts or other transactions under paragraph (1) shall be awarded from amounts allocated under subsection (c)(1).

“(k) INNOVATIVE FINANCING.—A qualified project receiving financial assistance under this section shall be eligible for funding through a state infrastructure bank or other innovative financing mechanism available to finance an eligible project under this chapter.

“(l) REPORTS.—

“(1) IN GENERAL.—The Secretary, in consultation with the Secretary of the Interior, shall annually submit a report on the allocation of amounts made available to assist qualified projects under this section to—

- “(A) the Committee on Banking, Housing, and Urban Affairs of the Senate; and
- “(B) the Committee on Transportation and Infrastructure of the House of Representatives.

“(2) ANNUAL AND SUPPLEMENTAL REPORTS.—The report required under paragraph (1) shall be included in the report submitted under section 5309(m).”

(b) CONFORMING AMENDMENTS.—The table of sections for chapter 53 is amended by inserting after the item relating to section 5315 the following:

“5316. Alternative transportation in parks and public lands.”

SEC. 3042. OBLIGATION CEILING.

Notwithstanding any other provision of law, the total of all obligations from amounts made available from the Mass Transit Account of the Highway Trust Fund by, and amounts appropriated under, subsections (a) through (c) of section 5338 of title 49, United States Code, shall not exceed—

- (1) \$7,265,876,900 for fiscal year 2004;
- (2) \$8,650,000,000 for fiscal year 2005;
- (3) \$9,085,123,000 for fiscal year 2006;
- (4) \$9,600,000,000 for fiscal year 2007;
- (5) \$10,490,000,000 for fiscal year 2008; and
- (6) \$11,430,000,000 for fiscal year 2009.

SEC. 3043. ADJUSTMENTS FOR THE SURFACE TRANSPORTATION EXTENSION ACT OF 2003.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall reduce the total apportionments and allocations made for fiscal year 2004 to each grant recipient under section 5338 of title 49, United States Code, by the amount apportioned to that recipient pursuant to section 8 of the Surface Transportation Extension Act of 2003 (117 Stat. 1121).

(b) FIXED GUIDEWAY MODERNIZATION ADJUSTMENT.—In making the apportionments described in subsection (a), the Secretary shall adjust the amount apportioned for fiscal year 2004 to each urbanized area for fixed guideway modernization to reflect the apportionment method set forth in 5337(a) of title 49, United States Code.

SEC. 3044. DISADVANTAGED BUSINESS ENTERPRISE.

Section 1101(b) of the Transportation Equity Act of the 21st Century shall apply to all funds authorized or otherwise made available under this title.

SEC. 3045. INTERMODAL PASSENGER FACILITIES.

(a) IN GENERAL.—Chapter 55 of title 49, United States Code, is amended by adding at the end the following:

“SUBCHAPTER III—INTERMODAL PASSENGER FACILITIES

§ 5571. Policy and purposes

“(a) DEVELOPMENT AND ENHANCEMENT OF INTERMODAL PASSENGER FACILITIES.—It is in the economic interest of the United States to improve the efficiency of public surface transportation modes by ensuring their connection with and access to intermodal passenger terminals, thereby streamlining the transfer of passengers among modes, enhancing travel options, and increasing passenger transportation operating efficiencies.

“(b) GENERAL PURPOSES.—The purposes of this subchapter are to accelerate intermodal integration among North America’s passenger transportation modes through—

- “(1) ensuring intercity public transportation access to intermodal passenger facilities;
- “(2) encouraging the development of an integrated system of public transportation information; and
- “(3) providing intercity bus intermodal passenger facility grants.

§ 5572. Definitions

“In this subchapter—

- “(1) ‘capital project’ means a project for—
 - “(A) acquiring, constructing, improving, or renovating an intermodal facility that is related physically and functionally to intercity bus service and establishes or enhances coordination between intercity bus service and transportation, including aviation, commuter rail, intercity rail, public transportation, seaports, and the National Highway System, such as physical infrastructure associated with private bus operations at existing and new intermodal facilities, including special lanes, curb cuts, ticket kiosks and counters, baggage and package express storage, employee parking, office space, security, and signage; and
 - “(B) establishing or enhancing coordination between intercity bus service and transportation, including aviation, commuter rail, intercity rail, public transportation, and the National Highway System through an integrated system of public transportation information.
- “(2) ‘commuter service’ means service designed primarily to provide daily work trips within the local commuting area.
- “(3) ‘intercity bus service’ means regularly scheduled bus service for the general public which operates with limited stops over fixed routes connecting two or more urban areas not in close proximity, which has the capacity for transporting baggage carried by passengers, and which makes meaningful connections with scheduled intercity bus service to more distant points, if such service is available and may include package express service, if incidental to passenger transportation, but does not include air, commuter, water or rail service.
- “(4) ‘intermodal passenger facility’ means passenger terminal that does, or can be modified to, accommodate several modes of transportation and related facilities, including some or all of the following: intercity rail, intercity bus, commuter rail, intracity rail transit and bus transportation, airport limousine service and airline ticket offices, rent-a-car facilities, taxis, private parking, and other transportation services.

“(5) ‘local governmental authority’ includes—

- “(A) a political subdivision of a State;
- “(B) an authority of at least one State or political subdivision of a State;
- “(C) an Indian tribe; and
- “(D) a public corporation, board, or commission established under the laws of the State.

“(6) ‘owner or operator of a public transportation facility’ means an owner or operator of intercity-rail, intercity-bus, commuter-rail, commuter-bus, rail-transit, bus-transit, or ferry services.

“(7) ‘recipient’ means a State or local governmental authority or a nonprofit organization that receives a grant to carry out this section directly from the Federal government.

“(8) ‘Secretary’ means the Secretary of Transportation.

“(9) ‘State’ means a State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, Guam, American Samoa, and the Virgin Islands.

“(10) ‘urban area’ means an area that includes a municipality or other built-up place that the Secretary, after considering local patterns and trends of urban growth, decides is appropriate for a local public transportation system to serve individuals in the locality.

“§ 5573. Assurance of access to intermodal passenger facilities

“Intercity buses and other modes of transportation shall, to the maximum extent practicable, have access to publicly funded intermodal passenger facilities, including those passenger facilities seeking funding under section 5574.

“§ 5574. Intercity bus intermodal passenger facility grants

“(a) GENERAL AUTHORITY.—The Secretary of Transportation may make grants under this section to recipients in financing a capital project only if the Secretary finds that the proposed project is justified and has adequate financial commitment.

“(b) COMPETITIVE GRANT SELECTION.—The Secretary shall conduct a national solicitation for applications for grants under this section. Grantees shall be selected on a competitive basis.

“(c) SHARE OF NET PROJECT COSTS.—A grant shall not exceed 50 percent of the net project cost, as determined by the Secretary.

“(d) REGULATIONS.—The Secretary may promulgate such regulations as are necessary to carry out this section.

“§ 5575. Funding

“(a) HIGHWAY ACCOUNT.—

“(1) There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subchapter \$10,000,000 for each of fiscal years 2005 through 2009.

“(2) The funding made available under paragraph (1) shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23 and shall be subject to any obligation limitation imposed on funds for Federal-aid highways and highway safety construction programs.

“(b) PERIOD OF AVAILABILITY.—Amounts made available under subsection (a) shall remain available until expended.”

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 55 of title 49, United States Code, is amended by adding at the end the following:

“SUBCHAPTER III—INTERMODAL PASSENGER FACILITIES

Sec.

“5571. Policy and Purposes.

“5572. Definitions.

"5573. Assurance of access to intermodal facilities.

"5574. Intercity bus intermodal facility grants.

"5575. Funding."

Beginning on page 1309 strike lines 17 thru page 1310 line 1 and insert the following:

(b) MASS TRANSIT CATEGORY.—For the purpose of section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)), the level of obligation limitations for the mass transit category is—

- (1) for fiscal year 2004, \$7,265,877,000;
- (2) for fiscal year 2005, \$8,650,000,000;
- (3) for fiscal year 2006, \$9,085,123,000;
- (4) for fiscal year 2007, \$9,600,000,000;
- (5) for fiscal year 2008, \$10,490,000,000 and
- (6) for fiscal year 2009, \$11,430,000,000.

NOTICES OF HEARINGS/MEETINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. DOMENICI. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Committee on Energy and Natural Resources.

The hearing will take place on Thursday, February 26 at 2:30 p.m. in 366 Dirksen Senate Office Building in Washington, DC.

The purpose of this hearing is to consider the nomination of Susan Johnson Grant, to be Chief Financial Officer, Department of Energy.

For further information, please contact Judy Pensabene of the Committee staff at (202) 224-1327.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Thursday, February 12, 2004, at 10 a.m., to conduct an oversight hearing on the semi-annual monetary policy report of the Federal Reserve.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. GRASSLEY. 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 Thursday, February 12 at 10 a.m. to consider the President's fiscal year 2005 budget for the Department of the Interior.

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

COMMITTEE ON FINANCE

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session on Thursday, February 12, 2004, at 2 p.m., in 215 Dirksen Senate Office Building, to hear testimony concerning the Revenue Proposals in the President's fiscal year 2005 Budget.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, February 12, 2004 at 9:30 a.m. to hold a hearing on the State Department; Policy/Programs.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, February 12, 2004 at 2:30 p.m. to hold a hearing on Trade and Human Rights U.S./Vietnam.

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

COMMITTEE ON THE JUDICIARY

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a markup on Thursday, February 12, 2004, at 9:30 a.m. in Dirksen Senate Building Room 226.

Agenda

I. Nominations

William James Haynes II to be U.S. Circuit Judge for the Fourth Circuit, Raymond W. Gruender to be U.S. Circuit Judge for the Eighth Circuit, Henry W. Saad to be U.S. Circuit Judge for the Sixth Circuit, Judith C. Herrera to be United States District Judge for the District of New Mexico, F. Dennis Saylor to be United States District Judge for the District of Massachusetts, Sandra L. Townes to be United States District Judge for the Eastern District of New York, Louis Guirola, Jr. to be United States District Judge for the Southern District of Mississippi, Virginia E. Hopkins to be United States District Judge for the Northern District of Alabama, Kenneth M. Karas to be United States District Judge for the Southern District of New York, Michele M. Leonhart to be Deputy Administrator of Drug Enforcement, and Domingo S. Herraiz to be Director of the Bureau of Justice Assistance, United States Department of Justice.

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

COMMITTEE ON SMALL BUSINESS AND ENTREPRENEURSHIP

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on Small Business and Entrepreneurship be authorized to meet during the session of the Senate for a hearing entitled, "The President's FY2005 Budget Request for the SBA" on Thursday, February 12, 2004, beginning at 9:30 a.m. in room 428A of the Russell Senate Office Building.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Select

Committee on Intelligence be authorized to meet during the session of the Senate on February 12, 2004 at 2:30 p.m. to hold a closed Business Meeting.

The PRESIDING OFFICER. Without objection it is so ordered.

SUBCOMMITTEE ON IMMIGRATION, BORDER SECURITY AND CITIZENSHIP

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on the Judiciary Subcommittee on Immigration, Border Security and Citizenship be authorized to meet to conduct a hearing on "Evaluating a Temporary Guest Worker Proposal" on Thursday, February 12, 2004 at 2:30 p.m. in Dirksen 226.

Witness List

Panel I: The Honorable Asa Hutchinson, Undersecretary for Border and Transportation Security Directorate, Department of Homeland Security, Washington, DC; The Honorable Eduardo Aguirre, Director, U.S. Citizenship and Immigration Services, Department of Homeland Security, Washington, DC; The Honorable Steven J. Law, Deputy Secretary, Department of Labor, Washington, DC.

Panel II: Albert C. Zapanta, President, U.S.-Mexico Chamber of Commerce, Washington, DC; Richard R. Birkman, President, Texas Roofing Company, Austin, TX; Dr. Vernon Briggs, Professor of Industrial and Labor Relations, Cornell University, Ithaca, NY; Demetrios Papademetriou, Co-director, Migration Policy Institute, Washington, DC.

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

SUBCOMMITTEE ON PUBLIC LANDS AND FORESTS

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands and Forests of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Thursday, February 12 at 2:30 p.m.

The purpose of the hearing is to receive testimony on S. 1421, to authorize the subdivision and dedication of restricted land owned by Alaska natives; S. 1466, to facilitate the transfer of land in the state of Alaska, and for other purposes; S. 1649, to designate the Ojito Wilderness Study Area as wilderness, to take certain land into trust for the Pueblo of Zia, and for other purposes; and S. 1910, to direct the Secretary of Agriculture to carry out an inventory and management program for forests derived from public domain land.

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

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs be authorized to meet on Thursday, February 12, 2004, at 9:30 a.m., for a hearing entitled "DOD Contractors Who Cheat on Their Taxes and What Should be Done About It."

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