

4355(a)(2), appoints the Senator from Alabama, Mr. SESSIONS, from the Armed Services Committee, to the Board of Visitors of the U.S. Military Academy.

The Chair, on behalf of the majority leader, pursuant to Public Law 108-136, Title XV, Section 1501(b)(1)(C), appoints the following individual to serve on the Veteran's Disability Benefits Commission: Vice Admiral Dennis Vincent McGinn.

The Chair, on behalf of the majority leader, pursuant to Public Law 105-277, Section 710, 2(A)(ii), appoints the following individual to serve as a member of the Parents Advisory Council on Youth Drug Abuse: David C. Guth of Tennessee.

#### ORDERS FOR WEDNESDAY, FEBRUARY 11, 2004

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m., Wednesday, February 11. I further ask unanimous consent that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then begin a period of morning business for up to 60 minutes, with the first 30 minutes under the control of the minority leader or his designee and the final 30 minutes under the control of the majority leader or his designee, provided that following morning business, the Senate resume consideration of S. 1072, the highway bill.

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

#### PROGRAM

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

For the remainder of the day tomorrow, the Senate will continue to debate on the highway bill. It is my hope the bill's managers will be able to work through additional amendments during tomorrow's session. Senators should expect rollcall votes throughout the day tomorrow.

As a reminder, cloture was filed on the substitute which was offered earlier today. While it was not my preference to file cloture, it became obvious that we would be unable to move forward without forcing a cloture vote. A cloture vote on the substitute amendment will occur on Thursday.

I also remind all Senators that under cloture rules all first-degree amendments must be filed by 1 p.m. tomorrow.

#### ORDER FOR ADJOURNMENT

Mr. FRIST. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order following the remarks of Senator JOHN WARNER.

The PRESIDING OFFICER (Mr. AL-EXANDER). Without objection, it is so ordered.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

#### SAFE, ACCOUNTABLE, FLEXIBLE, AND EFFICIENT TRANSPORTATION EQUITY ACT OF 2003— Continued

AMENDMENT NO. 2286 TO AMENDMENT 2285, AS  
MODIFIED

Mr. WARNER. Mr. President, the Senator from Virginia has at the desk an amendment which is the pending amendment, and I desire to modify it. Consequently, I ask unanimous consent to modify the pending amendment to reflect the concerns raised by the managers of the bill requesting that more time be given to States to meet the 90-percent seatbelt use rate on their own initiative, with their own plans. I now send my modified amendment to the desk.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The amendment is so modified.

The amendment (No. 2286), as modified, is as follows:

Beginning on page 118, strike line 20 and all that follows through page 129, line 18, and insert the following:

“(3) PRIMARY SAFETY BELT LAW.—The term ‘primary safety belt law’ means a law that authorizes a law enforcement officer to issue a citation for the failure of the operator of, or any passenger in, a motor vehicle to wear a safety belt as required by State law, based solely on that failure and without regard to whether there is any other violation of law.

“(4) SAFETY PROJECT UNDER ANY OTHER SECTION.—

“(A) IN GENERAL.—The term ‘safety project under any other section’ means a project carried out for the purpose of safety under any other section of this title.

“(B) INCLUSION.—The term ‘safety project under any other section’ includes a project to—

“(i) promote the awareness of the public and educate the public concerning highway safety matters; or

“(ii) enforce highway safety laws.

“(5) STATE HIGHWAY SAFETY IMPROVEMENT PROGRAM.—The term ‘State highway safety improvement program’ means projects or strategies included in the State strategic highway safety plan carried out as part of the State transportation improvement program under section 135(f).

“(6) STATE STRATEGIC HIGHWAY SAFETY PLAN.—The term ‘State strategic highway

safety plan’ means a plan developed by the State transportation department that—

“(A) is developed after consultation with—

“(i) a highway safety representative of the Governor of the State;

“(ii) regional transportation planning organizations and metropolitan planning organizations, if any;

“(iii) representatives of major modes of transportation;

“(iv) State and local traffic enforcement officials;

“(v) persons responsible for administering section 130 at the State level;

“(vi) representatives conducting Operation Lifesaver;

“(vii) representatives conducting a motor carrier safety program under section 31104 or 31107 of title 49;

“(viii) motor vehicle administration agencies; and

“(ix) other major State and local safety stakeholders;

“(B) analyzes and makes effective use of State, regional, or local crash data;

“(C) addresses engineering, management, operation, education, enforcement, and emergency services elements of highway safety as key factors in evaluating highway projects;

“(D) considers safety needs of, and high-fatality segments of, public roads;

“(E) considers the results of State, regional, or local transportation and highway safety planning processes;

“(F) describes a program of projects or strategies to reduce or eliminate safety hazards;

“(G) is approved by the Governor of the State or a responsible State agency; and

“(H) is consistent with the requirements of section 135(f).

“(b) PROGRAM.—

“(1) IN GENERAL.—The Secretary shall carry out a highway safety improvement program.

“(2) PURPOSE.—The purpose of the highway safety improvement program shall be to achieve a significant reduction in traffic fatalities and serious injuries on public roads.

“(c) ELIGIBILITY.—

“(1) IN GENERAL.—To obligate funds apportioned under section 104(b)(5) to carry out this section, a State shall have in effect a State highway safety improvement program under which the State—

“(A) develops and implements a State strategic highway safety plan that identifies and analyzes highway safety problems and opportunities as provided in paragraph (2);

“(B) produces a program of projects or strategies to reduce identified safety problems;

“(C) evaluates the plan on a regular basis to ensure the accuracy of the data and priority of proposed improvements; and

“(D) submits to the Secretary an annual report that—

“(i) describes, in a clearly understandable fashion, not less than 5 percent of locations determined by the State, using criteria established in accordance with paragraph (2)(B)(ii), as exhibiting the most severe safety needs; and

“(ii) contains an assessment of—

“(I) potential remedies to hazardous locations identified;

“(II) estimated costs associated with those remedies; and

“(III) impediments to implementation other than cost associated with those remedies.

“(2) IDENTIFICATION AND ANALYSIS OF HIGHWAY SAFETY PROBLEMS AND OPPORTUNITIES.—As part of the State strategic highway safety plan, a State shall—

“(A) have in place a crash data system with the ability to perform safety problem identification and countermeasure analysis;

“(B) based on the analysis required by subparagraph (A)—

“(i) identify hazardous locations, sections, and elements (including roadside obstacles, railway-highway crossing needs, and unmarked or poorly marked roads) that constitute a danger to motorists, bicyclists, pedestrians, and other highway users; and

“(ii) using such criteria as the State determines to be appropriate, establish the relative severity of those locations, in terms of accidents, injuries, deaths, traffic volume levels, and other relevant data;

“(C) adopt strategic and performance-based goals that—

“(i) address traffic safety, including behavioral and infrastructure problems and opportunities on all public roads;

“(ii) focus resources on areas of greatest need; and

“(iii) are coordinated with other State highway safety programs;

“(D) advance the capabilities of the State for traffic records data collection, analysis, and integration with other sources of safety data (such as road inventories) in a manner that—

“(i) complements the State highway safety program under chapter 4 and the commercial vehicle safety plan under section 31102 of title 49;

“(ii) includes all public roads;

“(iii) identifies hazardous locations, sections, and elements on public roads that constitute a danger to motorists, bicyclists, pedestrians, and other highway users; and

“(iv) includes a means of identifying the relative severity of hazardous locations described in clause (iii) in terms of accidents, injuries, deaths, and traffic volume levels;

“(E)(i) determine priorities for the correction of hazardous road locations, sections, and elements (including railway-highway crossing improvements), as identified through crash data analysis;

“(ii) identify opportunities for preventing the development of such hazardous conditions; and

“(iii) establish and implement a schedule of highway safety improvement projects for hazard correction and hazard prevention; and

“(F)(i) establish an evaluation process to analyze and assess results achieved by highway safety improvement projects carried out in accordance with procedures and criteria established by this section; and

“(ii) use the information obtained under clause (i) in setting priorities for highway safety improvement projects.

“(d) ELIGIBLE PROJECTS.—

“(1) IN GENERAL.—A State may obligate funds apportioned to the State under section 104(b)(5) to carry out—

“(A) any highway safety improvement project on any public road or publicly owned bicycle or pedestrian pathway or trail; or

“(B) as provided in subsection (e), for other safety projects.

“(2) USE OF OTHER FUNDING FOR SAFETY.—

“(A) EFFECT OF SECTION.—Nothing in this section prohibits the use of funds made available under other provisions of this title for highway safety improvement projects.

“(B) USE OF OTHER FUNDS.—States are encouraged to address the full scope of their safety needs and opportunities by using funds made available under other provisions of this title (except a provision that specifically prohibits that use).

“(e) FLEXIBLE FUNDING FOR STATES WITH A STRATEGIC HIGHWAY SAFETY PLAN.—

“(1) IN GENERAL.—To further the implementation of a State strategic highway safety plan, a State may use up to 25 percent of the amount of funds made available under this section for a fiscal year to carry out safety projects under any other section as provided in the State strategic highway safety plan.

“(2) OTHER TRANSPORTATION AND HIGHWAY SAFETY PLANS.—Nothing in this subsection requires a State to revise any State process, plan, or program in effect on the date of enactment of this section.

“(f) REPORTS.—

“(1) IN GENERAL.—A State shall submit to the Secretary a report that—

“(A) describes progress being made to implement highway safety improvement projects under this section;

“(B) assesses the effectiveness of those improvements; and

“(C) describes the extent to which the improvements funded under this section contribute to the goals of—

“(i) reducing the number of fatalities on roadways;

“(ii) reducing the number of roadway-related injuries;

“(iii) reducing the occurrences of roadway-related crashes;

“(iv) mitigating the consequences of roadway-related crashes; and

“(v) reducing the occurrences of roadway-railroad grade crossing crashes.

“(2) CONTENTS; SCHEDULE.—The Secretary shall establish the content and schedule for a report under paragraph (1).

“(3) TRANSPARENCY.—The Secretary shall make reports under paragraph (1) available to the public through—

“(A) the Internet site of the Department; and

“(B) such other means as the Secretary determines to be appropriate.

“(4) DISCOVERY AND ADMISSION INTO EVIDENCE OF CERTAIN REPORTS, SURVEYS, AND INFORMATION.—Notwithstanding any other provision of law, no report, survey, schedule, list, or other data compiled or collected for any purpose directly relating to paragraph (1) or subsection (c)(1)(D), or published by the Secretary in accordance with paragraph (3), shall be—

“(A) subject to discovery or admitted into evidence in any Federal or State judicial proceeding; or

“(B) considered for any other purpose in any action for damages arising from an occurrence at a location identified or addressed in the report, survey, schedule, list, or other collection of data.

“(g) FEDERAL SHARE OF HIGHWAY SAFETY IMPROVEMENT PROJECTS.—Except as provided in sections 120 and 130, the Federal share of the cost of a highway safety improvement project carried out with funds made available under this section shall be 90 percent.

“(h) FUNDS FOR BICYCLE AND PEDESTRIAN SAFETY.—A State shall allocate for bicycle

and pedestrian improvements in the State a percentage of the funds remaining after implementation of sections 130(e) and 150, in an amount that is equal to or greater than the percentage of all fatal crashes in the States involving bicyclists and pedestrians.

“(i) ROADWAY SAFETY IMPROVEMENTS FOR OLDER DRIVERS AND PEDESTRIANS.—For each of fiscal years 2004 through 2009, \$25,000,000 is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for projects in all States to improve traffic signs and pavement markings in a manner consistent with the recommendations included in the publication of the Federal Highway Administration entitled ‘Guidelines and Recommendations to Accommodate Older Drivers and Pedestrians (FHWA-RD-01-103)’ and dated October 2001.

“(j) USE OF FUNDS.—

“(1) PROJECTS UNDER SECTION 402.—For fiscal year 2006 and each fiscal year thereafter, 5 percent of the funds made available to a State under this section shall be obligated for projects under section 402, unless by October 1 of the fiscal year, the State—

“(A) has in effect a primary safety belt law; or

“(B) demonstrates that the safety belt use rate in the State is at least 90 percent.

“(2) WITHHOLDING.—

“(A) IN GENERAL.—For fiscal year 2008, the Secretary shall withhold 2 percent, and for each fiscal year thereafter, the Secretary shall withhold 4 percent, of the funds apportioned to a State under paragraphs (1), (3), and (4) of section 104(b) and section 144 if, by October 1 of that fiscal year, the State does not—

“(i) have in effect a primary safety belt law; or

“(ii) demonstrate that the safety belt use rate in the State is at least 90 percent.

“(B) RESTORATION.—If, by the date that is 3 years after the date on which funds are withheld from a State under subparagraph (A), the State has in effect a primary safety belt law or has demonstrated that the safety belt use rate in the State is at least 90 percent, the apportionment of the State shall be increased by the amount withheld.

“(C) LAPSE.—If, by the date that is 3 years after the date on which funds are withheld from a State under subparagraph (A), the State does not have in effect a primary safety belt law or has not demonstrated that the safety belt use rate in the State is at least 90 percent, the amount withheld shall lapse.”

Mr. WARNER. Mr. President, I thank the distinguished Presiding Officer and the Senate for accommodating me.

I yield the floor.

ADJOURNMENT UNTIL 9:30 A.M.  
TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands in adjournment until 9:30 a.m. tomorrow.

Thereupon, the Senate, at 6:24 p.m., adjourned until Wednesday, February 11, 2004, at 9:30 a.m.