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House of Representatives

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. SIMPSON).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
February 11, 2004.

I hereby appoint the Honorable MICHAEL K. SIMPSON to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

With all my heart, I will praise You, Lord, as the House of Representatives is called to order and this Nation is invited to join in prayer for its leaders.

Great are Your works of creation and salvation, Lord. For those who are bound to You in the covenant of love, Your marvelous ways are revealed day by day.

You, O Lord, are gracious and merciful. You provide food and shelter for all those who trust in You. You are faithful to Your promises and strengthen Your people for the task You set before them.

For Your faithful ones, fear of the Lord is the beginning of wisdom. Once embraced, Your goodness and truth enlighten each deed, each decision, and the entire experience of a new day.

Because You are so reliable, we can build on the foundation of Your justice and measure each step with prudence, both now and forever. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from New York (Mr. MCNULTY) come forward and lead the House in the Pledge of Allegiance.

Mr. MCNULTY led the Pledge of Allegiance as follows:

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

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 10 o'clock and 3 minutes a.m.), the House stood in recess subject to the call of the Chair.

□ 1302

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. QUINN) at 1 o'clock and 2 minutes p.m.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed without amendment a bill of the House of the following title:

H. Con. Res. 354. Concurrent resolution to correct technical errors in the enrollment of the bill S. 610.

The message also announced that pursuant to section 4355(a)(2) of title 10, United States Code, the Chair, on behalf of the President pro tempore, appoints the Senator from Alabama (Mr. SESSIONS), from the Armed Services Committee, to the Board of Visitors of the United States Military Academy.

The message also announced that pursuant to section 1501(b)(1)(C), title XV, of Public Law 108–136, the Chair, on behalf of the Majority Leader, appoints the following individual to serve on the Veteran's Disability Benefits Commission:

Vice Admiral Dennis Vincent McGinn.

The message also announced that pursuant to section 710(2)(A)(ii) of Public Law 105–277, the Chair, on behalf of the Majority Leader, appoints the following individual to serve as a member of the Parents Advisory Council on Youth Drug Abuse:

David C. Guth of Tennessee, vice June Martin Milam, term expired.

UNITED AIRLINES UNFAIRLY CUTTING RETIREE HEALTH BENEFITS

(Mr. MICHAUD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICHAUD. Mr. Speaker, as cofounder of the House Labor and Working Families Caucus, I come to the floor today to address a serious injustice, United Airlines' plan to further cut the retirees benefits of 1,000 United retirees and their families. This is in spite of an agreement established between the airline and the employees when United entered bankruptcy.

Two thousand five hundred flight attendants chose to retire early in order to preserve their retiree health benefits and agreed to sacrifice up to 30 percent of their well-earned pension. These loyal employees did so as part of a $1 billion concessionary contract to help their struggling employer. Now United is reneging on that deal.

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This is underhanded, and this is wrong.

I urge our distinguished Speaker of the House, who has a large number of these retirees in his district, and all my colleagues to demonstrate a commitment to our retirees and join in asking the CEO of United Airlines to do the honorable thing and keep his promise to these workers.

PROVIDING FOR CONSIDERATION OF SENATE AMENDMENT TO H.R. 743, SOCIAL SECURITY PROTECTION ACT OF 2003

Mr. LINDER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 520 ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 520

Resolved, That upon adoption of this resolution it shall be in order to take from the Speaker's table the bill (H.R. 743) to amend the Social Security Act and the Internal Revenue Code of 1986 to provide additional safeguards for Social Security and Supplemental Security Income beneficiaries with representative payees, to enhance program protections, and for other purposes, with the Senate amendment thereto, and to consider in the House, without intervention of any point of order, a motion offered by the chairman of the Committee on Ways and Means or his designee that the House concur in the Senate amendment. The Senate amendment and the motion shall be considered as read. The motion shall be debatable for one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means. The previous question shall be considered as ordered on the motion to final adoption without intervening motion.

The SPEAKER pro tempore. The gentleman from Georgia (Mr. LINDER) is recognized for 1 hour.

Mr. LINDER. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Texas (Mr. FROST), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 520 provides for the consideration of a motion offered by the chairman of the Committee on Ways and Means or his designee to concur in the Senate amendment to H.R. 743. The rule provides for 1 hour of debate in the House on the motion, equally divided and controlled by the chairman and the ranking minority member of the Committee on Ways and Means.

H. Res. 520 provides that the Senate amendment and the motion shall be considered as read. It waives all points of order against consideration of the motion to concur in the Senate amendment, and it provides that the previous question shall be considered as ordered on the motion to final adoption without intervening motion.

Mr. Speaker, the purpose of H. Res. 520 is to expedite the final consideration of H.R. 743, the Social Security Protection Act of 2003. Adopting this rule will allow the chairman of the Committee on Ways and Means to offer a motion to concur in the Senate amendment to the House-passed version of H.R. 743, which, if approved by the House today, will clear this bill for the President's signature. I urge my colleagues to join me in supporting this rule.

Last April, the full House of Representatives approved H.R. 743 with a 396 to 28 vote. The overwhelmingly bipartisan vote on House passage was preceded by the House rejecting the Green amendment. The Green amendment sought to maintain the so-called ''last day rule,'' which is a loophole that a small number of workers in certain States have exploited in the past. To its credit, the underlying legislation before us closes down that loophole. Last December, the U.S. Senate approved its amendment to H.R. 743 by unanimous consent.

Let us be clear: H.R. 743 is noncontroversial legislation that has wide bipartisan support in both the House and Senate, and promptly adopting the Senate amendment to H.R. 743 will enable the President to sign this legislation into law this month.

The Committee on Rules approved this rule by voice vote yesterday, and I urge my colleagues to support it so we may proceed with debate and consideration of the underlying, bipartisan bill.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

(Mr. FROST asked and was given permission to revise and extend his remarks.)

Mr. FROST. Mr. Speaker, my fellow Texas Democrats have joined me here today on an issue of fairness. Will this House be fair to those who stand to lose a Social Security pension that has been fairly paid into and is fairly deserved, or will they vote to drive valuable public servants out of a system that desperately needs them?

Some Members believe that the Texas teachers and other public employees want some sort of special treatment. They do not. Their spouse correctly and completely paid into the Social Security system. And if they were just not teachers, policemen or firefighters, then they would receive their spousal benefit. Is this the message that we want to send, that the Social Security system will treat everyone honestly except those who are most valuable to our society?

Every Member here today supports the underlying bill, the Social Security Protection Act. Its main provisions would deny Supplemental Security Income, SSI, to fugitive felons, make it easier for seniors to get a lawyer for the complicated disability process, and reform the representative payee program so that seniors are not defrauded.

In fact, the House considered all of these reforms during the 107th Congress in a bill that passed the House unanimously. Unfortunately, that bill, H.R. 4070, was not conferenced before the end of the Congress, and it has returned in this much more controversial form.

I support all the reforms in this bill, Mr. Speaker; and if the bill consisted of just these provisions, we would again pass this bill unanimously. But the same bill that helps protect our seniors from Social Security fraud hurts our teachers, firefighters, police officers and other public servants around the country, including in my home State of Texas. Specifically, section 418 of this bill would prevent those hard-working public servants from protecting their retirement benefits from the harsh impact of the Government Pension Offset.

Mr. Speaker, this issue may appear complicated to some, but it is very clear to the thousands and thousands of dedicated teachers and other public servants who are affected by it. So clear, that both the National Education Association and the American Federation of Teachers are opposed to this bill.

Many teachers in this country have pension plans that are not covered under Social Security, but they have spouses who are working in jobs that do pay into Social Security. Under normal circumstances, a surviving spouse, such as a teacher, would be eligible for spousal or survivor's benefits if their spouse, who paid into Social Security, dies. But under current law, the Government Pension Offset reduces or eliminates the spousal or survivor's benefits for teachers and others who pay into pension plans that are not covered by Social Security.

Fortunately, there is a provision in the law right now that helps some people in this situation. It allows you to protect your retirement by switching jobs at the end of your career. This ''last day exemption,'' as it is called, has helped many teachers in Texas and other States protect the Social Security benefits they deserve and that they now need to retire. However, section 418 of the underlying bill would eliminate this exemption. Instead, it would force teachers, police officers, firefighters, and other public servants to work 5 additional years before receiving full spousal benefits.

Mr. Speaker, that is no way to treat hard-working people who have dedicated their entire lives to serving their communities and this Nation. It hurts real people, especially women and lower-income individuals. That is why I will ask Members to defeat the previous question on this bill today. If we do, then I will do something that 285 of our colleagues have asked this Congress to do, and that is to eliminate the Government Pension Offset.

Our colleague, the gentleman from California (Mr. MCKEON), has a bill, H.R. 594, which 285 of us have cosponsored, which calls for the elimination of the GPO. If we defeat the previous question, then I will attach that bill to H.R. 743 without section 418 and then

bring the measure before the House for its immediate passage so that teachers and other public servants can continue to protect their retirement benefits.

Mr. Speaker, there should not be a Texas Member in this House who does not vote to defeat the previous question. I would hope others would join us. I urge my colleagues to support Social Security fairness for teachers, firefighters, and police officers by voting to defeat the previous question.

Mr. Speaker, I reserve the balance of my time.

Mr. LINDER. Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. GREEN).

Mr. GREEN of Texas. Mr. Speaker, I want to thank my colleague from Texas for his hard work on this issue and urge my colleagues to oppose this rule and support his amendment.

Mr. Speaker, if cosponsoring a bill is any indication of support for an issue, then the Frost amendment should pass by a minimum of 285 votes to 150. That is because 285 Members of this House have cosponsored H.R. 594, which is the underlying bill that the Frost amendment would add to H.R. 743. But now it is time to put our money where our mouth is. I am afraid that the so-called supporters of the GPO repeal are going to turn their back on the hundreds of thousands of public servants who are affected by the Government Pension Offset.

As we have heard, the Government Pension Offset unfairly reduces an individual's Social Security spousal benefit if he or she receives a government pension from employment not covered by Social Security. This is unfair and arbitrary and affects individuals at the Federal, State, and local level. Most often it hurts teachers, anyone who works for a school district, firefighters, police officers and other public servants.

Our office hears more about the GPO than practically any other issue. Teachers, firefighters, police officers, and civil servants are finding out every day that their Social Security spousal benefits are being reduced by the Government Pension Offset.

These are people who have dedicated their lives to making America better. When it comes time to retire, they lose out. That is because the GPO unfairly reduces Social Security spousal benefits by two-thirds, regardless of how much your government pension is. This is particularly unfair to low-income folks and widows, the very people Social Security was designed to protect. The Frost amendment would give us a chance to correct this serious problem and make sure that public servants receive a fair spousal benefit.

Like I said earlier, this is clearly a good idea, because 285 Members of the House have cosponsored this legislation, and that is why I urge support of the Frost amendment.

It is interesting to note we have someone, for example, in my own district who is a teacher for 30 years and has been married for 30 years; and when she retires, when her husband passes away, she is penalized for her spousal benefit under Social Security because she worked at a public school system, not by her choice; but they decided not to pay into Social Security because in 1983 that was one of the groups left out.

□ 1315

They did not pay into it, rightfully so, but under Social Security, under our law, if they are married 10 years to an individual, they have a right to those benefits, a spousal benefit.

It is interesting that our law punishes a group of teachers, for example, in Texas and Georgia who have said, okay, the law says I have to work 1 day; I will go work 1 day somewhere that pays both the teacher retirement and the Social Security. Is that right? Sure, it is not, but neither is the GPO, and that is why the Frost amendment is so important.

We need to reform the Government Pension Offset, and the best time is today, not waiting until the end of this year. We have been waiting for 15 years to reform the Government Pension Offset. So by voting for this legislation today, we are making the Government Pension Offset even worse. That is why the Frost amendment is so important.

Mr. LINDER. Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield 4 minutes to the gentleman from Texas (Mr. SANDLIN).

Mr. SANDLIN. Mr. Speaker, I thank my colleague for yielding me this time.

Mr. Speaker, today the House stands to make a choice. We can choose to support our widowed teachers or we can choose to oppose them. The choice is ours. It is as simple as that.

I am appalled that our friends on the other side of the aisle would take a stand against our teachers and claim, as they have, that the teachers are engaged in a gimmick or a trick or a fraud. That is absolutely insulting to America's teachers. Obtaining spousal benefits is not a trick or a fraud. It is a payment for an entire lifetime of work by a spouse. It is a payment for an entire lifetime of a man and woman working together.

Saying that teachers receive Social Security for working 1 day is simply not true, and our friends on the other side of the aisle know it. It is embarrassing for them to say that. The real fraud is that the Republicans have failed to address the GPO.

Here is the way the Republican plan works. If someone works for an insurance company, there is no offset. If someone works for a pharmaceutical company, there is no offset. If someone works for an HMO, there is no offset. But if that person elects to be a teacher and educate our children, there is an offset and their spouse's lifetime of work is absolutely meaningless under the Republican plan.

At least our friends on the other side of the aisle are consistent. They believe that neither veterans nor teachers should receive benefits they have earned. Teachers work hard. They follow the rules. They deserve their earned benefits.

Section 418 was not included in the version of this legislation that the House passed with my support during the 107th Congress. I support other provisions of this legislation but cannot support H.R. 743 as introduced. Allowing section 418 to remain will strike at the very heart of public schoolteachers in Texas and at the very heart of our children.

The greater issue of this bill is the failure of Congress to address the Government Pension Offset. Our Republican leadership stood on this very floor during consideration of H.R. 743 last April and testified to their commitment towards ending the GPO. The gentleman from Texas (Mr. DOGGETT), a representative of Congress and a supporter and champion of Texas teachers, read an excerpt from a letter of the Majority Leader to a constituent stating, ''I strongly believe that the GPO is an unfair and misguided piece of legislation. It undercuts the people who have spent their entire working life paying into the Social Security system by denying them their fair share of the hard-earned money they contributed. Married couples should be able to share those benefits with their spouses.''

The chairman of the Committee on Ways and Means: ''Is there a problem with the offset? Of course there is. We just had a colloquy on the floor with the chairman of the Subcommittee on Social Security and the ranking member of the Subcommittee on Social Security, and there was an agreement we will seriously address the pension offset.''

The chairman of the Subcommittee on Social Security of the Committee on Ways and Means: ''We absolutely need a full discussion of all Social Security provisions affecting public employees, which is why the Subcommittee on Social Security will have a hearing on these issues and legislative opportunities.''

Well, enough is enough, Mr. Speaker. Talk is talk. Enough hearings. This is an example of actions speaking louder than words. Surely the leadership, who only scheduled four suspension bills and H.R. 743 for this entire week, can find the time to vote to repeal the GPO and the windfall elimination provision. All they have to do is call up a vote on H.R. 594, a piece of legislation that has 285 bipartisan cosponsors.

Here is the deal. Either we support the teachers, we support first responders, we support firefighters, we support police, we support public employees, or we do not. That is it. It is that simple. Put up or shut up. That is the deal.

Until we vote on H.R. 594 to repeal the GPO, we cannot allow H.R. 743 to pass. We cannot be involved in changing the rules of the game right in the

middle of the game. And truthfully, Mr. Speaker, this is no game. This is our retired teachers' livelihood. Our teachers should be rewarded, not punished. Let us stand up for teachers today. Let us vote for the Frost amendment and let us vote ''no'' on H.R. 743.

Mr. LINDER. Mr. Speaker, I am pleased to yield 1 minute to the gentleman from Michigan (Mr. SMITH).

Mr. SMITH of Michigan. Mr. Speaker, let me commend the Committee on Rules and certainly the gentleman from Florida (Mr. SHAW) for initiating these kinds of needed changes.

My suggestion is, let us start dealing with some of the real problems of Social Security and move this, allow this bill to proceed, because what is in this bill is fair and it is needed.

I just want to take a couple of seconds to say how important I think it is to deal with the huge problem that we are going to be facing in Social Security.

We have an unfunded liability now of $12 trillion in today's dollars. If we look at the dollars in future years that is going to be required to keep our promises in Social Security, then it is going to be over $25 trillion. It is something that is terribly disrespectful of current and future retirees to continue to put off the solution to Social Security. I would hope that we would continue this debate and discussion and look for ways that we can keep Social Security solvent.

It has been a good program. Putting off the problem that we are facing and demagoguing in elections is not the solution.

Mr. FROST. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. EDWARDS).

Mr. EDWARDS. Mr. Speaker, there is something ironic when we have 17,000 soldiers from my district in Fort Hood, Texas, fighting for democracy in Iraq, yet right here on the floor of the House with this bill the House leadership is denying democracy in the people's House of Representatives in America.

Basically, what is happening is that we are being denied, 435 Members are being denied the right to even vote on an amendment to this bill. Regardless of the substance of amendments, that is wrong. We cannot be preaching democracy in Iraq and fighting for it there while denying democracy here in America.

Secondly, for this bill to be called the Social Security Protection Act, I think it needs a large asterisk, Mr. Speaker, because the same people pushing this legislation are the ones who are the architects of the largest fiscal deficit disaster in American history. The greatest threat to the solvency of Social Security, its trust fund and benefits for seniors is the massive $7 trillion national debt that is stealing money away from the Social Security Trust Fund, money that should be saved to provide benefits for Social Security recipients.

So let us point out that, despite some of the good things in this bill, the fact is that this is not going to truly protect Social Security unless the leadership and the administration are willing to change their fiscal policies and stop the largest deficits in American history that are stealing $200 billion in just the last years from the Social Security Trust Fund.

Thirdly, while I support most of the specific reforms in this bill, I take great exception to the provisions that I think will harm not just firefighters and police officers, those who are protecting our homeland from burglars and problems here at home, as well as threats from abroad, but this is going to hurt soldiers. And let me tell my colleagues how.

The 17,000 soldiers from Fort Hood, Texas, who are in Iraq right now are paying Social Security taxes. When they get home, if they finish 20 years of service in the military and then they decide to continue that public service as a public schoolteacher in Texas, they are basically, under this bill, going to be punished in their retirement benefits, simply because they served our country for 20 years in the military, paid Social Security taxes, and they are going to have those Social Security benefits reduced.

It is wrong to be saluting them with our words, our soldiers in Iraq, while passing legislation today that is going to hurt thousands of Texas soldiers fighting in Iraq from being able to become a public schoolteacher and still receive the Social Security benefits that they have already paid into for 20 years.

The ultimate victim of this bill is going to be the children of States like Texas. Because, right now, teachers are planning on retiring in Texas, experienced teachers in communities that desperately need them to stay in the classroom. But this bill is going to deny those teachers an opportunity to receive their full Social Security benefits within the public school classroom.

Mr. Speaker, this bill should be defeated. This rule should be defeated. It is wrong.

Mr. LINDER. Mr. Speaker, I am pleased to yield 5 minutes to the gentleman from Florida (Mr. SHAW), the chairman of the Subcommittee on Social Security of the Committee on Ways and Means.

Mr. SHAW. Mr. Speaker, I thank the gentleman from Georgia for yielding me this time.

Anyone watching this debate today must wonder, what in the world is the Congress doing to the schoolteachers? What in the world is going on here? I think a few things need a little bit of explaining.

We have two people, a man and a woman, working and receiving and paying into the Social Security Trust Fund. When one dies, the surviving spouse gets either surviving benefits or their own Social Security, whichever is higher. If we take a situation now and say, well, let us look at people who are not covered under Social Security. If they work 1 day under Social Security, they get both their survivor benefits and their pension plan. This is not fair.

If we were to allow this to happen for all American workers under Social Security where they could receive both their pension and the survivor's benefits, within 10 years we will have a $1 trillion deficit in the Social Security Trust Fund and we will be bankrupt.

This bill passed this House with only 28 people in the whole House voting against it. It passed the Senate under unanimous consent. There are some wonderful parts of this bill that we need to address. The problem with the noncovered workers, we are simply putting them on a level playing field with those that are covered. It is the right thing to do. It is the fair thing to do.

This House has already been through this. We have had a vote. The Senate has passed it by unanimous consent, and we should have a similar vote.

So when my colleagues come down to vote, look also at other provisions within the bill which are tremendously important to all of us. Waste, fraud, and abuse, paying in to fraudulent caregivers, all of these things are covered throughout this bill.

The amount that we are talking about, it affects some, and only a few and I might say a minority of the schoolteachers in Texas, but it does affect some of them, there is no question about that, but it in no way discriminates against them. They still are at an advantage, because they can work 5 years under Social Security, pay into for 5 years, and then they will receive the higher of their benefits or survivor benefits. But those people who give up their job and work 1 year in the cafeteria or something of this nature under a job that is not covered under Social Security, then they will collect, for paying 1 year into this, they will collect approximately $100,000 in Social Security dollars. It is wrong. It is not fair.

Mr. Speaker, let us pass this rule. Let us pass this bill and send it to the President for signature.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. GREEN).

Mr. GREEN of Texas. Mr. Speaker, I apologize for not being able to ask a question to the chairman of our Subcommittee on Social Security, but all of Texas educators, teachers, administrators, custodial, cafeteria workers, everyone is affected by this bill. It moves it to be qualified to 5 years.

But let me explain the reason. They are not paying into Social Security now. They do not receive anything for what they pay into Social Security. It is for them as being a widow of someone who paid into Social Security.

The best example is that someone in my district works at a machine shop for 40 years and they are married to someone who works in a public school system in Texas, that the vast majority of the Texas school districts are not

participants in Social Security by law from this Congress. That widow, that person dies, the person who paid in their whole work life into Social Security, their widow is penalized by this legislation. So Texas has found a way around it by letting them go to find a school district and work 1 day. Well, it is a loophole, but, in all honesty, it is a loophole that benefits widows.

It is interesting. I want to deal with the big issues in Social Security, but, in all honesty, we need to deal with it without punishing the widows of people who have paid into Social Security their whole work life and may have been married for 40 years and then they get penalized by the Government Pension Offset.

□ 1330

This legislation may have good parts in it, but the GPO part is wrong. We ought to deal with the Frost amendment so we can have reform of GPO on this House of Representatives floor without waiting for the Committee on Ways and Means to deal with it.

Mr. Speaker, I yield to the gentleman from Texas (Mr. RODRIGUEZ).

Mr. RODRIGUEZ. Mr. Speaker, I take offense to the words that were used by the chairman when he talked about fraud and abuse when you talk about the widows of these individuals. Their husbands have worked 30, 40 years of their life.

Mr. SHAW. Mr. Speaker, will the gentleman yield?

The SPEAKER pro tempore (Mr. QUINN). The gentleman from Texas (Mr. GREEN) controls the time.

Mr. GREEN of Texas. Mr. Speaker, I have yielded my time to the gentleman from Texas (Mr. RODRIGUEZ). I would have gladly asked a question, and we would not have had to have this debate if we could have asked the question earlier.

The SPEAKER pro tempore. The gentleman's time has expired.

Mr. LINDER. Mr. Speaker, I yield 1 minute to the gentleman from Florida (Mr. SHAW) for more illumination on this exciting subject which will be covered at great length in the next hour.

Mr. SHAW. Mr. Speaker, I would just speak to the gentleman who just spoke when he referred to what I talked about in taking offense of fraud and abuse. If the gentleman would read the bill, he would see what I am talking about is a completely different section.

This is the area where caregivers are receiving checks and misappropriating them. It has nothing to do with spouses.

This is a very large bill, and I would suggest that the gentleman read it and understand it, and then he would not misinterpret what I have just said.

Mr. FROST. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. RODRIQUEZ).

Mr. RODRIGUEZ. Mr. Speaker, I rise today to discuss my disappointment with the provisions of this bill that affect many of the public service employees in Texas. Although the legislation has a number of good provisions, and I agree there are some good provisions in it, it does not correct the injustice that is hurting many of the firefighters, the policemen, officers and our teachers.

This act fails to correct the unjust Government Pension Offset, the windfall elimination provisions in the Social Security Act. These two sections of the Federal law take billions of dollars in earned Social Security benefits away from public service employees that have dedicated their lives to our communities; and often it is not until retirement age that these employees find out that their Social Security benefits will be cut, in some cases even eliminated.

Currently, the Government Pension Offsets can completely wipe out the amount these public service employees expect to receive based on Social Security contributions made by their spouses. In addition, the windfall elimination provision can dock their retirement benefits and their Social Security by as much as $303 dollars a month.

The original intent, Mr. Speaker, of the GPO was not to hurt public service employees. Rather, its purpose was to prevent higher paid workers from reaping extra benefits, and it was not the intent to have such a drastic effect on low-paid workers. Health insurance premiums and other out-of-pocket health costs alone can easily eat up more than half of a retiree's State retirement annuity. In some circumstances, it is sufficient to throw the worker into poverty. So we have got to look at this issue. It is critical.

By targeting the pensions of teachers and other school employees, the offset discourages qualified individuals from serving in our public schools, precisely at a time when our Nation faces a severe shortage in teachers. This is going to discourage someone who has worked out there for 20, 30 years in one job and chooses to go into education on the offset because they know that they are going to lose money because they have earned that Social Security. This is not the way to go about it.

Mr. Speaker, I am not alone in expressing my opposition to the Government Pension Offset; and my Republican friends know this. In fact, 285 House Members on both sides of the aisle have added their support to the legislation which would repeal their unjust provisions. So they know that if it is allowed most people will support it and vote for it. The thing is that they are not allowing this to occur, which is unfortunate.

If you agree that this provision is unfair, which 285 people have indicated that it is, then I would strongly urge you to vote in favor of the amendment that will be brought forth.

In addition, let me say we have an opportunity to take care of this. Let us take care of it. We are only working with the Republican leadership two days out of the week. My God, we can at least take care of this issue.

Mr. LINDER. Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. ORTIZ).

(Mr. ORTIZ asked and was given permission to revise and extend his remarks.)

Mr. ORTIZ. Mr. Speaker, as we take up H.R. 743, the Social Security Protection Act, for a third time in the 108th Congress, I cannot help but feel we still find ourselves with a flawed piece of legislation.

Mr. Speaker, the original intent of this bill was a worthy one, to reimburse Social Security benefits if people representing the recipient misuse them. That is not controversial. But the provision reducing the spousal Social Security benefits for countless teachers, school support personnel, police officers, firefighters and other public servants is most certainly controversial; and I intend to oppose the entire bill since it contains this provision and will adversely affect teachers and others across our State.

Let me say one thing, when teachers work one day, that does not mean that they are going to qualify to get a Social Security benefit for 30 years. What it means is that their spouses who have paid in 30 or 40 or 50 years into the Social Security system and then they die, that is money that they have earned, the family has put into Social Security. That is the money that you will get.

Now we need to understand that targeting pensions of teachers and other school employees will discourage qualified individuals from entering the classroom at exactly the same time the Nation is experiencing a shortage of teachers.

We say we are committed to education, yet in this bill we are profoundly uncommitted to educators.

I am also a co-sponsor of H.R. 594, a bill introduced in the 108th Congress that will eliminate the Government Pension Offset and windfall elimination provisions that target our teachers and other public servants by denying them the opportunity to retain their full Social Security benefits.

Mr. Speaker, I am deeply disappointed that this provision was included in an otherwise good bill because the rest of the bill is a good bill, and I compliment my friends.

Mr. LINDER. Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I would ask the gentleman if he has any other speakers.

Mr. LINDER. Mr. Speaker, I have no further speakers.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it makes no sense to me to reduce the Social Security of a retiree simply because the spouse of that person happens to be a teacher or firefighter or police officer. These jobs are not high-paying jobs. Those who chose this path have done so because they

want to make life better for all of us. And what do we do? We deprive them of a significant portion of their hard-earned retirement benefits just because one spouse works for a government entity instead of a private company. That is just wrong.

I urge a no vote on the previous question. If the previous question is defeated, I will offer an amendment to the rule that will do two things.

First, it will strike Section 418, the portion of the bill that prevents certain public employees from receiving the full amount of their deceased spouse's Social Security survivor benefits, benefits to which they are otherwise entitled.

It will also add to the base bill, H.R. 743, the text of H.R. 594, the Social Security Fairness Act which will once and for all eliminate the pension offsets that so unfairly diminish all the retirement benefits of our valued public employees.

I want to point out that H.R. 594 is a broadly bipartisan bill and has the support of 285 co-sponsors, nearly two-thirds of the membership on the House.

Vote no on the previous question so we can help all of those who were unfairly penalized in their pension benefits simply because their spouse is a government employee and one works for the private sector.

Let us support those who go into the public service. Let us support our teachers, our policemen and our firemen, not penalize them.

Mr. Speaker, I ask unanimous consent that the text of the amendment in the nature of a substitute be printed in the RECORD immediately before the vote on the previous question.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. FROST. Mr. Speaker, I yield back the balance of my time.

Mr. LINDER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I urge my colleagues to support this rule and to vote against the previous question.

This is a more complex bill than we have heard in the last 40 minutes. This bill protects beneficiaries from representative payees who misuse benefits. It denies Social Security benefits to fugitive felons and probation parole violators. It deters program waste, fraud, and abuse on a much broader scale than that dealing just with the Texas schoolteachers. It helps individuals with disabilities gain access to representation and encourages disabled beneficiaries to return to work.

It improves and simplifies the SSI program, especially for members of the military and their families. It has bipartisan support and the support of key stakeholders and actually saves money; and, yes, it does close the loophole that enables some teachers in Georgia and Texas to contribute just a few dollars to Social Security to receive nearly $100,000 in additional lifetime spousal benefits.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise to speak out against this egregious rule for the Social Security Protection Act of 2003. There is much good in the underlying bill. But there is one poison pill that will hurt our teachers and firefighters and police. Subjecting our teachers to the Government Pension Offset is a brutal blow to Texas teachers especially. 286 Members of this House have cosponsored H.R. 594 to repeal the GPO, because it is unfair. 286 Members, both Democrats and Republicans, from across the nation, want to get rid of the GPO. Texas teachers have been waiting for House leadership to hear the call of those 286 Members and bring up H.R. 594 for a vote on the floor. While those retired Texas teachers, widows and widowers, waited, they found a legal loophole that enabled them to get what is fair. Now, instead of doing what is right, House leadership wants to close the loophole.

This is the wrong way to go, and with one amendment we could get rid of this blow to Texas teachers. Or with the Democratic motion to recommit, that is the normal right of the minority party, we could have brought up H.R. 594, and fixed this problem the right way.

But the Rules Committee has issued an undemocratic rule that will not allow a vote on any amendments and that will not allow a motion to recommit. Obviously, they are afraid to hear the voices of our colleagues on this issue.

I am proud to stand with my Democratic colleagues from Texas, to fight for our teachers. I will vote against this rule and vote "no" on the underlying bill until the offending provision is taken out, or we fix the GPO once and for all.

The material previously referred to by Mr. FROST is as follows:

PREVIOUS QUESTION FOR H. RES. 520

H.R. 743—SOCIAL SECURITY PROTECTION ACT

Amendment in nature of substitute:

Strike all after the resolved clause and insert:

Resolved, That upon adoption of this resolution the House shall be considered to have taken from the Speaker's table the bill (H.R. 743) to amend the Social Security Act and the Internal Revenue Code of 1986 to provide additional safeguards for Social Security and Supplemental Security Income beneficiaries with representative payees, to enhance program protections, and for other purposes, with Senate amendment thereto, and a motion to concur in the Senate amendment with the amendment specified in section 2 of this resolution shall be considered as pending without intervention of any point of order. The Senate amendment and the motion shall be considered as read. The motion shall be debatable for one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Ways a d Means. The previous question shall be considered as ordered on the motion to final adoption without intervening motion or demand for the division of the question.

SEC. 2. The amendment referred to in section 1 is as follows:

In the matter proposed to be inserted by the Senate amendment, strike section 418 and add a new title at the end consisting of the text of H.R. 594.

Mr. LINDER. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. FROST. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for electronic voting, if ordered, on the question of adoption of the resolution.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 226, nays 197, not voting 9, as follows:

[Roll No. 22]

YEAS—226

Abercrombie
Aderholt
Akin
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)

Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)

NAYS—197

Ackerman
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Becerra
Bell
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Clay
Clyburn
Conyers
Cooper
Costello
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Dooley (CA)
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Ford
Frank (MA)
Frost
Gephardt
Gonzalez
Gordon
Green (TX)
Grijalva
Gutierrez
Hall
Harman
Hastings (FL)
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Lynch
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—9

DeGette
Doggett
Filner
Honda
Kucinich
Meek (FL)
Rahall
Watson
Young (FL)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. QUINN) (during the vote). Members are advised 2 minutes remain in this vote.

□ 1407

Messrs. PALLONE, CARDOZA, LIPINSKI, MORAN of Virginia, SKELTON, Ms. MAJETTE and Mrs. McCARTHY of New York changed their vote from ''yea'' to ''nay.''

Mr. CALVERT changed his vote from ''nay'' to ''yea.''

So the previous question was ordered.

The result of the vote was announced as above recorded.

Stated against:

Mr. FILNER. Mr. Speaker, I was unavoidably detained for rollcall vote 22 due to a family emergency. Had I been present, I would have voted ''no'' on the previous question.

The SPEAKER pro tempore (Mr. QUINN). The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PERMISSION FOR COMMITTEE ON SCIENCE TO HAVE UNTIL 5 P.M. WEDNESDAY, FEBRUARY 18, 2004, TO FILE REPORTS TO ACCOMPANY H.R. 3551, H.R. 3752, H.R. 1292 AND H. CON. RES. 189

Mr. BOEHLERT. Mr. Speaker, I ask unanimous consent that the Committee on Science may have until February 18, 2004, at 5 p.m. to file the following late reports: H.R. 3551, Surface Transportation Research and Development Act of 2004; H.R. 3752, The Commercial Space Launch Amendments Act of 2004; H.R. 1292, Remote Sensing Applications Act of 2003; and H. Con. Res. 189, Celebrating the 50th Anniversary of the International Geophysical Year (IGY) and Supporting an International Geophysical Year-2 (IGY–2) in 2007–2008.

The SPEAKER pro tempore (Mr. CULBERSON). Is there objection to the request of the gentleman from New York?

There was no objection.

SOCIAL SECURITY PROTECTION ACT OF 2003

Mr. SHAW. Mr. Speaker, pursuant to House Resolution 520, I call up from the Speaker's table the bill (H.R. 743) to amend the Social Security Act and the Internal Revenue Code of 1986 to provide additional safeguards for Social Security and Supplemental Security Income beneficiaries with representative payees, to enhance program protections, and for other purposes, with a Senate amendment thereto, and ask for its immediate consideration.

The Clerk read the title of the bill.

The text of the Senate amendment is as follows:

Senate Amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Social Security Protection Act of 2003''.

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title and table of contents.

TITLE I—PROTECTION OF BENEFICIARIES

Subtitle A—Representative Payees

Sec. 101. Authority to reissue benefits misused by organizational representative payees.
Sec. 102. Oversight of representative payees.
Sec. 103. Disqualification from service as representative payee of persons convicted of offenses resulting in imprisonment for more than 1 year or fleeing prosecution, custody, or confinement.
Sec. 104. Fee forfeiture in case of benefit misuse by representative payees.
Sec. 105. Liability of representative payees for misused benefits.
Sec. 106. Authority to redirect delivery of benefit payments when a representative payee fails to provide required accounting.
Sec. 107. Survey of use of payments by representative payees.

Subtitle B—Enforcement

Sec. 111. Civil monetary penalty authority with respect to wrongful conversions by representative payees.

TITLE II—PROGRAM PROTECTIONS

Sec. 201. Civil monetary penalty authority with respect to withholding of material facts.
Sec. 202. Issuance by Commissioner of Social Security of receipts to acknowledge submission of reports of changes in work or earnings status of disabled beneficiaries.
Sec. 203. Denial of title II benefits to persons fleeing prosecution, custody, or confinement, and to persons violating probation or parole.
Sec. 204. Requirements relating to offers to provide for a fee, a product or service available without charge from the Social Security Administration.
Sec. 205. Refusal to recognize certain individuals as claimant representatives.
Sec. 206. Criminal penalty for corrupt or forcible interference with administration of Social Security Act.
Sec. 207. Use of symbols, emblems, or names in reference to social security or medicare.
Sec. 208. Disqualification from payment during trial work period upon conviction of fraudulent concealment of work activity.
Sec. 209. Authority for judicial orders of restitution.
Sec. 210. Authority for cross-program recovery of benefit overpayments.
Sec. 211. Prohibition on payment of title II benefits to persons not authorized to work in the United States.

TITLE III—ATTORNEY REPRESENTATIVE FEE PAYMENT SYSTEM IMPROVEMENTS

Sec. 301. Cap on attorney assessments.
Sec. 302. Temporary extension of attorney fee payment system to title XVI claims.
Sec. 303. Nationwide demonstration project providing for extension of fee withholding procedures to non-attorney representatives.
Sec. 304. GAO study regarding the fee payment process for claimant representatives.

TITLE IV—MISCELLANEOUS AND TECHNICAL AMENDMENTS

Subtitle A—Amendments Relating to the Ticket to Work and Work Incentives Improvement Act of 1999

Sec. 401. Application of demonstration authority sunset date to new projects.
Sec. 402. Expansion of waiver authority available in connection with demonstration projects providing for reductions in disability insurance benefits based on earnings.
Sec. 403. Funding of demonstration projects providing for reductions in disability insurance benefits based on earnings.
Sec. 404. Availability of Federal and State work incentive services to additional individuals.
Sec. 405. Technical amendment clarifying treatment for certain purposes of individual work plans under the Ticket to Work and Self-Sufficiency Program.

Sec. 406. GAO study regarding the Ticket to Work and Self-Sufficiency Program.
Sec. 407. Reauthorization of appropriations for certain work incentives programs.
Subtitle B—Miscellaneous Amendments
Sec. 411. Elimination of transcript requirement in remand cases fully favorable to the claimant.
Sec. 412. Nonpayment of benefits upon removal from the United States.
Sec. 413. Reinstatement of certain reporting requirements.
Sec. 414. Clarification of definitions regarding certain survivor benefits.
Sec. 415. Clarification respecting the FICA and SECA tax exemptions for an individual whose earnings are subject to the laws of a totalization agreement partner.
Sec. 416. Coverage under divided retirement system for public employees in Kentucky and Louisiana.
Sec. 417. Compensation for the Social Security Advisory Board.
Sec. 418. 60-month period of employment requirement for application of government pension offset exemption.
Sec. 419. Disclosure to workers of effect of windfall elimination provision and government pension offset provision.
Sec. 420. Post-1956 Military Wage Credits.
Sec. 420A. Elimination of disincentive to return-to-work for childhood disability beneficiaries.
Subtitle C—Technical Amendments
Sec. 421. Technical correction relating to responsible agency head.
Sec. 422. Technical correction relating to retirement benefits of ministers.
Sec. 423. Technical corrections relating to domestic employment.
Sec. 424. Technical corrections of outdated references.
Sec. 425. Technical correction respecting self-employment income in community property States.
Sec. 426. Technical amendments to the Railroad Retirement and Survivors' Improvement Act of 2001.
Subtitle D—Amendments Related to Title XVI
Sec. 430. Exclusion from income for certain infrequent or irregular income and certain interest or dividend income.
Sec. 431. Uniform 9-month resource exclusion periods.
Sec. 432. Elimination of certain restrictions on the application of the student earned income exclusion.
Sec. 433. Exception to retrospective monthly accounting for nonrecurring income.
Sec. 434. Removal of restriction on payment of benefits to children who are born or who become blind or disabled after their military parents are stationed overseas.
Sec. 435. Treatment of education-related income and resources.
Sec. 436. Monthly treatment of uniformed service compensation.

TITLE I—PROTECTION OF BENEFICIARIES

Subtitle A—Representative Payees

SEC. 101. AUTHORITY TO REISSUE BENEFITS MISUSED BY ORGANIZATIONAL REPRESENTATIVE PAYEES.

(a) TITLE II AMENDMENTS.—

(1) REISSUANCE OF BENEFITS.—Section 205(j)(5) of the Social Security Act (42 U.S.C. 405(j)(5)) is amended by inserting after the first sentence the following: ''In any case in which a representative payee that—

''(A) is not an individual (regardless of whether it is a 'qualified organization' within the meaning of paragraph (4)(B)); or

''(B) is an individual who, for any month during a period when misuse occurs, serves 15 or more individuals who are beneficiaries under this title, title VIII, title XVI, or any combination of such titles;

misuses all or part of an individual's benefit paid to such representative payee, the Commissioner of Social Security shall certify for payment to the beneficiary or the beneficiary's alternative representative payee an amount equal to the amount of such benefit so misused. The provisions of this paragraph are subject to the limitations of paragraph (7)(B).''.

(2) MISUSE OF BENEFITS DEFINED.—Section 205(j) of such Act (42 U.S.C. 405(j)) is amended by adding at the end the following:

''(8) For purposes of this subsection, misuse of benefits by a representative payee occurs in any case in which the representative payee receives payment under this title for the use and benefit of another person and converts such payment, or any part thereof, to a use other than for the use and benefit of such other person. The Commissioner of Social Security may prescribe by regulation the meaning of the term 'use and benefit' for purposes of this paragraph.''.

(b) TITLE VIII AMENDMENTS.—

(1) REISSUANCE OF BENEFITS.—Section 807(i) of the Social Security Act (42 U.S.C. 1007(i)) is amended further by inserting after the first sentence the following: ''In any case in which a representative payee that—

''(A) is not an individual; or

''(B) is an individual who, for any month during a period when misuse occurs, serves 15 or more individuals who are beneficiaries under this title, title II, title XVI, or any combination of such titles;

misuses all or part of an individual's benefit paid to such representative payee, the Commissioner of Social Security shall pay to the beneficiary or the beneficiary's alternative representative payee an amount equal to the amount of such benefit so misused. The provisions of this paragraph are subject to the limitations of subsection (l)(2).''.

(2) MISUSE OF BENEFITS DEFINED.—Section 807 of such Act (42 U.S.C. 1007) is amended by adding at the end the following:

''(j) MISUSE OF BENEFITS.—For purposes of this title, misuse of benefits by a representative payee occurs in any case in which the representative payee receives payment under this title for the use and benefit of another person under this title and converts such payment, or any part thereof, to a use other than for the use and benefit of such person. The Commissioner of Social Security may prescribe by regulation the meaning of the term 'use and benefit' for purposes of this subsection.''.

(3) TECHNICAL AMENDMENT.—Section 807(a) of such Act (42 U.S.C. 1007(a)) is amended, in the first sentence, by striking ''for his or her benefit'' and inserting ''for his or her use and benefit''.

(c) TITLE XVI AMENDMENTS.—

(1) REISSUANCE OF BENEFITS.—Section 1631(a)(2)(E) of such Act (42 U.S.C. 1383(a)(2)(E)) is amended by inserting after the first sentence the following: ''In any case in which a representative payee that—

''(i) is not an individual (regardless of whether it is a 'qualified organization' within the meaning of subparagraph (D)(ii)); or

''(ii) is an individual who, for any month during a period when misuse occurs, serves 15 or more individuals who are beneficiaries under this title, title II, title VIII, or any combination of such titles;

misuses all or part of an individual's benefit paid to such representative payee, the Commissioner of Social Security shall pay to the beneficiary or the beneficiary's alternative representative payee an amount equal to the amount of such benefit so misused. The provisions of this subparagraph are subject to the limitations of subparagraph (H)(ii).''.

(2) EXCLUSION OF REISSUED BENEFITS FROM RESOURCES.—Section 1613(a) of such Act (42 U.S.C. 1382b(a)) is amended—

(A) in paragraph (12), by striking ''and'' at the end;

(B) in paragraph (13), by striking the period and inserting ''; and''; and

(C) by inserting after paragraph (13) the following:

''(14) for the 9-month period beginning after the month in which received, any amount received by such individual (or spouse) or any other person whose income is deemed to be included in such individual's (or spouse's) income for purposes of this title as restitution for benefits under this title, title II, or title VIII that a representative payee of such individual (or spouse) or such other person under section 205(j), 807, or 1631(a)(2) has misused.''.

(3) MISUSE OF BENEFITS DEFINED.—Section 1631(a)(2)(A) of such Act (42 U.S.C. 1383(a)(2)(A)) is amended by adding at the end the following:

''(iv) For purposes of this paragraph, misuse of benefits by a representative payee occurs in any case in which the representative payee receives payment under this title for the use and benefit of another person and converts such payment, or any part thereof, to a use other than for the use and benefit of such other person. The Commissioner of Social Security may prescribe by regulation the meaning of the term 'use and benefit' for purposes of this clause.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to any case of benefit misuse by a representative payee with respect to which the Commissioner of Social Security makes the determination of misuse on or after January 1, 1995.

SEC. 102. OVERSIGHT OF REPRESENTATIVE PAYEES.

(a) CERTIFICATION OF BONDING AND LICENSING REQUIREMENTS FOR NONGOVERNMENTAL ORGANIZATIONAL REPRESENTATIVE PAYEES.—

(1) TITLE II AMENDMENTS.—Section 205(j) of the Social Security Act (42 U.S.C. 405(j)) is amended—

(A) in paragraph (2)(C)(v), by striking ''a community-based nonprofit social service agency licensed or bonded by the State'' in subclause (I) and inserting ''a certified community-based nonprofit social service agency (as defined in paragraph (9))'';

(B) in paragraph (3)(F), by striking ''community-based nonprofit social service agencies'' and inserting ''certified community-based nonprofit social service agencies (as defined in paragraph (9))'';

(C) in paragraph (4)(B), by striking ''any community-based nonprofit social service agency which is bonded or licensed in each State in which it serves as a representative payee'' and inserting ''any certified community-based nonprofit social service agency (as defined in paragraph (9))''; and

(D) by adding after paragraph (8) (as added by section 101(a)(2) of this Act) the following:

''(9) For purposes of this subsection, the term 'certified community-based nonprofit social service agency' means a community-based nonprofit social service agency which is in compliance with requirements, under regulations which shall be prescribed by the Commissioner, for annual certification to the Commissioner that it is bonded in accordance with requirements specified by the Commissioner and that it is licensed in each State in which it serves as a representative payee (if licensing is available in the State) in accordance with requirements specified by the Commissioner. Any such annual certification shall include a copy of any independent audit on the agency which may have been performed since the previous certification.''.

(2) TITLE XVI AMENDMENTS.—Section 1631(a)(2) of such Act (42 U.S.C. 1383(a)(2)) is amended—

(A) in subparagraph (B)(vii), by striking ''a community-based nonprofit social service agency licensed or bonded by the State'' in subclause

(I) and inserting ''a certified community-based nonprofit social service agency (as defined in subparagraph (I))'';

(B) in subparagraph (D)(ii)—

(i) by striking ''or any community-based'' and all that follows through ''in accordance'' in subclause (II) and inserting ''or any certified community-based nonprofit social service agency (as defined in subparagraph (I)), if the agency, in accordance'';

(ii) by redesignating items (aa) and (bb) as subclauses (I) and (II), respectively (and adjusting the margins accordingly); and

(iii) by striking ''subclause (II)(bb)'' and inserting ''subclause (II)''; and

(C) by adding at the end the following:

''(I) For purposes of this paragraph, the term 'certified community-based nonprofit social service agency' means a community-based nonprofit social service agency which is in compliance with requirements, under regulations which shall be prescribed by the Commissioner, for annual certification to the Commissioner that it is bonded in accordance with requirements specified by the Commissioner and that it is licensed in each State in which it serves as a representative payee (if licensing is available in the State) in accordance with requirements specified by the Commissioner. Any such annual certification shall include a copy of any independent audit on the agency which may have been performed since the previous certification.''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the first day of the thirteenth month beginning after the date of the enactment of this Act.

(b) PERIODIC ONSITE REVIEW.—

(1) TITLE II AMENDMENT.—Section 205(j)(6) of such Act (42 U.S.C. 405(j)(6)) is amended to read as follows:

''(6)(A) In addition to such other reviews of representative payees as the Commissioner of Social Security may otherwise conduct, the Commissioner shall provide for the periodic onsite review of any person or agency located in the United States that receives the benefits payable under this title (alone or in combination with benefits payable under title VIII or title XVI) to another individual pursuant to the appointment of such person or agency as a representative payee under this subsection, section 807, or section 1631(a)(2) in any case in which—

''(i) the representative payee is a person who serves in that capacity with respect to 15 or more such individuals;

''(ii) the representative payee is a certified community-based nonprofit social service agency (as defined in paragraph (9) of this subsection or section 1631(a)(2)(I)); or

''(iii) the representative payee is an agency (other than an agency described in clause (ii)) that serves in that capacity with respect to 50 or more such individuals.

''(B) Within 120 days after the end of each fiscal year, the Commissioner shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the results of periodic onsite reviews conducted during the fiscal year pursuant to subparagraph (A) and of any other reviews of representative payees conducted during such fiscal year in connection with benefits under this title. Each such report shall describe in detail all problems identified in such reviews and any corrective action taken or planned to be taken to correct such problems, and shall include—

''(i) the number of such reviews;

''(ii) the results of such reviews;

''(iii) the number of cases in which the representative payee was changed and why;

''(iv) the number of cases involving the exercise of expedited, targeted oversight of the representative payee by the Commissioner conducted upon receipt of an allegation of misuse of funds, failure to pay a vendor, or a similar irregularity;

''(v) the number of cases discovered in which there was a misuse of funds;

''(vi) how any such cases of misuse of funds were dealt with by the Commissioner;

''(vii) the final disposition of such cases of misuse of funds, including any criminal penalties imposed; and

''(viii) such other information as the Commissioner deems appropriate.''.

(2) TITLE VIII AMENDMENT.—Section 807 of such Act (as amended by section 101(b)(2) of this Act) is amended further by adding at the end the following:

''(k) PERIODIC ONSITE REVIEW.—

''(1) IN GENERAL.—In addition to such other reviews of representative payees as the Commissioner of Social Security may otherwise conduct, the Commissioner may provide for the periodic onsite review of any person or agency that receives the benefits payable under this title (alone or in combination with benefits payable under title II or title XVI) to another individual pursuant to the appointment of such person or agency as a representative payee under this section, section 205(j), or section 1631(a)(2) in any case in which—

''(A) the representative payee is a person who serves in that capacity with respect to 15 or more such individuals; or

''(B) the representative payee is an agency that serves in that capacity with respect to 50 or more such individuals.

''(2) REPORT.—Within 120 days after the end of each fiscal year, the Commissioner shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the results of periodic onsite reviews conducted during the fiscal year pursuant to paragraph (1) and of any other reviews of representative payees conducted during such fiscal year in connection with benefits under this title. Each such report shall describe in detail all problems identified in such reviews and any corrective action taken or planned to be taken to correct such problems, and shall include—

''(A) the number of such reviews;

''(B) the results of such reviews;

''(C) the number of cases in which the representative payee was changed and why;

''(D) the number of cases involving the exercise of expedited, targeted oversight of the representative payee by the Commissioner conducted upon receipt of an allegation of misuse of funds, failure to pay a vendor, or a similar irregularity;

''(E) the number of cases discovered in which there was a misuse of funds;

''(F) how any such cases of misuse of funds were dealt with by the Commissioner;

''(G) the final disposition of such cases of misuse of funds, including any criminal penalties imposed; and

''(H) such other information as the Commissioner deems appropriate.''.

(3) TITLE XVI AMENDMENT.—Section 1631(a)(2)(G) of such Act (42 U.S.C. 1383(a)(2)(G)) is amended to read as follows:

''(G)(i) In addition to such other reviews of representative payees as the Commissioner of Social Security may otherwise conduct, the Commissioner shall provide for the periodic onsite review of any person or agency that receives the benefits payable under this title (alone or in combination with benefits payable under title II or title VIII) to another individual pursuant to the appointment of the person or agency as a representative payee under this paragraph, section 205(j), or section 807 in any case in which—

''(I) the representative payee is a person who serves in that capacity with respect to 15 or more such individuals;

''(II) the representative payee is a certified community-based nonprofit social service agency (as defined in subparagraph (I) of this paragraph or section 205(j)(9)); or

''(III) the representative payee is an agency (other than an agency described in subclause (II)) that serves in that capacity with respect to 50 or more such individuals.

''(ii) Within 120 days after the end of each fiscal year, the Commissioner shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the results of periodic onsite reviews conducted during the fiscal year pursuant to clause (i) and of any other reviews of representative payees conducted during such fiscal year in connection with benefits under this title. Each such report shall describe in detail all problems identified in the reviews and any corrective action taken or planned to be taken to correct the problems, and shall include—

''(I) the number of the reviews;

''(II) the results of such reviews;

''(III) the number of cases in which the representative payee was changed and why;

''(IV) the number of cases involving the exercise of expedited, targeted oversight of the representative payee by the Commissioner conducted upon receipt of an allegation of misuse of funds, failure to pay a vendor, or a similar irregularity;

''(V) the number of cases discovered in which there was a misuse of funds;

''(VI) how any such cases of misuse of funds were dealt with by the Commissioner;

''(VII) the final disposition of such cases of misuse of funds, including any criminal penalties imposed; and

''(VIII) such other information as the Commissioner deems appropriate.''.

SEC. 103. DISQUALIFICATION FROM SERVICE AS REPRESENTATIVE PAYEE OF PERSONS CONVICTED OF OFFENSES RESULTING IN IMPRISONMENT FOR MORE THAN 1 YEAR OR FLEEING PROSECUTION, CUSTODY, OR CONFINEMENT.

(a) TITLE II AMENDMENTS.—Section 205(j)(2) of the Social Security Act (42 U.S.C. 405(j)(2)) is amended—

(1) in subparagraph (B)(i)—

(A) by striking ''and'' at the end of subclause (III);

(B) by redesignating subclause (IV) as subclause (VI); and

(C) by inserting after subclause (III) the following:

''(IV) obtain information concerning whether such person has been convicted of any other offense under Federal or State law which resulted in imprisonment for more than 1 year,

''(V) obtain information concerning whether such person is a person described in section 202(x)(1)(A)(iv), and'';

(2) in subparagraph (B), by adding at the end the following:

''(iii) Notwithstanding the provisions of section 552a of title 5, United States Code, or any other provision of Federal or State law (other than section 6103 of the Internal Revenue Code of 1986 and section 1106(c) of this Act), the Commissioner shall furnish any Federal, State, or local law enforcement officer, upon the written request of the officer, with the current address, social security account number, and photograph (if applicable) of any person investigated under this paragraph, if the officer furnishes the Commissioner with the name of such person and such other identifying information as may reasonably be required by the Commissioner to establish the unique identity of such person, and notifies the Commissioner that—

''(I) such person is described in section 202(x)(1)(A)(iv),

''(II) such person has information that is necessary for the officer to conduct the officer's official duties, and

''(III) the location or apprehension of such person is within the officer's official duties.'';

(3) in subparagraph (C)(i)(II)—

(A) by striking ''subparagraph (B)(i)(IV),,'' and inserting ''subparagraph (B)(i)(VI)''; and

(B) by striking ''section 1631(a)(2)(B)(ii)(IV)'' and inserting ''section 1631(a)(2)(B)(ii)(VI)''; and

(4) in subparagraph (C)(i)—

(A) by striking ''or'' at the end of subclause (II);

(B) by striking the period at the end of subclause (III) and inserting a comma; and

(C) by adding at the end the following:

''(IV) such person has previously been convicted as described in subparagraph (B)(i)(IV), unless the Commissioner determines that such certification would be appropriate notwithstanding such conviction, or

''(V) such person is person described in section 202(x)(1)(A)(iv).''.

(b) TITLE VIII AMENDMENTS.—Section 807 of such Act (42 U.S.C. 1007) is amended—

(1) in subsection (b)(2)—

(A) by striking ''and'' at the end of subparagraph (C);

(B) by redesignating subparagraph (D) as subparagraph (F); and

(C) by inserting after subparagraph (C) the following:

''(D) obtain information concerning whether such person has been convicted of any other offense under Federal or State law which resulted in imprisonment for more than 1 year;

''(E) obtain information concerning whether such person is a person described in section 804(a)(2); and'';

(2) in subsection (b), by adding at the end the following:

''(3) Notwithstanding the provisions of section 552a of title 5, United States Code, or any other provision of Federal or State law (other than section 6103 of the Internal Revenue Code of 1986 and section 1106(c) of this Act), the Commissioner shall furnish any Federal, State, or local law enforcement officer, upon the written request of the officer, with the current address, social security account number, and photograph (if applicable) of any person investigated under this subsection, if the officer furnishes the Commissioner with the name of such person and such other identifying information as may reasonably be required by the Commissioner to establish the unique identity of such person, and notifies the Commissioner that—

''(A) such person is described in section 804(a)(2),

''(B) such person has information that is necessary for the officer to conduct the officer's official duties, and

''(C) the location or apprehension of such person is within the officer's official duties.''; and

(3) in subsection (d)(1)—

(A) by striking ''or'' at the end of subparagraph (B);

(B) by striking the period at the end of subparagraph (C) and inserting a semicolon; and

(C) by adding at the end the following:

''(D) such person has previously been convicted as described in subsection (b)(2)(D), unless the Commissioner determines that such payment would be appropriate notwithstanding such conviction; or

''(E) such person is a person described in section 804(a)(2).''.

(c) TITLE XVI AMENDMENTS.—Section 1631(a)(2)(B) of such Act (42 U.S.C. 1383(a)(2)(B)) is amended—

(1) in clause (ii)—

(A) by striking ''and'' at the end of subclause (III);

(B) by redesignating subclause (IV) as subclause (VI); and

(C) by inserting after subclause (III) the following:

''(IV) obtain information concerning whether the person has been convicted of any other offense under Federal or State law which resulted in imprisonment for more than 1 year;

''(V) obtain information concerning whether such person is a person described in section 1611(e)(4)(A); and'';

(2) in clause (iii)(II)—

(A) by striking ''clause (ii)(IV)'' and inserting ''clause (ii)(VI)''; and

(B) by striking ''section 205(j)(2)(B)(i)(IV)'' and inserting ''section 205(j)(2)(B)(i)(VI)'';

(3) in clause (iii)—

(A) by striking ''or'' at the end of subclause (II);

(B) by striking the period at the end of subclause (III) and inserting a semicolon; and

(C) by adding at the end the following:

''(IV) the person has previously been convicted as described in clause (ii)(IV) of this subparagraph, unless the Commissioner determines that the payment would be appropriate notwithstanding the conviction; or

''(V) such person is a person described in section 1611(e)(4)(A).''; and

(4) by adding at the end the following:

''(xiv) Notwithstanding the provisions of section 552a of title 5, United States Code, or any other provision of Federal or State law (other than section 6103 of the Internal Revenue Code of 1986 and section 1106(c) of this Act), the Commissioner shall furnish any Federal, State, or local law enforcement officer, upon the written request of the officer, with the current address, social security account number, and photograph (if applicable) of any person investigated under this subparagraph, if the officer furnishes the Commissioner with the name of such person and such other identifying information as may reasonably be required by the Commissioner to establish the unique identity of such person, and notifies the Commissioner that—

''(I) such person is described in section 1611(e)(4)(A),

''(II) such person has information that is necessary for the officer to conduct the officer's official duties, and

''(III) the location or apprehension of such person is within the officer's official duties.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the thirteenth month beginning after the date of the enactment of this Act.

(e) REPORT TO CONGRESS.—The Commissioner of Social Security, in consultation with the Inspector General of the Social Security Administration, shall prepare a report evaluating whether the existing procedures and reviews for the qualification (including disqualification) of representative payees are sufficient to enable the Commissioner to protect benefits from being misused by representative payees. The Commissioner shall submit the report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate no later than 270 days after the date of the enactment of this Act. The Commissioner shall include in such report any recommendations that the Commissioner considers appropriate.

SEC. 104. FEE FORFEITURE IN CASE OF BENEFIT MISUSE BY REPRESENTATIVE PAYEES.

(a) TITLE II AMENDMENTS.—Section 205(j)(4)(A)(i) of the Social Security Act (42 U.S.C. 405(j)(4)(A)(i)) is amended—

(1) in the first sentence, by striking ''A'' and inserting ''Except as provided in the next sentence, a''; and

(2) in the second sentence, by striking ''The Secretary'' and inserting the following: ''A qualified organization may not collect a fee from an individual for any month with respect to which the Commissioner of Social Security or a court of competent jurisdiction has determined that the organization misused all or part of the individual's benefit, and any amount so collected by the qualified organization for such month shall be treated as a misused part of the individual's benefit for purposes of paragraphs (5) and (6). The Commissioner''.

(b) TITLE XVI AMENDMENTS.—Section 1631(a)(2)(D)(i) of such Act (42 U.S.C. 1383(a)(2)(D)(i)) is amended—

(1) in the first sentence, by striking ''A'' and inserting ''Except as provided in the next sentence, a''; and

(2) in the second sentence, by striking ''The Commissioner'' and inserting the following: ''A qualified organization may not collect a fee from an individual for any month with respect to which the Commissioner of Social Security or a court of competent jurisdiction has determined that the organization misused all or part of the individual's benefit, and any amount so collected by the qualified organization for such month shall be treated as a misused part of the individual's benefit for purposes of subparagraphs (E) and (F). The Commissioner''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to any month involving benefit misuse by a representative payee in any case with respect to which the Commissioner of Social Security or a court of competent jurisdiction makes the determination of misuse after 180 days after the date of the enactment of this Act.

SEC. 105. LIABILITY OF REPRESENTATIVE PAYEES FOR MISUSED BENEFITS.

(a) TITLE II AMENDMENTS.—Section 205(j) of the Social Security Act (42 U.S.C. 405(j)) (as amended by sections 101 and 102) is amended further—

(1) by redesignating paragraphs (7), (8), and (9) as paragraphs (8), (9), and (10), respectively;

(2) in paragraphs (2)(C)(v), (3)(F), and (4)(B), by striking ''paragraph (9)'' and inserting ''paragraph (10)'';

(3) in paragraph (6)(A)(ii), by striking ''paragraph (9)'' and inserting ''paragraph (10)''; and

(4) by inserting after paragraph (6) the following:

''(7)(A) If the Commissioner of Social Security or a court of competent jurisdiction determines that a representative payee that is not a Federal, State, or local government agency has misused all or part of an individual's benefit that was paid to such representative payee under this subsection, the representative payee shall be liable for the amount misused, and such amount (to the extent not repaid by the representative payee) shall be treated as an overpayment of benefits under this title to the representative payee for all purposes of this Act and related laws pertaining to the recovery of such overpayments. Subject to subparagraph (B), upon recovering all or any part of such amount, the Commissioner shall certify an amount equal to the recovered amount for payment to such individual or such individual's alternative representative payee.

''(B) The total of the amount certified for payment to such individual or such individual's alternative representative payee under subparagraph (A) and the amount certified for payment under paragraph (5) may not exceed the total benefit amount misused by the representative payee with respect to such individual.''.

(b) TITLE VIII AMENDMENT.—Section 807 of such Act (as amended by section 102(b)(2)) is amended further by adding at the end the following:

''(l) LIABILITY FOR MISUSED AMOUNTS.—

''(1) IN GENERAL.—If the Commissioner of Social Security or a court of competent jurisdiction determines that a representative payee that is not a Federal, State, or local government agency has misused all or part of a qualified individual's benefit that was paid to such representative payee under this section, the representative payee shall be liable for the amount misused, and such amount (to the extent not repaid by the representative payee) shall be treated as an overpayment of benefits under this title to the representative payee for all purposes of this Act and related laws pertaining to the recovery of such overpayments. Subject to paragraph (2), upon recovering all or any part of such amount, the Commissioner shall make payment of an amount equal to the recovered amount to such qualified individual or such qualified individual's alternative representative payee.

''(2) LIMITATION.—The total of the amount paid to such individual or such individual's alternative representative payee under paragraph (1) and the amount paid under subsection (i) may not exceed the total benefit amount misused by the representative payee with respect to such individual.''.

(c) TITLE XVI AMENDMENTS.—Section 1631(a)(2) of such Act (42 U.S.C. 1383(a)(2)) (as amended by section 102(b)(3)) is amended further—

(1) in subparagraph (G)(i)(II), by striking ''section 205(j)(9)'' and inserting ''section 205(j)(10)''; and

(2) by striking subparagraph (H) and inserting the following:

''(H)(i) If the Commissioner of Social Security or a court of competent jurisdiction determines that a representative payee that is not a Federal, State, or local government agency has misused all or part of an individual's benefit that was paid to the representative payee under this paragraph, the representative payee shall be liable for the amount misused, and the amount (to the extent not repaid by the representative payee) shall be treated as an overpayment of benefits under this title to the representative payee for all purposes of this Act and related laws pertaining to the recovery of the overpayments. Subject to clause (ii), upon recovering all or any part of the amount, the Commissioner shall make payment of an amount equal to the recovered amount to such individual or such individual's alternative representative payee.

''(ii) The total of the amount paid to such individual or such individual's alternative representative payee under clause (i) and the amount paid under subparagraph (E) may not exceed the total benefit amount misused by the representative payee with respect to such individual.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to benefit misuse by a representative payee in any case with respect to which the Commissioner of Social Security or a court of competent jurisdiction makes the determination of misuse after 180 days after the date of the enactment of this Act.

SEC. 106. AUTHORITY TO REDIRECT DELIVERY OF BENEFIT PAYMENTS WHEN A REPRESENTATIVE PAYEE FAILS TO PROVIDE REQUIRED ACCOUNTING.

(a) TITLE II AMENDMENTS.—Section 205(j)(3) of the Social Security Act (42 U.S.C. 405(j)(3)) (as amended by sections 102(a)(1)(B) and 105(a)(2)) is amended—

(1) by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively; and

(2) by inserting after subparagraph (D) the following:

''(E) In any case in which the person described in subparagraph (A) or (D) receiving payments on behalf of another fails to submit a report required by the Commissioner of Social Security under subparagraph (A) or (D), the Commissioner may, after furnishing notice to such person and the individual entitled to such payment, require that such person appear in person at a field office of the Social Security Administration serving the area in which the individual resides in order to receive such payments.''.

(b) TITLE VIII AMENDMENTS.—Section 807(h) of such Act (42 U.S.C. 1007(h)) is amended—

(1) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

(2) by inserting after paragraph (2) the following:

''(3) AUTHORITY TO REDIRECT DELIVERY OF BENEFIT PAYMENTS WHEN A REPRESENTATIVE PAYEE FAILS TO PROVIDE REQUIRED ACCOUNTING.—In any case in which the person described in paragraph (1) or (2) receiving benefit payments on behalf of a qualified individual fails to submit a report required by the Commissioner of Social Security under paragraph (1) or (2), the Commissioner may, after furnishing notice to such person and the qualified individual, require that such person appear in person at a United States Government facility designated by the Social Security Administration as serving the area in which the qualified individual resides in order to receive such benefit payments.''.

(c) TITLE XVI AMENDMENT.—Section 1631(a)(2)(C) of such Act (42 U.S.C. 1383(a)(2)(C)) is amended by adding at the end the following:

''(v) In any case in which the person described in clause (i) or (iv) receiving payments on behalf of another fails to submit a report required by the Commissioner of Social Security under clause (i) or (iv), the Commissioner may, after furnishing notice to the person and the individual entitled to the payment, require that such person appear in person at a field office of the Social Security Administration serving the area in which the individual resides in order to receive such payments.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect 180 days after the date of the enactment of this Act.

SEC. 107. SURVEY OF USE OF PAYMENTS BY REPRESENTATIVE PAYEES.

(a) IN GENERAL.—Section 1110 of the Social Security Act (42 U.S.C. 1310) is amended by adding at the end the following:

''(c)(1) In addition to the amount otherwise appropriated in any other law to carry out subsection (a) for fiscal year 2004, up to $8,500,000 is authorized and appropriated and shall be used by the Commissioner of Social Security under this subsection for purposes of conducting a statistically valid survey to determine how payments made to individuals, organizations, and State or local government agencies that are representative payees for benefits paid under title II or XVI are being managed and used on behalf of the beneficiaries for whom such benefits are paid.

''(2) Not later than 18 months after the date of enactment of this subsection, the Commissioner of Social Security shall submit a report on the survey conducted in accordance with paragraph (1) to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.''.

Subtitle B—Enforcement

SEC. 111. CIVIL MONETARY PENALTY AUTHORITY WITH RESPECT TO WRONGFUL CONVERSIONS BY REPRESENTATIVE PAYEES.

(a) IN GENERAL.—Section 1129(a) of the Social Security Act (42 U.S.C. 1320a–8) is amended by adding at the end the following:

''(3) Any person (including an organization, agency, or other entity) who, having received, while acting in the capacity of a representative payee pursuant to section 205(j), 807, or 1631(a)(2), a payment under title II, VIII, or XVI for the use and benefit of another individual, converts such payment, or any part thereof, to a use that such person knows or should know is other than for the use and benefit of such other individual shall be subject to, in addition to any other penalties that may be prescribed by law, a civil money penalty of not more than $5,000 for each such conversion. Such person shall also be subject to an assessment, in lieu of damages sustained by the United States resulting from the conversion, of not more than twice the amount of any payments so converted.''.

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

TITLE II—PROGRAM PROTECTIONS

SEC. 201. CIVIL MONETARY PENALTY AUTHORITY WITH RESPECT TO WITHHOLDING OF MATERIAL FACTS.

(a) TREATMENT OF WITHHOLDING OF MATERIAL FACTS.—

(1) CIVIL PENALTIES.—Section 1129(a)(1) of the Social Security Act (42 U.S.C. 1320a–8(a)(1)) is amended—

(A) by striking ''who'' in the first sentence and inserting ''who—'';

(B) by striking ''makes'' in the first sentence and all that follows through ''shall be subject to,'' and inserting the following:

''(A) makes, or causes to be made, a statement or representation of a material fact, for use in determining any initial or continuing right to or the amount of monthly insurance benefits under title II or benefits or payments under title VIII or XVI, that the person knows or should know is false or misleading,

''(B) makes such a statement or representation for such use with knowing disregard for the truth, or

''(C) omits from a statement or representation for such use, or otherwise withholds disclosure of, a fact which the person knows or should know is material to the determination of any initial or continuing right to or the amount of monthly insurance benefits under title II or benefits or payments under title VIII or XVI, if the person knows, or should know, that the statement or representation with such omission is false or misleading or that the withholding of such disclosure is misleading,

shall be subject to,'';

(C) by inserting ''or each receipt of such benefits or payments while withholding disclosure of such fact'' after ''each such statement or representation'' in the first sentence;

(D) by inserting ''or because of such withholding of disclosure of a material fact'' after ''because of such statement or representation'' in the second sentence; and

(E) by inserting ''or such a withholding of disclosure'' after ''such a statement or representation'' in the second sentence.

(2) ADMINISTRATIVE PROCEDURE FOR IMPOSING PENALTIES.—Section 1129A(a) of such Act (42 U.S.C. 1320a–8a(a)) is amended—

(A) by striking ''who'' the first place it appears and inserting ''who—''; and

(B) by striking ''makes'' and all that follows through ''shall be subject to,'' and inserting the following:

''(1) makes, or causes to be made, a statement or representation of a material fact, for use in determining any initial or continuing right to or the amount of monthly insurance benefits under title II or benefits or payments under title XVI that the person knows or should know is false or misleading,

''(2) makes such a statement or representation for such use with knowing disregard for the truth, or

''(3) omits from a statement or representation for such use, or otherwise withholds disclosure of, a fact which the person knows or should know is material to the determination of any initial or continuing right to or the amount of monthly insurance benefits under title II or benefits or payments under title XVI, if the person knows, or should know, that the statement or representation with such omission is false or misleading or that the withholding of such disclosure is misleading,

shall be subject to,''.

(b) CLARIFICATION OF TREATMENT OF RECOVERED AMOUNTS.—Section 1129(e)(2)(B) of such Act (42 U.S.C. 1320a–8(e)(2)(B)) is amended by striking ''In the case of amounts recovered arising out of a determination relating to title VIII or XVI,'' and inserting ''In the case of any other amounts recovered under this section,''.

(c) CONFORMING AMENDMENTS.—

(1) Section 1129(b)(3)(A) of such Act (42 U.S.C. 1320a–8(b)(3)(A)) is amended by striking ''charging fraud or false statements''.

(2) Section 1129(c)(1) of such Act (42 U.S.C. 1320a–8(c)(1)) is amended by striking ''and representations'' and inserting '', representations, or actions''.

(3) Section 1129(e)(1)(A) of such Act (42 U.S.C. 1320a–8(e)(1)(A)) is amended by striking ''statement or representation referred to in subsection (a) was made'' and inserting ''violation occurred''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to violations committed after the date on which the Commissioner of Social Security implements the centralized computer file described in section 202.

SEC. 202. ISSUANCE BY COMMISSIONER OF SOCIAL SECURITY OF RECEIPTS TO ACKNOWLEDGE SUBMISSION OF REPORTS OF CHANGES IN WORK OR EARNINGS STATUS OF DISABLED BENEFICIARIES.

Effective as soon as possible, but not later than 1 year after the date of the enactment of this Act, until such time as the Commissioner of Social Security implements a centralized computer file recording the date of the submission of information by a disabled beneficiary (or representative) regarding a change in the beneficiary's work or earnings status, the Commissioner shall issue a receipt to the disabled beneficiary (or representative) each time he or she submits documentation, or otherwise reports to the Commissioner, on a change in such status.

SEC. 203. DENIAL OF TITLE II BENEFITS TO PERSONS FLEEING PROSECUTION, CUSTODY, OR CONFINEMENT, AND TO PERSONS VIOLATING PROBATION OR PAROLE.

(a) IN GENERAL.—Section 202(x) of the Social Security Act (42 U.S.C. 402(x)) is amended—

(1) in the heading, by striking ''Prisoners'' and all that follows and inserting the following: ''Prisoners, Certain Other Inmates of Publicly Funded Institutions, Fugitives, Probationers, and Parolees'';

(2) in paragraph (1)(A)(ii)(IV), by striking ''or'' at the end;

(3) in paragraph (1)(A)(iii), by striking the period at the end and inserting a comma;

(4) by inserting after paragraph (1)(A)(iii) the following:

''(iv) is fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the person flees, for a crime, or an attempt to commit a crime, which is a felony under the laws of the place from which the person flees, or, in jurisdictions that do not define crimes as felonies, is punishable by death or imprisonment for a term exceeding 1 year regardless of the actual sentence imposed, or

''(v) is violating a condition of probation or parole imposed under Federal or State law.'';

(5) by adding at the end of paragraph (1)(B) the following:

''(iii) Notwithstanding subparagraph (A), the Commissioner shall, for good cause shown, pay the individual benefits that have been withheld or would otherwise be withheld pursuant to clause (iv) or (v) of subparagraph (A) if the Commissioner determines that—

''(I) a court of competent jurisdiction has found the individual not guilty of the criminal offense, dismissed the charges relating to the criminal offense, vacated the warrant for arrest of the individual for the criminal offense, or issued any similar exonerating order (or taken similar exonerating action), or

''(II) the individual was erroneously implicated in connection with the criminal offense by reason of identity fraud.

''(iv) Notwithstanding subparagraph (A), the Commissioner may, for good cause shown based on mitigating circumstances, pay the individual benefits that have been withheld or would otherwise be withheld pursuant to clause (iv) or (v) of subparagraph (A) if the Commissioner determines that—

''(I) the offense described in clause (iv) or underlying the imposition of the probation or parole described in clause (v) was nonviolent and not drug-related, and

''(II) in the case of an individual from whom benefits have been withheld or otherwise would be withheld pursuant to subparagraph (A)(v), the action that resulted in the violation of a condition of probation or parole was nonviolent and not drug-related.''; and

(6) in paragraph (3), by adding at the end the following:

''(C) Notwithstanding the provisions of section 552a of title 5, United States Code, or any other provision of Federal or State law (other than section 6103 of the Internal Revenue Code of 1986 and section 1106(c) of this Act), the Commissioner shall furnish any Federal, State, or local law enforcement officer, upon the written request of the officer, with the current address, Social Security number, and photograph (if applicable) of any beneficiary under this title, if the officer furnishes the Commissioner with the name of the beneficiary, and other identifying information as reasonably required by the Commissioner to establish the unique identity of the beneficiary, and notifies the Commissioner that—

''(i) the beneficiary is described in clause (iv) or (v) of paragraph (1)(A); and

''(ii) the location or apprehension of the beneficiary is within the officer's official duties.''.

(b) CONFORMING AMENDMENTS TO TITLE XVI.—Section 1611(e) of the Social Security Act (42 U.S.C. 1382(e)) is amended—

(1) in paragraph (4)—

(A) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(B) by inserting ''(A)'' after ''(4)'';

(C) in clause (i) of subparagraph (A) (as redesignated by subparagraph (A)), by striking ''or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State'' and inserting ''or, in jurisdictions that do not define crimes as felonies, is punishable by death or imprisonment for a term exceeding 1 year regardless of the actual sentence imposed''; and

(D) by adding at the end the following:

''(B) Notwithstanding subparagraph (A), the Commissioner shall, for good cause shown, treat the person referred to in subparagraph (A) as an eligible individual or eligible spouse if the Commissioner determines that—

''(i) a court of competent jurisdiction has found the person not guilty of the criminal offense, dismissed the charges relating to the criminal offense, vacated the warrant for arrest of the person for the criminal offense, or issued any similar exonerating order (or taken similar exonerating action), or

''(ii) the person was erroneously implicated in connection with the criminal offense by reason of identity fraud.

''(C) Notwithstanding subparagraph (A), the Commissioner may, for good cause shown based on mitigating circumstances, treat the person referred to in subparagraph (A) as an eligible individual or eligible spouse if the Commissioner determines that—

''(i) the offense described in subparagraph (A)(i) or underlying the imposition of the probation or parole described in subparagraph (A)(ii) was nonviolent and not drug-related, and

''(ii) in the case of a person who is not considered an eligible individual or eligible spouse pursuant to subparagraph (A)(ii), the action that resulted in the violation of a condition of probation or parole was nonviolent and not drug-related.''; and

(2) in paragraph (5), by striking subparagraphs (A) and (B) and inserting the following:

''(A) the recipient is described in clause (i) or (ii) of paragraph (4)(A); and

''(B) the location or apprehension of the recipient is within the officer's official duties.''.

(c) CONFORMING AMENDMENT.—Section 804(a)(2) of the Social Security Act (42 U.S.C. 1004(a)(2)) is amended by striking ''or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State'' and inserting ''or, in jurisdictions that do not define crimes as felonies, is punishable by death or imprisonment for a term exceeding 1 year regardless of the actual sentence imposed''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first month that begins on or after the date that is 9 months after the date of enactment of this Act.

SEC. 204. REQUIREMENTS RELATING TO OFFERS TO PROVIDE FOR A FEE, A PRODUCT OR SERVICE AVAILABLE WITHOUT CHARGE FROM THE SOCIAL SECURITY ADMINISTRATION.

(a) IN GENERAL.—Section 1140 of the Social Security Act (42 U.S.C. 1320b–10) is amended—

(1) in subsection (a), by adding at the end the following:

''(4)(A) No person shall offer, for a fee, to assist an individual to obtain a product or service that the person knows or should know is provided free of charge by the Social Security Administration unless, at the time the offer is made, the person provides to the individual to whom the offer is tendered a notice that—

''(i) explains that the product or service is available free of charge from the Social Security Administration, and

''(ii) complies with standards prescribed by the Commissioner of Social Security respecting the content of such notice and its placement, visibility, and legibility.

''(B) Subparagraph (A) shall not apply to any offer—

''(i) to serve as a claimant representative in connection with a claim arising under title II, title VIII, or title XVI; or

''(ii) to prepare, or assist in the preparation of, an individual's plan for achieving self-support under title XVI.''; and

(2) in the heading, by striking ''PROHIBITION OF MISUSE OF SYMBOLS, EMBLEMS, OR NAMES IN REFERENCE'' and inserting ''PROHIBITIONS RELATING TO REFERENCES''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to offers of assistance made after the sixth month ending after the Commissioner of Social Security promulgates final regulations prescribing the standards applicable to the notice required to be provided in connection with such offer. The Commissioner shall promulgate such final regulations within 1 year after the date of the enactment of this Act.

SEC. 205. REFUSAL TO RECOGNIZE CERTAIN INDIVIDUALS AS CLAIMANT REPRESENTATIVES.

Section 206(a)(1) of the Social Security Act (42 U.S.C. 406(a)(1)) is amended by inserting after the second sentence the following: ''Notwithstanding the preceding sentences, the Commissioner, after due notice and opportunity for hearing, (A) may refuse to recognize as a representative, and may disqualify a representative already recognized, any attorney who has been disbarred or suspended from any court or bar to which he or she was previously admitted to practice or who has been disqualified from participating in or appearing before any Federal program or agency, and (B) may refuse to recognize, and may disqualify, as a non-attorney representative any attorney who has been disbarred or suspended from any court or bar to which he or she was previously admitted to practice. A representative who has been disqualified or suspended pursuant to this section from appearing before the Social Security Administration as a result of collecting or receiving a fee in excess of the amount authorized shall be barred from appearing before the Social Security Administration as a representative until full restitution is made to the claimant and, thereafter, may be considered for reinstatement only under such rules as the Commissioner may prescribe.''.

SEC. 206. CRIMINAL PENALTY FOR CORRUPT OR FORCIBLE INTERFERENCE WITH ADMINISTRATION OF SOCIAL SECURITY ACT.

Part A of title XI of the Social Security Act (42 U.S.C. 1301 et seq.) is amended by inserting after section 1129A the following:

''ATTEMPTS TO INTERFERE WITH ADMINISTRATION OF SOCIAL SECURITY ACT

''SEC. 1129B. Whoever corruptly or by force or threats of force (including any threatening letter or communication) attempts to intimidate or impede any officer, employee, or contractor of the Social Security Administration (including

any State employee of a disability determination service or any other individual designated by the Commissioner of Social Security) acting in an official capacity to carry out a duty under this Act, or in any other way corruptly or by force or threats of force (including any threatening letter or communication) obstructs or impedes, or attempts to obstruct or impede, the due administration of this Act, shall be fined not more than $5,000, imprisoned not more than 3 years, or both, except that if the offense is committed only by threats of force, the person shall be fined not more than $3,000, imprisoned not more than 1 year, or both. In this subsection, the term 'threats of force' means threats of harm to the officer or employee of the United States or to a contractor of the Social Security Administration, or to a member of the family of such an officer or employee or contractor.''.

SEC. 207. USE OF SYMBOLS, EMBLEMS, OR NAMES IN REFERENCE TO SOCIAL SECURITY OR MEDICARE.

(a) IN GENERAL.—Section 1140(a)(1) of the Social Security Act (42 U.S.C. 1320b–10(a)(1)) is amended—

(1) in subparagraph (A), by inserting ''''Centers for Medicare & Medicaid Services','' after ''''Health Care Financing Administration','', by striking ''or 'Medicaid','' and inserting ''''Medicaid', 'Death Benefits Update', 'Federal Benefit Information', 'Funeral Expenses', or 'Final Supplemental Plan','' and by inserting ''''CMS','' after ''''HCFA','';

(2) in subparagraph (B), by inserting ''Centers for Medicare & Medicaid Services,'' after ''Health Care Financing Administration,'' each place it appears; and

(3) in the matter following subparagraph (B), by striking ''the Health Care Financing Administration,'' each place it appears and inserting ''the Centers for Medicare & Medicaid Services,''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to items sent after 180 days after the date of the enactment of this Act.

SEC. 208. DISQUALIFICATION FROM PAYMENT DURING TRIAL WORK PERIOD UPON CONVICTION OF FRAUDULENT CONCEALMENT OF WORK ACTIVITY.

(a) IN GENERAL.—Section 222(c) of the Social Security Act (42 U.S.C. 422(c)) is amended by adding at the end the following:

''(5) Upon conviction by a Federal court that an individual has fraudulently concealed work activity during a period of trial work from the Commissioner of Social Security by—

''(A) providing false information to the Commissioner of Social Security as to whether the individual had earnings in or for a particular period, or as to the amount thereof;

''(B) receiving disability insurance benefits under this title while engaging in work activity under another identity, including under another social security account number or a number purporting to be a social security account number; or

''(C) taking other actions to conceal work activity with an intent fraudulently to secure payment in a greater amount than is due or when no payment is authorized,

no benefit shall be payable to such individual under this title with respect to a period of disability for any month before such conviction during which the individual rendered services during the period of trial work with respect to which the fraudulently concealed work activity occurred, and amounts otherwise due under this title as restitution, penalties, assessments, fines, or other repayments shall in all cases be in addition to any amounts for which such individual is liable as overpayments by reason of such concealment.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to work activity performed after the date of the enactment of this Act.

SEC. 209. AUTHORITY FOR JUDICIAL ORDERS OF RESTITUTION.

(a) AMENDMENTS TO TITLE II.—Section 208 of the Social Security Act (42 U.S.C. 408) is amended—

(1) by redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e), respectively;

(2) by inserting after subsection (a) the following:

''(b)(1) Any Federal court, when sentencing a defendant convicted of an offense under subsection (a), may order, in addition to or in lieu of any other penalty authorized by law, that the defendant make restitution to the victims of such offense specified in paragraph (4).

''(2) Sections 3612, 3663, and 3664 of title 18, United States Code, shall apply with respect to the issuance and enforcement of orders of restitution to victims of such offense under this subsection.

''(3) If the court does not order restitution, or orders only partial restitution, under this subsection, the court shall state on the record the reasons therefor.

''(4) For purposes of paragraphs (1) and (2), the victims of an offense under subsection (a) are the following:

''(A) Any individual who suffers a financial loss as a result of the defendant's violation of subsection (a).

''(B) The Commissioner of Social Security, to the extent that the defendant's violation of subsection (a) results in—

''(i) the Commissioner of Social Security making a benefit payment that should not have been made; or

''(ii) an individual suffering a financial loss due to the defendant's violation of subsection (a) in his or her capacity as the individual's representative payee appointed pursuant to section 205(j).

''(5)(A) Except as provided in subparagraph (B), funds paid to the Commissioner of Social Security as restitution pursuant to a court order shall be deposited in the Federal Old-Age and Survivors Insurance Trust Fund, or the Federal Disability Insurance Trust Fund, as appropriate.

''(B) In the case of funds paid to the Commissioner of Social Security pursuant to paragraph (4)(B)(ii), the Commissioner of Social Security shall certify for payment to the individual described in such paragraph an amount equal to the lesser of the amount of the funds so paid or the individual's outstanding financial loss, except that such amount may be reduced by the amount of any overpayments of benefits owed under this title, title VIII, or title XVI by the individual.''; and

(3) by amending subsection (c) (as redesignated by paragraph (1)), by striking the second sentence.

(b) AMENDMENTS TO TITLE VIII.—Section 811 of the Social Security Act (42 U.S.C. 1011) is amended—

(1) by striking subsection (b) and inserting the following:

''(b) COURT ORDER FOR RESTITUTION.—

''(1) IN GENERAL.—Any Federal court, when sentencing a defendant convicted of an offense under subsection (a), may order, in addition to or in lieu of any other penalty authorized by law, that the defendant make restitution to the Commissioner of Social Security, in any case in which such offense results in—

''(A) the Commissioner of Social Security making a benefit payment that should not have been made, or

''(B) an individual suffering a financial loss due to the defendant's violation of subsection (a) in his or her capacity as the individual's representative payee appointed pursuant to section 807(i).

''(2) RELATED PROVISIONS.—Sections 3612, 3663, and 3664 of title 18, United States Code, shall apply with respect to the issuance and enforcement of orders of restitution under this subsection. In so applying such sections, the Commissioner of Social Security shall be considered the victim.

''(3) STATED REASONS FOR NOT ORDERING RESTITUTION.—If the court does not order restitution, or orders only partial restitution, under this subsection, the court shall state on the record the reasons therefor.

''(4) RECEIPT OF RESTITUTION PAYMENTS.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), funds paid to the Commissioner of Social Security as restitution pursuant to a court order shall be deposited as miscellaneous receipts in the general fund of the Treasury.

''(B) PAYMENT TO THE INDIVIDUAL.—In the case of funds paid to the Commissioner of Social Security pursuant to paragraph (1)(B), the Commissioner of Social Security shall certify for payment to the individual described in such paragraph an amount equal to the lesser of the amount of the funds so paid or the individual's outstanding financial loss as described in such paragraph, except that such amount may be reduced by any overpayment of benefits owed under this title, title II, or title XVI by the individual.''.

(c) AMENDMENTS TO TITLE XVI.—Section 1632 of the Social Security Act (42 U.S.C. 1383a) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following:

''(b)(1) Any Federal court, when sentencing a defendant convicted of an offense under subsection (a), may order, in addition to or in lieu of any other penalty authorized by law, that the defendant make restitution to the Commissioner of Social Security, in any case in which such offense results in—

''(A) the Commissioner of Social Security making a benefit payment that should not have been made, or

''(B) an individual suffering a financial loss due to the defendant's violation of subsection (a) in his or her capacity as the individual's representative payee appointed pursuant to section 1631(a)(2).

''(2) Sections 3612, 3663, and 3664 of title 18, United States Code, shall apply with respect to the issuance and enforcement of orders of restitution under this subsection. In so applying such sections, the Commissioner of Social Security shall be considered the victim.

''(3) If the court does not order restitution, or orders only partial restitution, under this subsection, the court shall state on the record the reasons therefor.

''(4)(A) Except as provided in subparagraph (B), funds paid to the Commissioner of Social Security as restitution pursuant to a court order shall be deposited as miscellaneous receipts in the general fund of the Treasury.

''(B) In the case of funds paid to the Commissioner of Social Security pursuant to paragraph (1)(B), the Commissioner of Social Security shall certify for payment to the individual described in such paragraph an amount equal to the lesser of the amount of the funds so paid or the individual's outstanding financial loss as described in such paragraph, except that such amount may be reduced by any overpayment of benefits owed under this title, title II, or title VIII by the individual.''; and

(3) by amending subsection (c) (as redesignated by paragraph (1)) by striking ''(1) If a person'' and all that follows through ''(2)''.

(d) EFFECTIVE DATE.—The amendments made by subsections (a), (b), and (c) shall apply with respect to violations occurring on or after the date of enactment of this Act.

SEC. 210. AUTHORITY FOR CROSS-PROGRAM RECOVERY OF BENEFIT OVERPAYMENTS.

(a) IN GENERAL.—Section 1147 of the Social Security Act (42 U.S.C. 1320b–17) is amended to read as follows:

''CROSS-PROGRAM RECOVERY OF OVERPAYMENTS FROM BENEFITS

''(a) IN GENERAL.—Subject to subsection (b), whenever the Commissioner of Social Security determines that more than the correct amount of any payment has been made to a person under a program described in subsection (e), the Commissioner of Social Security may recover the amount incorrectly paid by decreasing any amount which is payable to such person under any other program specified in that subsection.

''(b) LIMITATION APPLICABLE TO CURRENT BENEFITS.—

''(1) IN GENERAL.—In carrying out subsection (a), the Commissioner of Social Security may not decrease the monthly amount payable to an individual under a program described in subsection (e) that is paid when regularly due—

''(A) in the case of benefits under title II or VIII, by more than 10 percent of the amount of the benefit payable to the person for that month under such title; and

''(B) in the case of benefits under title XVI, by an amount greater than the lesser of—

''(i) the amount of the benefit payable to the person for that month; or

''(ii) an amount equal to 10 percent of the person's income for that month (including such monthly benefit but excluding payments under title II when recovery is also made from title II payments and excluding income excluded pursuant to section 1612(b)).

''(2) EXCEPTION.—Paragraph (1) shall not apply if—

''(A) the person or the spouse of the person was involved in willful misrepresentation or concealment of material information in connection with the amount incorrectly paid; or

''(B) the person so requests.

''(c) NO EFFECT ON ELIGIBILITY OR BENEFIT AMOUNT UNDER TITLE VIII OR XVI.—In any case in which the Commissioner of Social Security takes action in accordance with subsection (a) to recover an amount incorrectly paid to any person, neither that person, nor (with respect to the program described in subsection (e)(3)) any individual whose eligibility for benefits under such program or whose amount of such benefits, is determined by considering any part of that person's income, shall, as a result of such action—

''(1) become eligible for benefits under the program described in paragraph (2) or (3) of subsection (e); or

''(2) if such person or individual is otherwise so eligible, become eligible for increased benefits under such program.

''(d) INAPPLICABILITY OF PROHIBITION AGAINST ASSESSMENT AND LEGAL PROCESS.—Section 207 shall not apply to actions taken under the provisions of this section to decrease amounts payable under titles II and XVI.

''(e) PROGRAMS DESCRIBED.—The programs described in this subsection are the following:

''(1) The old-age, survivors, and disability insurance benefits program under title II.

''(2) The special benefits for certain World War II veterans program under title VIII.

''(3) The supplemental security income benefits program under title XVI (including, for purposes of this section, State supplementary payments paid by the Commissioner pursuant to an agreement under section 1616(a) of this Act or section 212(b) of Public Law 93–66).''.

(b) CONFORMING AMENDMENTS.—

(1) Section 204(g) of the Social Security Act (42 U.S.C. 404(g)) is amended to read as follows:

''(g) For provisions relating to the cross-program recovery of overpayments made under programs administered by the Commissioner of Social Security, see section 1147.''.

(2) Section 808 of the Social Security Act (42 U.S.C. 1008) is amended—

(A) in subsection (a)(1)—

(i) by striking subparagraph (B);

(ii) in the matter preceding subparagraph (A), by striking ''any payment'' and all that follows through ''under this title'' and inserting ''any payment under this title''; and

(iii) by striking ''; or'' and inserting a period;

(B) by striking subsection (b) and redesignating subsections (c), (d), and (e) as subsections (b), (c), and (d), respectively; and

(C) by adding at the end the following:

''(e) CROSS-PROGRAM RECOVERY OF OVERPAYMENTS.—For provisions relating to the cross-program recovery of overpayments made under programs administered by the Commissioner of Social Security, see section 1147.''.

(3) Section 1147A of the Social Security Act (42 U.S.C. 1320b–18) is repealed.

(4) Section 1631(b) of the Social Security Act (42 U.S.C. 1383(b)) is amended—

(A) in paragraph (1)(B)—

(i) by striking ''excluding any other'' and inserting ''excluding payments under title II when recovery is made from title II payments pursuant to section 1147 and excluding''; and

(ii) by striking ''50 percent of''; and

(B) by striking paragraph (6) and inserting the following:

''(6) For provisions relating to the cross-program recovery of overpayments made under programs administered by the Commissioner of Social Security, see section 1147.''.

(c) EFFECTIVE DATE.—The amendments and repeal made by this section shall take effect on the date of enactment of this Act, and shall be effective with respect to overpayments under titles II, VIII, and XVI of the Social Security Act that are outstanding on or after such date.

SEC. 211. PROHIBITION ON PAYMENT OF TITLE II BENEFITS TO PERSONS NOT AUTHORIZED TO WORK IN THE UNITED STATES.

(a) FULLY INSURED AND CURRENTLY INSURED INDIVIDUALS.—Section 214 (42 U.S.C. 414) is amended—

(1) in subsection (a), by inserting before the period at the end the following: '', and who satisfies the criterion specified in subsection (c)'';

(2) in subsection (b), by inserting before the period at the end the following: '', and who satisfies the criterion specified in subsection (c)''; and

(3) by adding at the end the following:

''(c) For purposes of subsections (a) and (b), the criterion specified in this subsection is that the individual, if not a United States citizen or national—

''(1) has been assigned a social security account number that was, at the time of assignment, or at any later time, consistent with the requirements of subclause (I) or (III) of section 205(c)(2)(B)(i); or

''(2) at the time any such quarters of coverage are earned—

''(A) is described in subparagraph (B) or (D) of section 101(a)(15) of the Immigration and Nationality Act,

''(B) is lawfully admitted temporarily to the United States for business (in the case of an individual described in such subparagraph (B)) or the performance as a crewman (in the case of an individual described in such subparagraph (D)), and

''(C) the business engaged in or service as a crewman performed is within the scope of the terms of such individual's admission to the United States.''.

(b) DISABILITY BENEFITS.—Section 223(a)(1) of the Social Security Act (42 U.S.C. 423(a)(1)) is amended—

(1) by redesignating subparagraphs (C) and (D) as subparagraphs (D) and (E), respectively; and

(2) by inserting after subparagraph (B), the following:

''(C) if not a United States citizen or national—

''(i) has been assigned a social security account number that was, at the time of assignment, or at any later time, consistent with the requirements of subclause (I) or (III) of section 205(c)(2)(B)(i); or

''(ii) at the time any quarters of coverage are earned—

''(I) is described in subparagraph (B) or (D) of section 101(a)(15) of the Immigration and Nationality Act,

''(II) is lawfully admitted temporarily to the United States for business (in the case of an individual described in such subparagraph (B)) or the performance as a crewman (in the case of an individual described in such subparagraph (D)), and

''(III) the business engaged in or service as a crewman performed is within the scope of the terms of such individual's admission to the United States.''.

(c) EFFECTIVE DATE.—The amendments made by this section apply to benefit applications based on social security account numbers issued on or after January 1, 2004.

TITLE III—ATTORNEY REPRESENTATIVE FEE PAYMENT SYSTEM IMPROVEMENTS

SEC. 301. CAP ON ATTORNEY ASSESSMENTS.

(a) IN GENERAL.—Section 206(d)(2)(A) of the Social Security Act (42 U.S.C. 406(d)(2)(A)) is amended—

(1) by inserting '', except that the maximum amount of the assessment may not exceed the greater of $75 or the adjusted amount as provided pursuant to the following two sentences'' after ''subparagraph (B)''; and

(2) by adding at the end the following: ''In the case of any calendar year beginning after the amendments made by section 301 of the Social Security Protection Act of 2003 take effect, the dollar amount specified in the preceding sentence (including a previously adjusted amount) shall be adjusted annually under the procedures used to adjust benefit amounts under section 215(i)(2)(A)(ii), except such adjustment shall be based on the higher of $75 or the previously adjusted amount that would have been in effect for December of the preceding year, but for the rounding of such amount pursuant to the following sentence. Any amount so adjusted that is not a multiple of $1 shall be rounded to the next lowest multiple of $1, but in no case less than $75.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to fees for representation of claimants which are first required to be certified or paid under section 206 of the Social Security Act on or after the first day of the first month that begins after 180 days after the date of the enactment of this Act.

SEC. 302. TEMPORARY EXTENSION OF ATTORNEY FEE PAYMENT SYSTEM TO TITLE XVI CLAIMS.

(a) IN GENERAL.—Section 1631(d)(2) of the Social Security Act (42 U.S.C. 1383(d)(2)) is amended—

(1) in subparagraph (A), in the matter preceding clause (i)—

(A) by striking ''section 206(a)'' and inserting ''section 206'';

(B) by striking ''(other than paragraph (4) thereof)'' and inserting ''(other than subsections (a)(4) and (d) thereof)''; and

(C) by striking ''paragraph (2) thereof'' and inserting ''such section'';

(2) in subparagraph (A)(i)—

(A) by striking ''in subparagraphs (A)(ii)(I) and (C)(i),'' and inserting ''in subparagraphs (A)(ii)(I) and (D)(i) of subsection (a)(2)''; and

(B) by striking ''and'' at the end;

(3) by striking subparagraph (A)(ii) and inserting the following:

''(ii) by substituting, in subsections (a)(2)(B) and (b)(1)(B)(i), the phrase 'paragraph (7)(A) or (8)(A) of section 1631(a) or the requirements of due process of law' for the phrase 'subsection (g) or (h) of section 223';

''(iii) by substituting, in subsection (a)(2)(C)(i), the phrase 'under title II' for the phrase 'under title XVI';

''(iv) by substituting, in subsection (b)(1)(A), the phrase 'pay the amount of such fee' for the phrase 'certify the amount of such fee for payment' and by striking, in subsection (b)(1)(A), the phrase 'or certified for payment'; and

''(v) by substituting, in subsection (b)(1)(B)(ii), the phrase 'deemed to be such amounts as determined before any applicable reduction under section 1631(g), and reduced by the amount of any reduction in benefits under this title or title II made pursuant to section 1127(a)' for the phrase 'determined before any applicable reduction under section 1127(a))'.''; and

(4) by redesignating subparagraph (B) as subparagraph (D) and inserting after subparagraph (A) the following:

''(B) Subject to subparagraph (C), if the claimant is determined to be entitled to past-due benefits under this title and the person representing the claimant is an attorney, the Commissioner of Social Security shall pay out of such past-due benefits to such attorney an amount equal to the lesser of—

''(i) so much of the maximum fee as does not exceed 25 percent of such past-due benefits (as determined before any applicable reduction under section 1631(g) and reduced by the amount of any reduction in benefits under this title or title II pursuant to section 1127(a)), or

''(ii) the amount of past-due benefits available after any applicable reductions under sections 1631(g) and 1127(a).

''(C)(i) Whenever a fee for services is required to be paid to an attorney from a claimant's past-due benefits pursuant to subparagraph (B), the Commissioner shall impose on the attorney an assessment calculated in accordance with clause (ii).

''(ii)(I) The amount of an assessment under clause (i) shall be equal to the product obtained by multiplying the amount of the representative's fee that would be required to be paid by subparagraph (B) before the application of this subparagraph, by the percentage specified in subclause (II), except that the maximum amount of the assessment may not exceed $75. In the case of any calendar year beginning after the amendments made by section 302 of the Social Security Protection Act of 2003 take effect, the dollar amount specified in the preceding sentence (including a previously adjusted amount) shall be adjusted annually under the procedures used to adjust benefit amounts under section 215(i)(2)(A)(ii), except such adjustment shall be based on the higher of $75 or the previously adjusted amount that would have been in effect for December of the preceding year, but for the rounding of such amount pursuant to the following sentence. Any amount so adjusted that is not a multiple of $1 shall be rounded to the next lowest multiple of $1, but in no case less than $75.

''(II) The percentage specified in this subclause is such percentage rate as the Commissioner determines is necessary in order to achieve full recovery of the costs of determining and approving fees to attorneys from the past-due benefits of claimants, but not in excess of 6.3 percent.

''(iii) The Commissioner may collect the assessment imposed on an attorney under clause (i) by offset from the amount of the fee otherwise required by subparagraph (B) to be paid to the attorney from a claimant's past-due benefits.

''(iv) An attorney subject to an assessment under clause (i) may not, directly or indirectly, request or otherwise obtain reimbursement for such assessment from the claimant whose claim gave rise to the assessment.

''(v) Assessments on attorneys collected under this subparagraph shall be deposited as miscellaneous receipts in the general fund of the Treasury.

''(vi) The assessments authorized under this subparagraph shall be collected and available for obligation only to the extent and in the amount provided in advance in appropriations Acts. Amounts so appropriated are authorized to remain available until expended, for administrative expenses in carrying out this title and related laws.''.

(b) CONFORMING AMENDMENTS.—Section 1631(a) of the Social Security Act (42 U.S.C. 1383(a)) is amended—

(1) in paragraph (2)(F)(i)(II), by inserting ''and payment of attorney fees under subsection (d)(2)(B)'' after ''subsection (g)''; and

(2) in paragraph (10)(A)—

(A) in the matter preceding clause (i), by inserting ''and payment of attorney fees under subsection (d)(2)(B)'' after ''subsection (g)''; and

(B) in the matter following clause (ii), by inserting ''and payment of attorney fees under subsection (d)(2)(B)'' after ''State''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply with respect to fees for representation of claimants which are first required to be paid under section 1631(d)(2) of the Social Security Act on or after the date of the submission by the Commissioner of Social Security to each House of Congress pursuant to section 303(d) of this Act of written notice of completion of full implementation of the requirements for operation of the demonstration project under section 303 of this Act.

(2) SUNSET.—Such amendments shall not apply with respect to fees for representation of claimants in the case of any claim for benefits with respect to which the agreement for representation is entered into after 5 years after the date described in paragraph (1).

SEC. 303. NATIONWIDE DEMONSTRATION PROJECT PROVIDING FOR EXTENSION OF FEE WITHHOLDING PROCEDURES TO NON-ATTORNEY REPRESENTATIVES.

(a) IN GENERAL.—The Commissioner of Social Security (hereafter in this section referred to as the ''Commissioner'') shall develop and carry out a nationwide demonstration project under this section with respect to agents and other persons, other than attorneys, who represent claimants under titles II and XVI of the Social Security Act before the Commissioner. The demonstration project shall be designed to determine the potential results of extending to such representatives the fee withholding procedures and assessment procedures that apply under sections 206 and section 1631(d)(2) of such Act to attorneys seeking direct payment out of past due benefits under such titles and shall include an analysis of the effect of such extension on claimants and program administration.

(b) STANDARDS FOR INCLUSION IN DEMONSTRATION PROJECT.—Fee-withholding procedures may be extended under the demonstration project carried out pursuant to subsection (a) to any non-attorney representative only if such representative meets at least the following prerequisites:

(1) The representative has been awarded a bachelor's degree from an accredited institution of higher education, or has been determined by the Commissioner to have equivalent qualifications derived from training and work experience.

(2) The representative has passed an examination, written and administered by the Commissioner, which tests knowledge of the relevant provisions of the Social Security Act and the most recent developments in agency and court decisions affecting titles II and XVI of such Act.

(3) The representative has secured professional liability insurance, or equivalent insurance, which the Commissioner has determined to be adequate to protect claimants in the event of malpractice by the representative.

(4) The representative has undergone a criminal background check to ensure the representative's fitness to practice before the Commissioner.

(5) The representative demonstrates ongoing completion of qualified courses of continuing education, including education regarding ethics and professional conduct, which are designed to enhance professional knowledge in matters related to entitlement to, or eligibility for, benefits based on disability under titles II and XVI of such Act. Such continuing education, and the instructors providing such education, shall meet such standards as the Commissioner may prescribe.

(c) ASSESSMENT OF FEES.—

(1) IN GENERAL.—The Commissioner may assess representatives reasonable fees to cover the cost to the Social Security Administration of administering the prerequisites described in subsection (b).

(2) DISPOSITION OF FEES.—Fees collected under paragraph (1) shall be credited to the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund, or deposited as miscellaneous receipts in the general fund of the Treasury, based on such allocations as the Commissioner of Social Security determines appropriate.

(3) AUTHORIZATION OF APPROPRIATIONS.—The fees authorized under this subparagraph shall be collected and available for obligation only to the extent and in the amount provided in advance in appropriations Acts. Amounts so appropriated are authorized to remain available until expended for administering the prerequisites described in subsection (b).

(d) NOTICE TO CONGRESS AND APPLICABILITY OF FEE WITHHOLDING PROCEDURES.—Not later than 1 year after the date of enactment of this Act, the Commissioner shall complete such actions as are necessary to fully implement the requirements for full operation of the demonstration project and shall submit to each House of Congress a written notice of the completion of such actions. The applicability under this section to non-attorney representatives of the fee withholding procedures and assessment procedures under sections 206 and 1631(d)(2) of the Social Security Act shall be effective with respect to fees for representation of claimants in the case of claims for benefits with respect to which the agreement for representation is entered into by such non-attorney representatives during the period beginning with the date of the submission of such notice by the Commissioner to Congress and ending with the termination date of the demonstration project.

(e) REPORTS BY THE COMMISSIONER; TERMINATION.—

(1) INTERIM REPORTS.—On or before the date which is 1 year after the date of enactment of this Act, and annually thereafter, the Commissioner shall transmit to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate an annual interim report on the progress of the demonstration project carried out under this section, together with any related data and materials that the Commissioner may consider appropriate.

(2) TERMINATION DATE AND FINAL REPORT.—The termination date of the demonstration project under this section is the date which is 5 years after the date of the submission of the notice by the Commissioner to each House of Congress pursuant to subsection (d). The authority under the preceding provisions of this section shall not apply in the case of claims for benefits with respect to which the agreement for representation is entered into after the termination date. Not later than 90 days after the termination date, the Commissioner shall submit to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate a final report with respect to the demonstration project.

SEC. 304. GAO STUDY REGARDING THE FEE PAYMENT PROCESS FOR CLAIMANT REPRESENTATIVES.

(a) STUDY.—

(1) IN GENERAL.—The Comptroller General of the United States shall study and evaluate the appointment and payment of claimant representatives appearing before the Commissioner of Social Security in connection with benefit claims under titles II and XVI of the Social Security Act (42 U.S.C. 401 et seq., 1381 et seq.) in each of the following groups:

(A) Attorney claimant representatives who elect fee withholding under section 206 or 1631(d)(2) of such Act.

(B) Attorney claimant representatives who do not elect such fee withholding.

(C) Non-attorney claimant representatives who are eligible for, and elect, such fee withholding.

(D) Non-attorney claimant representatives who are eligible for, but do not elect, such fee withholding.

(E) Non-attorney claimant representatives who are not eligible for such fee withholding.

(2) MATTERS TO BE STUDIED.—In conducting the study under this subsection, the Comptroller General shall, for each of group of claimant representatives described in paragraph (1)—

(A) conduct a survey of the relevant characteristics of such claimant representatives including—

(i) qualifications and experience;

(ii) the type of employment of such claimant representatives, such as with an advocacy group, State or local government, or insurance or other company;

(iii) geographical distribution between urban and rural areas;

(iv) the nature of claimants' cases, such as whether the cases are for disability insurance benefits only, supplemental security income benefits only, or concurrent benefits;

(v) the relationship of such claimant representatives to claimants, such as whether the claimant is a friend, family member, or client of the claimant representative; and

(vi) the amount of compensation (if any) paid to the claimant representatives and the method of payment of such compensation;

(B) assess the quality and effectiveness of the services provided by such claimant representatives, including a comparison of claimant satisfaction or complaints and benefit outcomes, adjusted for differences in claimant representatives' caseload, claimants' diagnostic group, level of decision, and other relevant factors;

(C) assess the interactions between fee withholding under sections 206 and 1631(d)(2) of such Act (including under the amendments made by section 302 of this Act and under the demonstration project conducted under section 303 of this Act), the windfall offset under section 1127 of such Act, and interim assistance reimbursements under section 1631(g) of such Act;

(D) assess the potential results of making permanent the fee withholding procedures under sections 206 and 1631(d)(2) of such Act under the amendments made by section 302 of this Act and under the demonstration project conducted under section 303 of this Act with respect to program administration and claimant outcomes, and assess whether the rules and procedures employed by the Commissioner of Social Security to evaluate the qualifications and performance of claimant representatives should be revised prior to making such procedures permanent; and

(E) make such recommendations for administrative and legislative changes as the Comptroller General of the United States considers necessary or appropriate.

(3) CONSULTATION REQUIRED.—The Comptroller General of the United States shall consult with beneficiaries under title II of such Act, beneficiaries under title XVI of such Act, claimant representatives of beneficiaries under such titles, and other interested parties, in conducting the study and evaluation required under paragraph (1).

(b) REPORT.—Not later than 3 years after the date of the submission by the Commissioner of Social Security to each House of Congress pursuant to section 303(d) of this Act of written notice of completion of full implementation of the requirements for operation of the demonstration project under section 303 of this Act, the Comptroller General of the United States shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the results of the study and evaluation conducted pursuant to subsection (a).

TITLE IV—MISCELLANEOUS AND TECHNICAL AMENDMENTS

Subtitle A—Amendments Relating to the Ticket to Work and Work Incentives Improvement Act of 1999

SEC. 401. APPLICATION OF DEMONSTRATION AUTHORITY SUNSET DATE TO NEW PROJECTS.

Section 234 of the Social Security Act (42 U.S.C. 434) is amended—

(1) in the first sentence of subsection (c), by striking ''conducted under subsection (a)'' and inserting ''initiated under subsection (a) on or before December 17, 2005''; and

(2) in subsection (d)(2), by striking the first sentence and inserting the following: ''The authority to initiate projects under the preceding provisions of this section shall terminate on December 18, 2005.''.

SEC. 402. EXPANSION OF WAIVER AUTHORITY AVAILABLE IN CONNECTION WITH DEMONSTRATION PROJECTS PROVIDING FOR REDUCTIONS IN DISABILITY INSURANCE BENEFITS BASED ON EARNINGS.

Section 302(c) of the Ticket to Work and Work Incentives Improvement Act of 1999 (42 U.S.C. 434 note) is amended by striking ''(42 U.S.C. 401 et seq.),'' and inserting ''(42 U.S.C. 401 et seq.) and the requirements of section 1148 of such Act (42 U.S.C. 1320b–19) as they relate to the program established under title II of such Act,''.

SEC. 403. FUNDING OF DEMONSTRATION PROJECTS PROVIDING FOR REDUCTIONS IN DISABILITY INSURANCE BENEFITS BASED ON EARNINGS.

Section 302(f) of the Ticket to Work and Work Incentives Improvement Act of 1999 (42 U.S.C. 434 note) is amended to read as follows:

''(f) EXPENDITURES.—Administrative expenses for demonstration projects under this section shall be paid from funds available for the administration of title II or XVIII of the Social Security Act, as appropriate. Benefits payable to or on behalf of individuals by reason of participation in projects under this section shall be made from the Federal Disability Insurance Trust Fund and the Federal Old-Age and Survivors Insurance Trust Fund, as determined appropriate by the Commissioner of Social Security, and from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund, as determined appropriate by the Secretary of Health and Human Services, from funds available for benefits under such title II or XVIII.''.

SEC. 404. AVAILABILITY OF FEDERAL AND STATE WORK INCENTIVE SERVICES TO ADDITIONAL INDIVIDUALS.

(a) FEDERAL WORK INCENTIVES OUTREACH PROGRAM.—

(1) IN GENERAL.—Section 1149(c)(2) of the Social Security Act (42 U.S.C. 1320b–20(c)(2)) is amended to read as follows:

''(2) DISABLED BENEFICIARY.—The term 'disabled beneficiary' means an individual—

''(A) who is a disabled beneficiary as defined in section 1148(k)(2) of this Act;

''(B) who is receiving a cash payment described in section 1616(a) of this Act or a supplementary payment described in section 212(a)(3) of Public Law 93–66 (without regard to whether such payment is paid by the Commissioner pursuant to an agreement under section 1616(a) of this Act or under section 212(b) of Public Law 93–66);

''(C) who, pursuant to section 1619(b) of this Act, is considered to be receiving benefits under title XVI of this Act; or

''(D) who is entitled to benefits under part A of title XVIII of this Act by reason of the penultimate sentence of section 226(b) of this Act.''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply with respect to grants, cooperative agreements, or contracts entered into on or after the date of the enactment of this Act.

(b) STATE GRANTS FOR WORK INCENTIVES ASSISTANCE.—

(1) DEFINITION OF DISABLED BENEFICIARY.—Section 1150(g)(2) of such Act (42 U.S.C. 1320b–21(g)(2)) is amended to read as follows:

''(2) DISABLED BENEFICIARY.—The term 'disabled beneficiary' means an individual—

''(A) who is a disabled beneficiary as defined in section 1148(k)(2) of this Act;

''(B) who is receiving a cash payment described in section 1616(a) of this Act or a supplementary payment described in section 212(a)(3) of Public Law 93–66 (without regard to whether such payment is paid by the Commissioner pursuant to an agreement under section 1616(a) of this Act or under section 212(b) of Public Law 93–66);

''(C) who, pursuant to section 1619(b) of this Act, is considered to be receiving benefits under title XVI of this Act; or

''(D) who is entitled to benefits under part A of title XVIII of this Act by reason of the penultimate sentence of section 226(b) of this Act.''.

(2) ADVOCACY OR OTHER SERVICES NEEDED TO MAINTAIN GAINFUL EMPLOYMENT.—Section 1150(b)(2) of such Act (42 U.S.C. 1320b–21(b)(2)) is amended by striking ''secure or regain'' and inserting ''secure, maintain, or regain''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to payments provided after the date of the enactment of this Act.

SEC. 405. TECHNICAL AMENDMENT CLARIFYING TREATMENT FOR CERTAIN PURPOSES OF INDIVIDUAL WORK PLANS UNDER THE TICKET TO WORK AND SELF-SUFFICIENCY PROGRAM.

(a) IN GENERAL.—Section 1148(g)(1) of the Social Security Act (42 U.S.C. 1320b–19(g)(1)) is amended by adding at the end, after and below subparagraph (E), the following:

''An individual work plan established pursuant to this subsection shall be treated, for purposes of section 51(d)(6)(B)(i) of the Internal Revenue Code of 1986, as an individualized written plan for employment under a State plan for vocational rehabilitation services approved under the Rehabilitation Act of 1973.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in section 505 of the Ticket to Work and Work Incentives Improvement Act of 1999 (Public Law 106–170; 113 Stat. 1921).

SEC. 406. GAO STUDY REGARDING THE TICKET TO WORK AND SELF-SUFFICIENCY PROGRAM.

(a) GAO REPORT.—Not later than 12 months after the date of enactment of this Act, the Comptroller General of the United States shall submit a report to Congress regarding the Ticket to Work and Self-Sufficiency Program established under section 1148 of the Social Security Act (42 U.S.C. 1320b–19) that—

(1) examines the annual and interim reports issued by States, the Ticket to Work and Work Incentives Advisory Panel established under section 101(f) of the Ticket to Work and Work Incentives Improvement Act of 1999 (42 U.S.C. 1320b–19 note), and the Commissioner of Social Security regarding such program;

(2) assesses the effectiveness of the activities carried out under such program; and

(3) recommends such legislative or administrative changes as the Comptroller General determines are appropriate to improve the effectiveness of such program.

SEC. 407. REAUTHORIZATION OF APPROPRIATIONS FOR CERTAIN WORK INCENTIVES PROGRAMS.

(a) BENEFITS PLANNING, ASSISTANCE, AND OUTREACH.—Section 1149(d) of the Social Security Act (42 U.S.C. 1320b–20(d)) is amended by striking ''2004'' and inserting ''2009''.

(b) PROTECTION AND ADVOCACY.—Section 1150(h) of the Social Security Act (42 U.S.C. 1320b–21(h)) is amended by striking ''2004'' and inserting ''2009''.

Subtitle B—Miscellaneous Amendments

SEC. 411. ELIMINATION OF TRANSCRIPT REQUIREMENT IN REMAND CASES FULLY FAVORABLE TO THE CLAIMANT.

(a) IN GENERAL.—Section 205(g) of the Social Security Act (42 U.S.C. 405(g)) is amended in the sixth sentence by striking ''and a transcript'' and inserting ''and, in any case in which the Commissioner has not made a decision fully favorable to the individual, a transcript''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to final determinations issued (upon remand) on or after the date of the enactment of this Act.

SEC. 412. NONPAYMENT OF BENEFITS UPON REMOVAL FROM THE UNITED STATES.

(a) IN GENERAL.—Section 202(n) of the Social Security Act (42 U.S.C. 402(n)) is amended—

(1) in paragraph (1), by striking ''section 241(a) (other than under paragraph (1)(C) or (1)(E) thereof) of the Immigration and Nationality Act'' and inserting ''section 237(a) of the Immigration and Nationality Act (other than under paragraph (1)(C) of such section) or under section 212(a)(6)(A) of such Act'';

(2) in paragraph (2), by striking ''section 241(a) of the Immigration and Nationality Act (other than under paragraph (1)(C) or (1)(E) thereof)'' and inserting ''section 237(a) of the Immigration and Nationality Act (other than under paragraph (1)(C) of such section) or under section 212(a)(6)(A) of such Act'';

(3) in paragraph (3), by striking ''paragraph (19) of section 241(a) of the Immigration and Nationality Act (relating to persecution of others on account of race, religion, national origin, or political opinion, under the direction of or in association with the Nazi government of Germany or its allies) shall be considered to have been deported under such paragraph (19)'' and inserting ''paragraph (4)(D) of section 241(a) of the Immigration and Nationality Act (relating to participating in Nazi persecutions or genocide) shall be considered to have been deported under such paragraph (4)(D)''; and

(4) in paragraph (3) (as amended by paragraph (3) of this subsection), by striking ''241(a)'' and inserting ''237(a)''.

(b) TECHNICAL CORRECTIONS.—

(1) TERMINOLOGY REGARDING REMOVAL FROM THE UNITED STATES.—Section 202(n) of the Social Security Act (42 U.S.C. 402(n)) (as amended by subsection (a)) is amended further—

(A) by striking ''deportation'' each place it appears and inserting ''removal'';

(B) by striking ''deported'' each place it appears and inserting ''removed''; and

(C) in the heading, by striking ''Deportation'' and inserting ''Removal''.

(2) REFERENCES TO THE SECRETARY OF HOMELAND SECURITY.—Section 202(n) of the Social Security Act (42 U.S.C. 402(n)) (as amended by subsection (a) and paragraph (1)) is amended further by inserting ''or the Secretary of Homeland Security'' after ''the Attorney General'' each place it appears.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendment made by—

(A) subsection (a)(1) shall apply to individuals with respect to whom the Commissioner of Social Security receives a removal notice after the date of the enactment of this Act;

(B) subsection (a)(2) shall apply with respect to notifications of removals received by the Commissioner of Social Security after the date of enactment of this Act; and

(C) subsection (a)(3) shall be effective as if enacted on March 1, 1991.

(2) SUBSEQUENT CORRECTION OF CROSS-REFERENCE AND TERMINOLOGY.—The amendments made by subsections (a)(4) and (b)(1) shall be effective as if enacted on April 1, 1997.

(3) REFERENCES TO THE SECRETARY OF HOMELAND SECURITY.—The amendment made by subsection (b)(2) shall be effective as if enacted on March 1, 2003.

SEC. 413. REINSTATEMENT OF CERTAIN REPORTING REQUIREMENTS.

Section 3003(a)(1) of the Federal Reports Elimination and Sunset Act of 1995 (31 U.S.C. 1113 note) shall not apply to any report required to be submitted under any of the following provisions of law:

(1)(A) Section 201(c)(2) of the Social Security Act (42 U.S.C. 401(c)(2)).

(B) Section 1817(b)(2) of the Social Security Act (42 U.S.C. 1395i(b)(2)).

(C) Section 1841(b)(2) of the Social Security Act (42 U.S.C. 1395t(b)(2)).

(2)(A) Section 221(c)(3)(C) of the Social Security Act (42 U.S.C. 421(c)(3)(C)).

(B) Section 221(i)(3) of the Social Security Act (42 U.S.C. 421(i)(3)).

SEC. 414. CLARIFICATION OF DEFINITIONS REGARDING CERTAIN SURVIVOR BENEFITS.

(a) WIDOWS.—Section 216(c) of the Social Security Act (42 U.S.C. 416(c)) is amended—

(1) by redesignating subclauses (A) through (C) of clause (6) as subclauses (i) through (iii), respectively;

(2) by redesignating clauses (1) through (6) as clauses (A) through (F), respectively;

(3) in clause (E) (as redesignated), by inserting ''except as provided in paragraph (2),'' before ''she was married'';

(4) by inserting ''(1)'' after ''(c)''; and

(5) by adding at the end the following:

''(2) The requirements of paragraph (1)(E) in connection with the surviving wife of an individual shall be treated as satisfied if—

''(A) the individual had been married prior to the individual's marriage to the surviving wife,

''(B) the prior wife was institutionalized during the individual's marriage to the prior wife due to mental incompetence or similar incapacity,

''(C) during the period of the prior wife's institutionalization, the individual would have divorced the prior wife and married the surviving wife, but the individual did not do so because such divorce would have been unlawful, by reason of the prior wife's institutionalization, under the laws of the State in which the individual was domiciled at the time (as determined based on evidence satisfactory to the Commissioner of Social Security),

''(D) the prior wife continued to remain institutionalized up to the time of her death, and

''(E) the individual married the surviving wife within 60 days after the prior wife's death.''.

(b) WIDOWERS.—Section 216(g) of such Act (42 U.S.C. 416(g)) is amended—

(1) by redesignating subclauses (A) through (C) of clause (6) as subclauses (i) through (iii), respectively;

(2) by redesignating clauses (1) through (6) as clauses (A) through (F), respectively;

(3) in clause (E) (as redesignated), by inserting ''except as provided in paragraph (2),'' before ''he was married'';

(4) by inserting ''(1)'' after ''(g)''; and

(5) by adding at the end the following:

''(2) The requirements of paragraph (1)(E) in connection with the surviving husband of an individual shall be treated as satisfied if—

''(A) the individual had been married prior to the individual's marriage to the surviving husband,

''(B) the prior husband was institutionalized during the individual's marriage to the prior husband due to mental incompetence or similar incapacity,

''(C) during the period of the prior husband's institutionalization, the individual would have divorced the prior husband and married the surviving husband, but the individual did not do so because such divorce would have been unlawful, by reason of the prior husband's institutionalization, under the laws of the State in which the individual was domiciled at the time (as determined based on evidence satisfactory to the Commissioner of Social Security),

''(D) the prior husband continued to remain institutionalized up to the time of his death, and

''(E) the individual married the surviving husband within 60 days after the prior husband's death.''.

(c) CONFORMING AMENDMENT.—Section 216(k) of such Act (42 U.S.C. 416(k)) is amended by striking ''clause (5) of subsection (c) or clause (5) of subsection (g)'' and inserting ''clause (E) of subsection (c)(1) or clause (E) of subsection (g)(1)''.

(d) EFFECTIVE DATE.—The amendments made by this section shall be effective with respect to applications for benefits under title II of the Social Security Act filed during months ending after the date of the enactment of this Act.

SEC. 415. CLARIFICATION RESPECTING THE FICA AND SECA TAX EXEMPTIONS FOR AN INDIVIDUAL WHOSE EARNINGS ARE SUBJECT TO THE LAWS OF A TOTALIZATION AGREEMENT PARTNER.

Sections 1401(c), 3101(c), and 3111(c) of the Internal Revenue Code of 1986 are each amended by striking ''to taxes or contributions for similar purposes under'' and inserting ''exclusively to the laws applicable to''.

SEC. 416. COVERAGE UNDER DIVIDED RETIREMENT SYSTEM FOR PUBLIC EMPLOYEES IN KENTUCKY AND LOUISIANA.

(a) IN GENERAL.—Section 218(d)(6)(C) of the Social Security Act (42 U.S.C. 418(d)(6)(C)) is amended by inserting ''Kentucky, Louisiana,'' after ''Illinois,''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) takes effect on January 1, 2003.

SEC. 417. COMPENSATION FOR THE SOCIAL SECURITY ADVISORY BOARD.

(a) IN GENERAL.—Subsection (f) of section 703 of the Social Security Act (42 U.S.C. 903(f)) is amended to read as follows:

''Compensation, Expenses, and Per Diem

''(f) A member of the Board shall, for each day (including traveltime) during which the member is attending meetings or conferences of the Board or otherwise engaged in the business of the Board, be compensated at the daily rate of basic pay for level IV of the Executive Schedule. While serving on business of the Board away from their homes or regular places of business, members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government employed intermittently.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall be effective as of January 1, 2003.

SEC. 418. 60-MONTH PERIOD OF EMPLOYMENT REQUIREMENT FOR APPLICATION OF GOVERNMENT PENSION OFFSET EXEMPTION.

(a) IN GENERAL.—Section 202(k) of the Social Security Act (42 U.S.C. 402(k)) is amended by adding at the end the following:

''(5)(A) The amount of a monthly insurance benefit of any individual for each month under subsection (b), (c), (e), (f), or (g) (as determined after application of the provisions of subsection (q) and the preceding provisions of this subsection) shall be reduced (but not below zero) by an amount equal to two-thirds of the amount of any monthly periodic benefit payable to such individual for such month which is based upon such individual's earnings while in the service of the Federal Government or any State (or political subdivision thereof, as defined in section 218(b)(2)) if, during any portion of the last 60 months of such service ending with the last day such individual was employed by such entity—

''(i) such service did not constitute 'employment' as defined in section 210, or

''(ii) such service was being performed while in the service of the Federal Government, and constituted 'employment' as so defined solely by reason of—

''(I) clause (ii) or (iii) of subparagraph (G) of section 210(a)(5), where the lump-sum payment described in such clause (ii) or the cessation of

coverage described in such clause (iii) (whichever is applicable) was received or occurred on or after January 1, 1988, or

''(II) an election to become subject to the Federal Employees' Retirement System provided in chapter 84 of title 5, United States Code, or the Foreign Service Pension System provided in subchapter II of chapter 8 of title I of the Foreign Service Act of 1980 made pursuant to law after December 31, 1987,

unless subparagraph (B) applies.

The amount of the reduction in any benefit under this subparagraph, if not a multiple of $0.10, shall be rounded to the next higher multiple of $0.10.

''(B)(i) Subparagraph (A)(i) shall not apply with respect to monthly periodic benefits based wholly on service as a member of a uniformed service (as defined in section 210(m)).

''(ii) Subparagraph (A)(ii) shall not apply with respect to monthly periodic benefits based in whole or in part on service which constituted 'employment' as defined in section 210 if such service was performed for at least 60 months in the aggregate during the period beginning January 1, 1988, and ending with the close of the first calendar month as of the end of which such individual is eligible for benefits under this subsection and has made a valid application for such benefits.

''(C) For purposes of this paragraph, any periodic benefit which otherwise meets the requirements of subparagraph (A), but which is paid on other than a monthly basis, shall be allocated on a basis equivalent to a monthly benefit (as determined by the Commissioner of Social Security) and such equivalent monthly benefit shall constitute a monthly periodic benefit for purposes of subparagraph (A). For purposes of this subparagraph, the term 'periodic benefit' includes a benefit payable in a lump sum if it is a commutation of, or a substitute for, periodic payments.''.

(b) CONFORMING AMENDMENTS.—

(1) WIFE'S INSURANCE BENEFITS.—Section 202(b) of the Social Security Act (42 U.S.C. 402(b)) is amended—

(A) in paragraph (2), by striking ''subsection (q) and paragraph (4) of this subsection'' and inserting ''subsections (k)(5) and (q)''; and

(B) by striking paragraph (4) and redesignating paragraph (5) as paragraph (4).

(2) HUSBAND'S INSURANCE BENEFITS.—Section 202(c) of the Social Security Act (42 U.S.C. 402(c)) is amended—

(A) by striking paragraph (2) and redesignating paragraphs (3) through (5) as paragraphs (2) through (4), respectively; and

(B) in paragraph (2) as so redesignated, by striking ''subsection (q) and paragraph (2) of this subsection'' and inserting ''subsections (k)(5) and (q)''.

(3) WIDOW'S INSURANCE BENEFITS.—Section 202(e) of the Social Security Act (42 U.S.C. 402(e)) is amended—

(A) in paragraph (2)(A), by striking ''subsection (q), paragraph (7) of this subsection,'' and inserting ''subsection (k)(5), subsection (q),''; and

(B) by striking paragraph (7) and redesignating paragraphs (8) and (9) as paragraphs (7) and (8), respectively.

(4) WIDOWER'S INSURANCE BENEFITS.—

(A) IN GENERAL.—Section 202(f) of the Social Security Act (42 U.S.C. 402(f)) is amended—

(i) by striking paragraph (2) and redesignating paragraphs (3) through (9) as paragraphs (2) through (8), respectively; and

(ii) in paragraph (2) as so redesignated, by striking ''subsection (q), paragraph (2) of this subsection,'' and inserting ''subsection (k)(5), subsection (q),''.

(B) CONFORMING AMENDMENTS.—

(i) Section 202(f)(1)(B) of the Social Security Act (42 U.S.C. 402(f)(1)(B)) is amended by striking ''paragraph (5)'' and inserting ''paragraph (4)''.

(ii) Section 202(f)(1)(F) of the Social Security Act (42 U.S.C. 402(f)(1)(F)) is amended by striking ''paragraph (6)'' and ''paragraph (5)'' (in clauses (i) and (ii)) and inserting ''paragraph (5)'' and ''paragraph (4)'', respectively.

(iii) Section 202(f)(5)(A)(ii) of the Social Security Act (as redesignated by subparagraph (A)(i)) is amended by striking ''paragraph (5)'' and inserting ''paragraph (4)''.

(iv) Section 202(k)(2)(B) of the Social Security Act (42 U.S.C. 402(k)(2)(B)) is amended by striking ''or (f)(4)'' each place it appears and inserting ''or (f)(3)''.

(v) Section 202(k)(3)(A) of the Social Security Act (42 U.S.C. 402(k)(3)(A)) is amended by striking ''or (f)(3)'' and inserting ''or (f)(2)''.

(vi) Section 202(k)(3)(B) of the Social Security Act (42 U.S.C. 402(k)(3)(B)) is amended by striking ''or (f)(4)'' and inserting ''or (f)(3)''.

(vii) Section 226(e)(1)(A)(i) of the Social Security Act (42 U.S.C. 426(e)(1)(A)(i)) is amended by striking ''and 202(f)(5)'' and inserting ''and 202(f)(4)''.

(5) MOTHER'S AND FATHER'S INSURANCE BENEFITS.—Section 202(g) of the Social Security Act (42 U.S.C. 402(g)) is amended—

(A) in paragraph (2), by striking ''Except as provided in paragraph (4) of this subsection, such'' and inserting ''Such''; and

(B) by striking paragraph (4).

(c) EFFECTIVE DATE AND TRANSITIONAL RULE.—

(1) IN GENERAL.—The amendments made by this section shall apply with respect to applications for benefits under title II of the Social Security Act filed on or after the first day of the first month that begins after the date of enactment of this Act, except that such amendments shall not apply in connection with monthly periodic benefits of any individual based on earnings while in service described in section 202(k)(5)(A) of the Social Security Act (in the matter preceding clause (i) thereof) if the last day of such service occurs before July 1, 2004.

(2) TRANSITIONAL RULE.—In the case of any individual whose last day of service described in subparagraph (A) of section 202(k)(5) of the Social Security Act (as added by subsection (a) of this section) occurs within 5 years after the date of enactment of this Act—

(A) the 60-month period described in such subparagraph (A) shall be reduced (but not to less than 1 month) by the number of months of such service (in the aggregate and without regard to whether such months of service were continuous) which—

(i) were performed by the individual under the same retirement system on or before the date of enactment of this Act, and

(ii) constituted ''employment'' as defined in section 210 of the Social Security Act; and

(B) months of service necessary to fulfill the 60-month period as reduced by subparagraph (A) of this paragraph must be performed after the date of enactment of this Act.

SEC. 419. DISCLOSURE TO WORKERS OF EFFECT OF WINDFALL ELIMINATION PROVISION AND GOVERNMENT PENSION OFFSET PROVISION.

(a) INCLUSION OF NONCOVERED EMPLOYEES AS ELIGIBLE INDIVIDUALS ENTITLED TO SOCIAL SECURITY ACCOUNT STATEMENTS.—Section 1143(a)(3) of the Social Security Act (42 U.S.C. 1320b–13(a)(3)) is amended—

(1) by striking ''who'' after ''an individual'' and inserting ''who'' before ''has'' in each of subparagraphs (A) and (B);

(2) by inserting ''(i) who'' after ''(C)''; and

(3) by inserting before the period the following: '', or (ii) with respect to whom the Commissioner has information that the pattern of wages or self-employment income indicate a likelihood of noncovered employment''.

(b) EXPLANATION IN SOCIAL SECURITY ACCOUNT STATEMENTS OF POSSIBLE EFFECTS OF PERIODIC BENEFITS UNDER STATE AND LOCAL RETIREMENT SYSTEMS ON SOCIAL SECURITY BENEFITS.—Section 1143(a)(2) of the Social Security Act (42 U.S.C. 1320b–13(a)(2)) is amended—

(1) in subparagraph (C), by striking ''and'' at the end;

(2) in subparagraph (D), by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(E) in the case of an eligible individual described in paragraph (3)(C)(ii), an explanation, in language calculated to be understood by the average eligible individual, of the operation of the provisions under sections 202(k)(5) and 215(a)(7) and an explanation of the maximum potential effects of such provisions on the eligible individual's monthly retirement, survivor, and auxiliary benefits.''.

(c) TRUTH IN RETIREMENT DISCLOSURE TO GOVERNMENTAL EMPLOYEES OF EFFECT OF NONCOVERED EMPLOYMENT ON BENEFITS UNDER TITLE II.—Section 1143 of the Social Security Act (42 U.S..C. 1320b–13) is amended further by adding at the end the following:

''Disclosure to Governmental Employees of Effect of Noncovered Employment

''(d)(1) In the case of any individual commencing employment on or after January 1, 2005, in any agency or instrumentality of any State (or political subdivision thereof, as defined in section 218(b)(2)) in a position in which service performed by the individual does not constitute 'employment' as defined in section 210, the head of the agency or instrumentality shall ensure that, prior to the date of the commencement of the individual's employment in the position, the individual is provided a written notice setting forth an explanation, in language calculated to be understood by the average individual, of the maximum effect on computations of primary insurance amounts (under section 215(a)(7)) and the effect on benefit amounts (under section 202(k)(5)) of monthly periodic payments or benefits payable based on earnings derived in such service. Such notice shall be in a form which shall be prescribed by the Commissioner of Social Security.

''(2) The written notice provided to an individual pursuant to paragraph (1) shall include a form which, upon completion and signature by the individual, would constitute certification by the individual of receipt of the notice. The agency or instrumentality providing the notice to the individual shall require that the form be completed and signed by the individual and submitted to the agency or instrumentality and to the pension, annuity, retirement, or similar fund or system established by the governmental entity involved responsible for paying the monthly periodic payments or benefits, before commencement of service with the agency or instrumentality.''.

(d) EFFECTIVE DATES.—The amendments made by subsections (a) and (b) of this section shall apply with respect to social security account statements issued on or after January 1, 2007.

SEC. 420. POST-1956 MILITARY WAGE CREDITS.

(a) PAYMENT TO THE SOCIAL SECURITY TRUST FUNDS IN SATISFACTION OF OUTSTANDING OBLIGATIONS.—Section 201 of the Social Security Act (42 U.S.C. 401) is amended by adding at the end the following:

''(n) Not later than July 1, 2004, the Secretary of the Treasury shall transfer, from amounts in the general fund of the Treasury that are not otherwise appropriated—

''(1) $624,971,854 to the Federal Old-Age and Survivors Insurance Trust Fund;

''(2) $105,379,671 to the Federal Disability Insurance Trust Fund; and

''(3) $173,306,134 to the Federal Hospital Insurance Trust Fund.

Amounts transferred in accordance with this subsection shall be in satisfaction of certain outstanding obligations for deemed wage credits for 2000 and 2001.''.

(b) CONFORMING AMENDMENTS.—

(1) REPEAL OF AUTHORITY FOR ANNUAL APPROPRIATIONS AND RELATED ADJUSTMENTS TO COMPENSATE THE SOCIAL SECURITY TRUST FUND FOR MILITARY WAGE CREDITS.—Section 229 of the Social Security Act (42 U.S.C. 429) is amended—

(A) by striking ''(a)''; and

(B) by striking subsection (b).

(2) AMENDMENT TO REFLECT THE TERMINATION OF WAGE CREDITS EFFECTIVE AFTER CALENDAR YEAR 2001 BY SECTION 8134 OF PUBLIC LAW 107–117.—Section 229(a)(2) of the Social Security Act (42 U.S.C. 429(a)(2)), as amended by paragraph (1), is amended by inserting ''and before 2002'' after ''1977''.

SEC. 420A. ELIMINATION OF DISINCENTIVE TO RETURN-TO-WORK FOR CHILDHOOD DISABILITY BENEFICIARIES.

(a) IN GENERAL.—Section 202(d)(6)(B) of the Social Security Act (42 U.S.C. 402(d)(6)(B)) is amended—

(1) by inserting ''(i)'' after ''began''; and

(2) by adding after ''such disability,'' the following: ''or (ii) after the close of the 84th month following the month in which his most recent entitlement to child's insurance benefits terminated because he ceased to be under such disability due to performance of substantial gainful activity,''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall be effective with respect to benefits payable for months beginning with the 7th month that begins after the date of enactment of this Act.

Subtitle C—Technical Amendments

SEC. 421. TECHNICAL CORRECTION RELATING TO RESPONSIBLE AGENCY HEAD.

Section 1143 of the Social Security Act (42 U.S.C. 1320b–13) is amended—

(1) by striking ''Secretary'' the first place it appears and inserting ''Commissioner of Social Security''; and

(2) by striking ''Secretary'' each subsequent place it appears and inserting ''Commissioner''.

SEC. 422. TECHNICAL CORRECTION RELATING TO RETIREMENT BENEFITS OF MINISTERS.

(a) IN GENERAL.—Section 211(a)(7) of the Social Security Act (42 U.S.C. 411(a)(7)) is amended by inserting '', but shall not include in any such net earnings from self-employment the rental value of any parsonage or any parsonage allowance (whether or not excluded under section 107 of the Internal Revenue Code of 1986) provided after the individual retires, or any other retirement benefit received by such individual from a church plan (as defined in section 414(e) of such Code) after the individual retires'' before the semicolon.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to years beginning before, on, or after December 31, 1994.

SEC. 423. TECHNICAL CORRECTIONS RELATING TO DOMESTIC EMPLOYMENT.

(a) AMENDMENT TO INTERNAL REVENUE CODE.—Section 3121(a)(7)(B) of the Internal Revenue Code of 1986 is amended by striking ''described in subsection (g)(5)'' and inserting ''on a farm operated for profit''.

(b) AMENDMENT TO SOCIAL SECURITY ACT.—Section 209(a)(6)(B) of the Social Security Act (42 U.S.C. 409(a)(6)(B)) is amended by striking ''described in section 210(f)(5)'' and inserting ''on a farm operated for profit''.

(c) CONFORMING AMENDMENT.—Section 3121(g)(5) of such Code and section 210(f)(5) of such Act (42 U.S.C. 410(f)(5)) are amended by striking ''or is domestic service in a private home of the employer''.

SEC. 424. TECHNICAL CORRECTIONS OF OUTDATED REFERENCES.

(a) CORRECTION OF CITATION RESPECTING THE TAX DEDUCTION RELATING TO HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.—Section 211(a)(15) of the Social Security Act (42 U.S.C. 411(a)(15)) is amended by striking ''section 162(m)'' and inserting ''section 162(l)''.

(b) ELIMINATION OF REFERENCE TO OBSOLETE 20-DAY AGRICULTURAL WORK TEST.—Section 3102(a) of the Internal Revenue Code of 1986 is amended by striking ''and the employee has not performed agricultural labor for the employer on 20 days or more in the calendar year for cash remuneration computed on a time basis''.

SEC. 425. TECHNICAL CORRECTION RESPECTING SELF-EMPLOYMENT INCOME IN COMMUNITY PROPERTY STATES.

(a) SOCIAL SECURITY ACT AMENDMENT.—Section 211(a)(5)(A) of the Social Security Act (42 U.S.C. 411(a)(5)(A)) is amended by striking ''all of the gross income'' and all that follows and inserting ''the gross income and deductions attributable to such trade or business shall be treated as the gross income and deductions of the spouse carrying on such trade or business or, if such trade or business is jointly operated, treated as the gross income and deductions of each spouse on the basis of their respective distributive share of the gross income and deductions;''.

(b) INTERNAL REVENUE CODE OF 1986 AMENDMENT.—Section 1402(a)(5)(A) of the Internal Revenue Code of 1986 is amended by striking ''all of the gross income'' and all that follows and inserting ''the gross income and deductions attributable to such trade or business shall be treated as the gross income and deductions of the spouse carrying on such trade or business or, if such trade or business is jointly operated, treated as the gross income and deductions of each spouse on the basis of their respective distributive share of the gross income and deductions; and''.

SEC. 426. TECHNICAL AMENDMENTS TO THE RAILROAD RETIREMENT AND SURVIVORS' IMPROVEMENT ACT OF 2001.

(a) QUORUM RULES.—Section 15(j)(7) of the Railroad Retirement Act of 1974 (45 U.S.C. 231n(j)(7)) is amended by striking ''entire Board of Trustees'' and inserting ''Trustees then holding office''.

(b) POWERS OF THE BOARD OF TRUSTEES.—Section 15(j)(4) of the Railroad Retirement Act of 1974 (45 U.S.C. 231n(j)(4)) is amended to read as follows:

''(4) POWERS OF THE BOARD OF TRUSTEES.—The Board of Trustees shall—

''(A) retain independent advisers to assist it in the formulation and adoption of its investment guidelines;

''(B) invest assets of the Trust in a manner consistent with such investment guidelines, either directly or through the retention of independent investment managers;

''(C) adopt bylaws and other rules to govern its operations;

''(D) employ professional staff, and contract with outside advisers, including the Railroad Retirement Board, to provide legal, accounting, investment advisory or management services (compensation for which may be on a fixed contract fee basis or on such other terms as are customary for such services), or other services necessary for the proper administration of the Trust;

''(E) sue and be sued and participate in legal proceedings, have and use a seal, conduct business, carry on operations, and exercise its powers within or without the District of Columbia, form, own, or participate in entities of any kind, enter into contracts and agreements necessary to carry out its business purposes, lend money for such purposes, and deal with property as security for the payment of funds so loaned, and possess and exercise any other powers appropriate to carry out the purposes of the Trust;

''(F) pay administrative expenses of the Trust from the assets of the Trust; and

''(G) transfer money to the disbursing agent or as otherwise provided in section 7(b)(4), to pay benefits payable under this Act from the assets of the Trust.''.

(c) STATE AND LOCAL TAXES.—Section 15(j)(6) of the Railroad Retirement Act of 1974 (45 U.S.C. 231n(j)(6)) is amended to read as follows:

''(6) STATE AND LOCAL TAXES.—The Trust shall be exempt from any income, sales, use, property, or other similar tax or fee imposed or levied by a State, political subdivision, or local taxing authority. The district courts of the United States shall have original jurisdiction over a civil action brought by the Trust to enforce this subsection and may grant equitable or declaratory relief requested by the Trust.''.

(d) FUNDING.—Section 15(j)(8) of the Railroad Retirement Act of 1974 (45 U.S.C. 231n(j)(8)) is repealed.

(e) TRANSFERS.—Section 15A(d)(2) of the Railroad Retirement Act of 1974 (45 U.S.C. 231n–1(d)(2)) is amended—

(1) by inserting ''or the Railroad Retirement Account'' after ''National Railroad Retirement Investment Trust'' the second place it appears;

(2) by inserting ''or the Railroad Retirement Board'' after ''National Railroad Retirement Investment Trust'' the third place it appears;

(3) by inserting ''(either directly or through a commingled account consisting only of such obligations)'' after ''United States'' the first place it appears; and

(4) in the third sentence, by inserting before the period at the end the following: ''or to purchase such additional obligations''.

(f) CLERICAL AMENDMENTS.—Section 15(j)(5) of the Railroad Retirement Act of 1974 (45 U.S.C. 231n(j)(5)) is amended—

(1) in subparagraph (B), by striking ''trustee's'' each place it appears and inserting ''Trustee's'';

(2) in subparagraph (C), by striking ''trustee'' and ''trustees'' each place it appears and inserting ''Trustee'' and ''Trustees'', respectively; and

(3) in the matter preceding clause (i) of subparagraph (D), by striking ''trustee'' and inserting ''Trustee''.

Subtitle D—Amendments Related to Title XVI

SEC. 430. EXCLUSION FROM INCOME FOR CERTAIN INFREQUENT OR IRREGULAR INCOME AND CERTAIN INTEREST OR DIVIDEND INCOME.

(a) INFREQUENT OR IRREGULAR INCOME.—Section 1612(b)(3) of the Social Security Act (42 U.S.C. 1382a(b)(3)) is amended to read as follows—

''(3) in any calendar quarter, the first—

''(A) $60 of unearned income, and

''(B) $30 of earned income,

of such individual (and such spouse, if any) which, as determined in accordance with criteria prescribed by the Commissioner of Social Security, is received too infrequently or irregularly to be included;''.

(b) INTEREST OR DIVIDEND INCOME.—Section 1612(b) of the Social Security Act (42 U.S.C. 1382a(b)) is amended—

(1) in paragraph (21), by striking ''and'' at the end;

(2) in paragraph (22), by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(23) interest or dividend income from resources—

''(A) not excluded under section 1613(a), or

''(B) excluded pursuant to Federal law other than section 1613(a).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective with respect to benefits payable for months in calendar quarters that begin more than 90 days after the date of the enactment of this Act.

SEC. 431. UNIFORM 9-MONTH RESOURCE EXCLUSION PERIODS.

(a) UNDERPAYMENTS OF BENEFITS.—Section 1613(a)(7) of the Social Security Act (42 U.S.C. 1382b(a)(7)) is amended—

(1) by striking ''6'' and inserting ''9''; and

(2) by striking ''(or to the first 9 months following such month with respect to any amount so received during the period beginning October 1, 1987, and ending September 30, 1989)''.

(b) ADVANCEABLE TAX CREDITS.—Section 1613(a)(11) of the Social Security Act (42 U.S.C. 1382b(a)(11)) is amended to read as follows:

''(11) for the 9-month period beginning after the month in which received—

''(A) notwithstanding section 203 of the Economic Growth and Tax Relief Reconciliation Act of 2001, any refund of Federal income taxes made to such individual (or such spouse) under

section 24 of the Internal Revenue Code of 1986 (relating to child tax credit) by reason of subsection (d) thereof; and

''(B) any refund of Federal income taxes made to such individual (or such spouse) by reason of section 32 of the Internal Revenue Code of 1986 (relating to earned income tax credit), and any payment made to such individual (or such spouse) by an employer under section 3507 of such Code (relating to advance payment of earned income credit);''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act, and shall apply to amounts described in paragraph (7) of section 1613(a) of the Social Security Act and refunds of Federal income taxes described in paragraph (11) of such section, that are received by an eligible individual or eligible spouse on or after such date.

SEC. 432. ELIMINATION OF CERTAIN RESTRICTIONS ON THE APPLICATION OF THE STUDENT EARNED INCOME EXCLUSION.

(a) IN GENERAL.—Section 1612(b)(1) of the Social Security Act (42 U.S.C. 1382a(b)(1)) is amended by striking ''a child who'' and inserting ''under the age of 22 and''.

(b) EFFECTIVE DATE.—The amendment made by this section shall be effective with respect to benefits payable for months that begin on or after 1 year after the date of enactment of this Act.

SEC. 433. EXCEPTION TO RETROSPECTIVE MONTHLY ACCOUNTING FOR NONRECURRING INCOME.

(a) IN GENERAL.—Section 1611(c) of the Social Security Act (42 U.S.C. 1382(c)) is amended by adding at the end the following:

''(9)(A) Notwithstanding paragraphs (1) and (2), any nonrecurring income which is paid to an individual in the first month of any period of eligibility shall be taken into account in determining the amount of the benefit under this title of such individual (and his eligible spouse, if any) only for that month, and shall not be taken into account in determining the amount of the benefit for any other month.

''(B) For purposes of subparagraph (A), payments to an individual in varying amounts from the same or similar source for the same or similar purpose shall not be considered to be nonrecurring income.''.

(b) DELETION OF OBSOLETE MATERIAL.—Section 1611(c)(2)(B) of the Social Security Act (42 U.S.C. 1382(c)(2)(B)) is amended to read as follows:

''(B) in the case of the first month following a period of ineligibility in which eligibility is restored after the first day of such month, bear the same ratio to the amount of the benefit which would have been payable to such individual if eligibility had been restored on the first day of such month as the number of days in such month including and following the date of restoration of eligibility bears to the total number of days in such month.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective with respect to benefits payable for months that begin on or after 1 year after the date of enactment of this Act.

SEC. 434. REMOVAL OF RESTRICTION ON PAYMENT OF BENEFITS TO CHILDREN WHO ARE BORN OR WHO BECOME BLIND OR DISABLED AFTER THEIR MILITARY PARENTS ARE STATIONED OVERSEAS.

(a) IN GENERAL.—Section 1614(a)(1)(B)(ii) of the Social Security Act (42 U.S.C. 1382c(a)(1)(B)(ii)) is amended—

(1) by inserting ''and'' after ''citizen of the United States,''; and

(2) by striking '', and who,'' and all that follows and inserting a period.

(b) EFFECTIVE DATE.—The amendments made by this section shall be effective with respect to benefits payable for months beginning after the date of enactment of this Act, but only on the basis of an application filed after such date.

SEC. 435. TREATMENT OF EDUCATION-RELATED INCOME AND RESOURCES.

(a) EXCLUSION FROM INCOME OF GIFTS PROVIDED FOR TUITION AND OTHER EDUCATION-RELATED FEES.—Section 1612(b)(7) of the Social Security Act (42 U.S.C. 1382a(b)(7)) is amended by striking ''or fellowship received for use in paying'' and inserting ''fellowship, or gift (or portion of a gift) used to pay''.

(b) EXCLUSION FROM RESOURCES FOR 9 MONTHS OF GRANTS, SCHOLARSHIPS, FELLOWSHIPS, OR GIFTS PROVIDED FOR TUITION AND OTHER EDUCATION-RELATED FEES.—Section 1613(a) of the Social Security Act (42 U.S.C. 1382b(a)) (as amended by section 101(c)(2)) is amended—

(1) in paragraph (13), by striking ''and'' at the end;

(2) in paragraph (14), by striking the period and inserting ''; and''; and

(3) by inserting after paragraph (14) the following:

''(15) for the 9-month period beginning after the month in which received, any grant, scholarship, fellowship, or gift (or portion of a gift) used to pay the cost of tuition and fees at any educational (including technical or vocational education) institution.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to benefits payable for months that begin more than 90 days after the date of enactment of this Act.

SEC. 436. MONTHLY TREATMENT OF UNIFORMED SERVICE COMPENSATION.

(a) TREATMENT OF PAY AS RECEIVED WHEN EARNED.—Section 1611(c) of the Social Security Act (42 U.S.C. 1382(c)), as amended by section 435(a), is amended by adding at the end the following:

''(10) For purposes of this subsection, remuneration for service performed as a member of a uniformed service may be treated as received in the month in which it was earned, if the Commissioner of Social Security determines that such treatment would promote the economical and efficient administration of the program authorized by this title.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to benefits payable for months that begin more than 90 days after the date of enactment of this Act.

MOTION OFFERED BY MR. SHAW

Mr. SHAW. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. SHAW moves that the House concur in the Senate amendment to H.R. 783.

The SPEAKER pro tempore. Pursuant to House Resolution 520, the gentleman from Florida (Mr. SHAW) and the gentleman from California (Mr. MATSUI) each will control 30 minutes.

The Chair recognizes the gentleman from Florida (Mr. SHAW).

Mr. SHAW. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to present to the House the Social Security Protection Act of 2003, bipartisan legislation that fights fraud and abuse in the Social Security programs.

In April, the House overwhelmingly passed this bipartisan bill by a vote of 396 to 28. In December, the Senate passed an amended version of the Protection Act unanimously. They did this by unanimous consent. Today, we have an opportunity to pass this essential legislation so that it be sent to the President and made law.

Workers, retirees, individuals with disabilities, survivors and their families have paid for and deserve better protection under Social Security and the enhanced vigilance against waste, fraud and abuse this bill provides.

First, this bill protects nearly 7 million beneficiaries who cannot manage their own affairs and rely on representative payees appointed by the Social Security Administration. It does this by raising payee standards, increasing oversight, and imposing stricter penalties on those who would mismanage the benefits entrusted to their care.

Second, this bill denies Social Security benefits to fugitive felons and probation/parole violators.

Third, it provides tools to further safeguard Social Security programs, including new civil monetary penalties for those who withhold information to get benefits and improving collection of overpaid benefits.

Fourth, this legislation closes a loophole in the law that has allowed an isolated group of public employees to receive full Social Security spouse and widow benefits that no other identical working spouse in America receives even when both pay into the Social Security program.

Finally, the bill helps people with disabilities by giving greater access to qualified representatives when applying for benefits, by improving work incentive programs, and by expanding eligibility for the Work Opportunity Tax Credit to encourage more employers to hire individuals with disabilities.

And, accompanying all of this, the taxpayers will save $800 million over the next 10 years.

I thank Senators Grassley and Baucus of the Senate Finance Committee who offered to work with the Committee on Ways and Means and, of course, the gentleman from California (Mr. MATSUI) as we have done this on a bipartisan basis as they developed their amendments to the House-passed bill.

This amendment made a number of enhancements to the bill.

First, it increased overpayment collection by authorized recovery across Social Security and Supplemental Social Security Income program lines.

It provides for a 5-year nationwide demonstration project providing direct fee withholding for qualified nonattorneys who help individuals through the complex disability application process.

It provides additional time for the Social Security Administration to test initiatives to help individuals with disabilities return to work as well as extended funding for services that help individuals with disabilities return to work and keep working.

It provides for the ability to restart disability benefits based on their parent's work if an individual disabled in childhood tries to work but must later stop.

Lastly, enhancement and simplification of the Supplemental Security Income program, especially for members of the military and their families.

This bipartisan legislation has support of many organizations because it does what is right for the Social Security program, the people who pay into it and the people who benefit. It was developed in cooperation with the Social Security Administration and the Social Security Inspector General. It is also supported by AARP, Citizens Against Government Waste, the National Conference of State Social Security Administrators, the Consortium for Citizens with Disabilities, the National Alliance for the Mentally Ill, the Association of Administrative Law Judges, and the National Organization of Social Security Claimants' Representatives.

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This bill probably will not make the front page of your newspaper on kitchen tables tomorrow morning. That is unfortunate, as Social Security is one of our Nation's most important programs and constitutes our government's largest expense, consuming approximately one-quarter of our Federal budget and growing. It deserves our Nation's attention.

Protecting the most vulnerable beneficiaries and stopping Social Security from hemorrhaging precious dollars through fraud and benefit misuse is important and serves as a shining example of what Members of Congress can achieve for the American people when we work together.

I strongly urge my colleagues to vote ''yes'' and give workers and beneficiaries the protections that they deserve.

Mr. Speaker, I reserve the balance of my time.

Mr. MATSUI. Mr. Speaker, I yield myself such time as I may consume.

Today, we have before us the Social Security Protection Act. This legislation was developed over several years in conjunction with the Social Security Administration, its Inspector General, beneficiary representatives and others. The bill reflects a preconference agreement negotiated with the other body on a bipartisan basis and is supported by the Consortium for Seniors With Disabilities, the National Alliance for the Mentally Ill, the Association of Administrative Law Judges, the National Organization of Social Security Claimants' Representatives and others.

I would like to take a few moments to highlight several items in this bill. The first deals with representative payees. Nearly 8 million Social Security and SSI beneficiaries who are unable to manage their own benefits have representative payees, including children, the mentally impaired and the very frail elderly. Most payees work hard to ensure that the benefits are spent to meet the beneficiary's needs. However, in some instances SSA's screening process for determining who should serve as a payee has failed to prevent the misuse of these benefits. This legislation gives SSA the tools it needs to reissue benefits that are misused. It provides for penalties for those who would take advantage of some of our most vulnerable citizens. It also strengthens Social Security's oversight of these payees.

Second, the bill helps individuals with disabilities gain greater access to legal representation when filing for benefits. Social Security disability insurance beneficiaries already have this access, and the bill extends it to SSI claimants, as well, so they can get the needed help and ensure that their applications are fully considered.

Finally, and very importantly, the bill prohibits paying Social Security benefits to fugitive felons and to those who have violated probation or parole. It is my strong belief that we should not be supporting fugitives who are fleeing the law, and this bill will help bring them to justice.

Now, I would like to mention one provision in the bill that has generated some controversy. This is the provision that would modify an exemption to the government pension offset, or known as GPO, that is being used by some workers but is not available to all. My colleagues from Texas have discussed this specific provision in more detail during the debate on the rule and will discuss it further on this bill, but the larger issue here itself is the GPO. Across the country, people who have worked hard all their lives are unexpectedly faced with the loss of Social Security benefits that they had been counting on because of the GPO. The GPO, which was created in the 1970s and phased in during the 1980s, was designed to provide roughly equal treatment between people who work under Social Security and pay into the system and those who do not. It was designed to end a disparity between couples where in one couple, both members paid into the Social Security system and in another when one spouse paid into the system and the other spouse paid into a State retirement system. Unfortunately, we now know that the GPO often produces unfair results. It is a rough tool that clearly needs adjustments.

Let me illustrate my point. Research shows that a widow needs 80 percent of the income needed to support a couple. Because of the GPO, the couple's income from Social Security can drop to zero when the husband dies. On average, the reduction caused by the GPO is $421 per month, which cuts the average widow's benefit in half, jeopardizing her ability to keep up with fixed costs of housing, health care and others that still exist after the death of her spouse.

We tried to address some of these problems with the GPO during the committee markup last year, but we were rejected on party-line votes. We were also denied the opportunity to address the larger GPO problem in the Rules Committee when the bill came before the House last April. Finally today, my good friend from Texas (Mr. FROST) attempted to bring forward for debate a bill that would fully repeal the GPO, and he was denied that opportunity.

The will to solve the problem with the GPO is clearly an issue of priorities. My Democratic colleagues and I have been prevented from bringing this issue before the Congress over and over again, while my friends on the other side of the aisle have continued to push policies that benefit the wealthy at the expense of this important issue.

For example, the GPO affects 400,000 hardworking Americans every year and eliminating it would cost $31 billion over 10 years. Not $800 billion, not $1 trillion, but it would cost $31 billion over 10 years. In contrast, the 200,000 households that make more than $1 million each year will see $90 billion in tax cuts over that same period. That is half as many people being benefited at three times the cost. There are other examples of misplaced priorities. Congress could and should close corporate tax shelters and prevent companies from incorporating offshore. That would save $30 billion over a 10-year period and that amount would actually take care of dealing with the 10-year period of eliminating the GPO completely.

This is an issue that should not go unaddressed any longer, and I hope that the Congress will make it a priority for consideration this year. While I am disappointed that we are not addressing this important issue today, there are many other provisions in this bill that I mentioned that will strengthen the Social Security system, and I intend to support this bill; but it is my hope that we do address the issue of the government pension offset because it is creating a great deal of consternation and damage to many people who obviously lose their spouse. I support the legislation, but I just hope that we can take some action on the GPO in the future.

Mr. Speaker, I reserve the balance of my time.

Mr. SHAW. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. HERGER), a member of the Committee on Ways and Means.

Mr. HERGER. Mr. Speaker, I rise in strong support of the Social Security Program Protection Act. This bill contains important provisions to better protect disabled Americans, prevent fraud and abuse in Social Security programs, and help disabled beneficiaries return to work.

Over the years, the Committee on Ways and Means, on which I serve, has taken a number of steps to better protect Social Security recipients and other taxpayers. The bill we are considering today will make an important contribution to those continuing efforts.

I commend the gentleman from Florida (Mr. SHAW) for his leadership and persistence on this legislation over the course of several Congresses. I particularly want to thank him for including

provisions that will help bring criminals to justice, rather than subsidizing their flight, by preventing convicted fugitive felons and parole or probation violators from getting Social Security checks. These provisions build on my previous legislation that now has successfully blocked prisoners and fugitive felons from getting illegally millions of dollars in supplemental security income checks.

Please join me in supporting this legislation.

Mr. MATSUI. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. HINOJOSA).

Mr. HINOJOSA. Mr. Speaker, I rise today on behalf of the teachers in the State of Texas in strong opposition to this legislation.

H.R. 743 turns a 1-day loophole, which was a minor inconvenience, into a 5-year career deterrent. My office is flooded with letters from justifiably concerned teachers that do not want to be forced out of the classroom even one day earlier than when they are ready.

Mr. Speaker, I would like to know if the supporters of this bill are aware of the teaching shortage crippling our education system. Clearly they are not or they would not support the legislation before us today. They would not force teachers in Texas and Georgia to choose between retirement benefits and a career educating our children. If my colleagues were aware of these critical shortages, they would have surely stripped this provision from the legislation when they had an opportunity to do so almost a year ago. If they were aware of the growing teacher-student ratios in public schools, they would definitely honor our teachers with the retirement benefits they deserve by repealing the WEP and GPO. It could easily be done by passing H.R. 594. This bill, with 285 bipartisan cosponsors, would end this inequity not only for Texas teachers but for government employees throughout the country.

In 2002, 376,000 public servants had their Social Security spousal benefits affected by the GPO. Forty percent of these were widows and widowers, and 73 percent were women. These are hard-working people who are relying on full spousal benefits to live comfortably in their retirement. Many learn of the GPO when it is too late to change their retirement plans.

Yesterday, my office had the pleasure of speaking with Mrs. Carolyn Martin, a school librarian at Gregory-Portland High School in the coastal bend of Texas. Mrs. Martin was understandably concerned about her own future, but much more focused on the future of a teacher at her school who recently lost her husband over the holidays. This teacher has two children in college and, if H.R. 743 passes, will not be able to collect her widow's benefits under Social Security if she wants to stay in the classroom.

Mrs. Martin characterized the issue best. She said, ''Social Security is the difference between a minimal standard of living and a dog-food diet in retirement.'' She was outraged, as am I, and again I quote, that ''millionaires can collect Social Security in this country but not Texas teachers.''

Mr. Speaker, I implore my colleagues to consider the consequences of this vote today. Vote against H.R. 743.

Mr. SHAW. Mr. Speaker, I yield myself such time as I may consume.

I would like to point out at this time that even under this bill, the offset is only $2 for every $3 of pension received, whereas those of us who are going to depend on Social Security, those that depend on Social Security, the offset is a dollar for dollar. So the teachers that people are talking about and public employees that this might affect, they are still getting a much better deal than people who have paid into Social Security.

Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. DELAY), the majority leader.

Mr. DELAY. Mr. Speaker, this is a very important bill, and I rise in strong support of its passage; but I want to take just a few minutes to speak to a particular provision in this bill and the unfortunately contentious debate that surrounds it.

There is a lot of misinformation out there about the government pension offset provision, and I want to make sure everyone understands what we are talking about today. Under Social Security, spouses of covered workers who do not work outside the home themselves are entitled to spousal benefits. But if both spouses work, their spousal benefits are reduced, or offset, one dollar for every dollar of Social Security benefits that they themselves earn. This is true for every single couple in America that is covered by Social Security.

In Texas, many of our school districts have opted out of the Social Security system, instead using the Texas teachers retirement system, so that those district teachers and staff pay into the TRS, not Social Security. As a matter of fairness, the law says that if you pay into a different retirement system, like TRS, then your Social Security spousal benefits are offset by the benefits that you accrue in the other system. This is only fair, and it has been the law for a generation.

Unfortunately, a loophole exists in that law that says even if you work your entire career in the teacher retirement system and then work for just one day in another school district that uses Social Security, you are suddenly entitled to full spousal benefits under Social Security, as if you only worked one day in your entire life.

That is simply unfair, Mr. Speaker.

The offset law is in place to protect the spirit of Social Security, and the loophole violates that spirit.

□ 1430

Opponents of this provision are correct, though, when they say Texas teachers have been targeted for unfair treatment. They have been targeted by their unions, Mr. Speaker, who have spread misinformation about the spousal benefit loophole. Not only has that misinformation been spread about this debate, but it is poisoning the retirement planning of deliberately misinformed Texas teachers.

In recent months some of our offices have gotten calls from single teachers who have been led to believe by their unions that they could qualify for the spousal benefit loophole when they have never even been married. That is the outrage, Mr. Speaker. Not this bipartisan effort to protect the Social Security system from waste, fraud, and abuse. Teachers in Texas and around the country will be just as protected by this bill as everyone else, which is the whole point of the Social Security system in the first place.

We are doing the right thing, and I urge my colleagues to vote yes.

Mr. MATSUI. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from the State of Texas (Mr. GREEN).

Mr. GREEN of Texas. Mr. Speaker, even though I hate to disagree with another Texan, particularly the majority leader, but let me tell the Members the real story. It is not the unions that are the problem. Congress made in 1983 Social Security participation by some local governments voluntary, school districts. In Texas, very few school districts participate in Social Security because they have a teacher retirement system. Some do. But the problem we need to address in this legislation that we are not and it makes it worse is that we have a widow's benefit under Social Security.

I do not care if they have never paid into Social Security at all. They receive a widow's benefit if they were married to someone for more than 10 years. And we have cases in Texas that educators, not just teachers, custodial staff, lunchroom staff, administrators, maybe even superintendents, the highest paid, but it covers so many people that they may work under that system their whole life. They are career educators, and yet they are married to someone who pays into Social Security for over 10 years, maybe 30 or 40 years, and when their spouse passes away, that person may be receiving teacher retirement then.

All of a sudden, they say, I should get my spousal benefit because I am a widow. Tough luck. That spouse they may have been married with for 30 years, they receive very little, in fact, almost nothing under their Social Security benefits.

That is what is wrong with the current law. That is why Texans innovatively have found a way, okay, we will go work a day. That is a loophole. Let me tell my colleagues I have watched lots of loopholes pass through this House in my six terms, but I am glad for one time maybe teachers are benefiting from it.

But that is why we need to reform the Government Pension Offset, and

that is why I wish the committee would deal with it. But, in all honesty, this is making a bad situation worse, because we will have Texan teachers who have committed their lives to our public schoolchildren and they will be retiring before this bill is effective if they have their magic number of years plus age, and they will retire because they will not want to lose their spousal benefits.

Mr. SHAW. Mr. Speaker, I yield myself such time as I may consume.

I tell the gentleman from Texas that I know he feels passionate about this and I can agree with his motivation with regard to this, but the simple fact arises that there is an offset for those where we have a spouse and a worker both paying into Social Security. We simply bring them pretty close down to where some people who are paying into Social Security and work every single day and pay under the Social Security program, and still we give the people he is talking about a better deal than the people who have really labored under Social Security only.

Mr. Speaker, I yield 10 minutes to the gentleman from Texas (Mr. BRADY).

Mr. BRADY of Texas. Mr. Speaker, I rise on behalf of the 99 percent of the seniors in America who do not have a special loophole. I rise on behalf of the 99 percent of the widows in America who do not have a special loophole.

What we are discussing today is a situation where a very select few in America, sort of a second class, a higher class of citizens in America, get to keep a lot of Social Security, where their next-door neighbor who has paid into Social Security all their life get to keep much less.

What we are talking about here is a special loophole. The way it works today is that most of us pay into Social Security. My wife pays into Social Security. The husband pays into Social Security. But there are some who work for local governments or who are teachers like in Texas where they do not contribute to Social Security at work. They have a substitute, in this case a teacher retirement system. That is where their payroll taxes go. And very few of them have found a loophole in the law from 25 years ago that allows them to escape the formula that everyone else in America is applied to and receive much more in benefits than we will ever dream of receiving.

Here is the way the loophole works. In Texas, a teacher works their whole life, but they do not contribute to Social Security. Under this loophole, if they will take their last day and go to another school district and pay that school district to work for them, think about it, they pay $500 so they can work one day at minimum wage for a school district. And, in return for working that one day at minimum wage, contributing about $3 into Social Security, they receive on average $93,000 of Social Security retirement that no one else in America gets, literally no one else in America gets, the teacher in New York does not get, the nurse in Iowa does not get. The cleaning lady in our offices up here does not get this.

Let us compare how it works in real life so we can all see how it affects us and just what this loophole means. Take a look at the average Social Security recipient in America. The husband is getting about $1,000 a month for Social Security; the wife's monthly retirement is $700. For most of us, almost everyone who pays into Social Security, when that husband dies and the widow has her benefits, for 99 percent of America her benefits are going to be $1,000 a month, using this example, which, by the way, is exactly the average for Americans. For those who are in government pensions, the ones who do not pay into Social Security, they receive more. Those widows receive $1,233 more. They keep more of Social Security, having not paid into it, than those who have paid their whole life into it. That is the way the formula works.

But under the loophole we are closing today, it is even more outrageous. If we leave this loophole open, the teacher who only worked one day in Social Security will receive $1,700 in monthly benefits, far greater than the widow who worked her whole life in Social Security. Amazingly, the loophole permits a spouse who only contributed to Social Security for one day to receive so much more than the widow who worked her whole life in Social Security, her whole life, and who receives a pittance of what this loophole provides for 1/100 of 1 percent of all Americans.

We cannot have two classes of families in America, those who have loopholes for Social Security and those who do not. This loophole is unfair to working families. It drains hundreds of millions of dollars from the Social Security Trust Fund, which is why senior groups say close this loophole now. And it deserves to be closed.

Let me make a final point here. Under this loophole in Texas today, we have great teachers. We have wonderful teachers. My sister-in-law is one. We are here because of our teachers. But teachers are inherently fair, I think, like the rest of Americans; and if we look at loophole today, this college professor who worked one day in Social Security receives a ton of the money, but the cleaning lady in our offices receives a small fraction of it. If we leave the loophole open, the school superintendent who makes $200,000 a year keeps a ton of Social Security. The checkout lady at the grocery store who has worked her whole life and still working now, she gets a pittance of it. The teacher in Texas gets a ton of money. The teacher in Iowa and Ohio and New York and California gets a pittance.

Those who want to keep this loophole open want to create two classes in America. It is inherently unfair to do that. It is right to close this loophole. It is wrong to have two classes of families in America. It is time to make Social Security fair.

Mr. LAMPSON. Mr. Speaker, will the gentleman yield?

Mr. BRADY of Texas. I yield to the gentleman from Texas.

Mr. LAMPSON. Mr. Speaker, one quick, simple question. Who earns the benefits that the teacher's spouse, who ultimately goes off and takes advantage of that loophole, who earns the benefits he or she is trying to get?

Mr. BRADY of Texas. The husband.

Mr. LAMPSON. The spouse earns them. Those are earned dollars; right or not?

Mr. BRADY of Texas. Yes.

Mr. LAMPSON. They are earned dollars?

Mr. BRADY of Texas. Yes.

Mr. LAMPSON. Mr. Speaker, so what we are going to say is we will dilute what was earned by that family. Yes or no?

Mr. BRADY of Texas. No.

Mr. LAMPSON. Explain.

Mr. BRADY of Texas. Mr. Speaker, because in America when both spouses pay into Social Security, the formula, the way it works, is that if their husband passes away, which normally happens first, she keeps all of her Social Security. Then she keeps all of his minus hers. That is the formula. For those in government pensions, like teachers, it is almost the exact same formula. They keep their retirement plus their husband's minus only ⅔.

So I appreciate this is an issue dear to the gentleman from Texas's (Mr. LAMPSON) heart, but under the formula today, that teacher, that government worker already keeps more of their spouse's Social Security than the rest of America. And if we keep the loophole open, they gain nearly twice as much as the family that worked exactly the same hours, paid exactly the same money in, and whose husband died exactly at the same time. We are creating those two classes of families in America, and that is what we are trying to stop.

Mr. LAMPSON. But all paid in by the husband and spouse?

Mr. BRADY of Texas. Mr. Speaker, the husband paid in in one; the husband and wife paid in in both; and the husband and wife, the widow who paid her whole life, she gets less. Two classes of citizens in America. And nowhere do I know in America can one work one day, contribute $3, and take home $93,000 in their pocketbook that the widow next door who worked her whole life will never, ever see. It is time to close this loophole.

Mr. MATSUI. Mr. Speaker, I yield 1½ minutes to the distinguished gentleman from the State of Maryland (Mr. CARDIN), member of the Committee on Ways and Means.

(Mr. CARDIN asked and was given permission to revise and extend his remarks.)

Mr. CARDIN. Mr. Speaker, I thank the gentleman from California (Mr. MATSUI) for yielding me this time.

Let me concur in the comments that the gentleman from California (Mr. MATSUI) made earlier where I think he gave a very good explanation, the Government Pension Offset and the issues concerning it and then what is in this bill generally, which have very good things to help shore up a system that is very important to millions of Americans, our Social Security system.

I listened to debate about the Government Pension Offset and the problems in Texas, and I think the point that many of us are trying to raise is that there may be a problem in what is happening in Texas, but why are we not reforming the Government Pension Offset? The distinguished gentleman from Florida (Mr. SHAW) has a bill in to reform that. The gentleman from Louisiana (Mr. JEFFERSON) has a bill in to deal with it.

It is an issue that cries out for reform because we are not treating particularly our lower-wage workers appropriately with the Government Pension Offset. I think we have all acknowledged that this is an issue that we need to take up. This was an excellent opportunity for us to correct it, and we will lose that opportunity.

In regards to the underlying bill itself, I compliment the gentleman from Florida (Mr. SHAW) and the gentleman from California (Mr. MATSUI) and Commissioner Barnhart and our colleagues on the other side of the Capitol for working together to develop a bipartisan bill to strengthen Social Security, particularly as it relates to individuals who have disabilities who are collecting Social Security, ''representative payees.''

We know, we have reports, of people who are not able to manage their own money. We know that in 2,400 cases over $12 million dollars has been lost, and this bill will help clean that up, and that is important for us to deal with that.

We also know, in regards to the Ticket to Work law and the Work Incentives program that helped disabled individuals, that we are strengthening those programs. We are helping claimants who are applying for SSI to get the funds that they need.

So there are important provisions in this bill that have been worked out by Democrats and Republicans working together. That is the way we should work. It is a good bill. But we should have taken care of the Government Pension Offset, and we have not done that in this bill.

Mr. SHAW. Mr. Speaker, I yield myself such time as I may consume.

In just a brief response to the gentleman from Maryland, he correctly described my intentions, but the bill has not yet been prepared. As soon as we get some figures back, I intend to work closely with the gentleman from California (Mr. MATSUI) and other members on our Committee on Ways and Means to make this a bipartisan effort on the Government Pension Offset, where it is still very much a work in progress, and we want to be sure that we can get it right. If it can be bipartisan, I think the gentleman from California (Mr. MATSUI) and I have both learned that we can accomplish a lot more by working together than working separately.

Mr. Speaker, I reserve the balance of my time.

□ 1445

Mr. MATSUI. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the distinguished ranking member and the chairman, and I thank my good friend from Texas as well. I will try to speak quickly. Many of us are managing a number of activities, and committees are going on as we speak.

I just quickly want to say that although we appreciate the work of this bill, we have to rename it. It is called the ''Forced Work Bill.''

I think what is going on on this floor is a lot of smoke and mirrors. There are good points to this bill. Someone got up on the floor and said you are asking the widows and others to do things and to get benefits that others are not. That is absolutely incorrect. If we had supported the Frost motion to fix this problem by stripping section 418, which would penalize firefighters, police officers and teachers, we would not be standing here saying vote ''no'' on this bill.

What this bill is doing is those who are in an independent pension system are now forbidden from getting their spousal benefit. It is the benefit that their spouse is owed. It is not that they are getting any monies that are not owed them; it is that they are prohibited from getting those monies because they are not in the Social Security system. If they are not in the Social Security system, they are forbidden from getting the money.

All we are asking to do is support teachers, police officers, firefighters and other public servants. The GPO affects many individuals, but it especially is harmful to these public servants. And we are not snatching anything from someone who has gotten this benefit. We are trying to get what is ours. The only reason we cannot get it if we happen to be a teacher, policeman or firefighter is because we are not in the Social Security system.

So this is a lot of smoke and mirrors; and if I have to stand with anyone, I am going to stand with the hard-working teachers, firefighters and police officers, who are merely trying to get what is theirs. If we do not remedy this problem, then you force those who have worked all of their lives and are due for retirement to work another 5 years in order to get equity for something that is owed to them.

I wish our colleagues would tell the truth and stand for teachers, firefighters and police officers, like the rest of us.

Mr. Speaker, I am saddened to have to come to the floor today to speak out yet again against H.R. 743, The Social Security Protection Act of 2003. There is much good in this bill. If the Majority Leadership would take out the small error that will hurt our teachers and firefighters and police, this bill could be in front of the President soon. That would be a great service.

Social Security represents a covenant between the U.S. Federal Government and the American people. It is a promise that if a person works hard, and contributes into this investment program, that when it comes time for them to retire—their government will ensure that a fair benefit is there for them. It seems that too often, criminals take advantage of the trust between the Social Security Administration and the seniors and disabled Americans it serves. They misuse Social Security benefits. Such activity is worse than just stealing, because it threatens the confidence that the American people have in their government. That confidence is the foundation of our democracy.

So last Congress, I joined with every voting Member of this House in support of the The Social Security Act of 2002. It was an excellent piece of bipartisan legislation, which would have made great strides towards cutting down on the abuse of the Social Security system. Most of the major provisions of the that bill are reflected in the bill before us today, and I still support them. The bills would both protect Social Security recipients by mandating reissue of funds when their payments are misused. Representative payees who misuse a person's benefits would be forced to reimburse those funds, plus would be subject to fines of up to $5,000 if they knowingly provided false or misleading information.

The bills would allow the Commissioner to withhold benefits from fugitive felons, and persons fleeing prosecution. The bills also provide for numerous improvements to the present system, which would reduce fraud and abuse of the program. Obviously there is a lot of good in the last bill and in this bill as well.

The last bill passed unanimously in the House in the 107th Congress, and similar legislation cleared the Senate. But unfortunately this important legislation got hung up at the end of 2002. With such support and progress, this should have been an easy piece of work to get through this year, and a score for the American taxpayers. Instead, a wrench has been thrown into the works, through the addition of a small section that has provoked a deluge of phone calls into my office from, it seems like, every schoolteacher in my district.

The Texas branch of the American Federation of Teachers describes Section 418 as ''poison for Texas school employees.'' That section relates to the Government Pension Offset. At present, if an individual receives a government pension based on work that was not covered by Social Security, his or her Social Security spousal or survivor benefit is reduced by an amount equal to two-thirds the government pension. This provision of current law is called the Government Pension Offset (GPO). However, under the ''last day rule,'' an individual is exempt from the GPO if he or she works in a job covered by Social Security on the last day of employment.

Many school districts offer teachers non-Social Security government pensions, so until now many teachers have been forced to take

advantage of the ''last day'' loophole. Just before they retire, they get a job in a business with a Social Security pension for a day, in order to receive their deserved benefits. This is a ridiculous system, and the appropriate way to fix it would have been to repeal the GPO. In fact, I have co-sponsored H.R. 594 with my colleague from California, BUCK MCKEON, and 285 others to do just that.

Instead, the bill before us today closes the loophole by forcing teachers to work for the last five years of their careers in an appropriate job. That may force many teachers to retire early from teaching. I am usually all for getting rid of loopholes, but now is no time to be ''sticking-it'' to teachers—just as we are trying to leave no child behind, just as we have a shortage of qualified teachers in many areas. This could drive many people away from careers in teaching.

For example, I received one call from a woman in my District who was a teacher earlier in her life. Her husband recently passed away and she has been contemplating going back into teaching. But she has been warned that she could actually jeopardize her financial future by going to work. As a widow, she will be entitled to her husband's social security benefits. However, if she starts to teach in a school district with a government non-Social Security pension, she could lose $360 per month in retirement benefits—over $4000 per year.

Why should she risk it? If H.R. 743 passes today, it won't be only she that loses. It will be our nation's children who lose—an experienced, intelligent teacher.

The GPO issue needs to be addressed, but not today. Right now, we are giving money to criminals who are beating our system and undermining confidence in the future of Social Security and the government as a whole. We need to protect Social Security, and we need to do it soon. But I will wait until we can do it without attacking our teachers, and penalizing our children.

I am proud to stand with my Democratic colleagues from Texas, to fight for our teachers. I will vote ''no'' on H.R. 743 unless the offending provision is taken out, and urge my colleagues to do the same.

Mr. SHAW. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would have to correct the previous speaker when she says they do not get any of their survivor benefits and advise her that, yes, under this bill, the teachers that she is referring to get one-third of the survivor benefits, even after the offset, whereas if you have a similar situation where a teacher teaching where there is not this loophole and pays into the Social Security system, generally in that same example they get zero. So I just want to be sure the record is correct on that.

Mr. Speaker, I reserve the balance of my time.

Mr. MATSUI. Mr. Speaker, I yield 1 minute to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, let me just quickly say I appreciate the attempt to correct some portions of this bill, but that is not enough.

Again, let me emphasize the one-third. What I am suggesting is that the only reason these individuals are penalized is because they are in a parallel system; they are not in the Social Security system, which in fact helps to relieve the Social Security system from the burden of more people being in it.

I would only say, do you not think if you worked a full-term and you are owed these benefits through your spouse that you deserve the full benefits and not one-third? Why penalize firefighters, police officers, and teachers? I will support these Texas public servants having full benefits.

Mr. SHAW. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. BRADY) a member of the Committee on Ways and Means.

Mr. BRADY of Texas. Mr. Speaker, I would like to make two points. This bill does not address firefighters or police officers or teachers, and not even all the teachers in Texas. It applies to 1/100 of 1 percent of all Americans who have a special loophole.

The point my good friend from Houston was making is absolutely wrong. They do not receive less money because they do not pay into Social Security; they actually get more money than the widows and the families who have spent their whole life paying into Social Security. They already get this. Under this loophole, they would get, for $3 of work, 1 day, they receive $93,000 on average in retirement; and our widows in hospitals and widows that clean our offices and widows, like my mom, will never see that money.

This is about not creating two classes of citizens in America, those with a special loophole and those without.

Mr. MATSUI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would just like to make an observation. I would not have so many problems with this were it not for the fact that there are many other loopholes that have actually been passed through this House over the last few years.

For example, if a corporation in the U.S. goes to Bermuda to avoid U.S. taxes, we tried time and time again to close that loophole. But the other side of the aisle, in fact the gentleman who just spoke, denies the ability for us to even bring such a bill to the floor.

I guess that is where the frustration lies, is when we close loopholes, we pick on the people that are firefighters and teachers; but we let large corporations who avoid U.S. taxes go from that.

Mr. Speaker, I yield 3 minutes to the distinguished gentleman from the State of Texas (Mr. LAMPSON).

Mr. LAMPSON. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, this is a complex issue and one that touches an awful lot of us in different kinds of ways. While I certainly support the efforts that this committee has made in developing this bill, and I know how important the bill is, I am still going to vote against it and will oppose it and ask my colleagues to do so.

There are some 50,000 teachers across the State of Texas who will indeed be adversely affected by this legislation. The bill includes provisions which I consider to be catastrophic for Texas teachers. Provisions in the legislation would, in effect, reduce the amount of combined benefits that Texas teachers could depend upon after retirement.

There are many Texas teachers who have worked and paid into Social Security in other jobs. My wife and my daughter are two who have done just that. They have moved, and they have paid into the teacher retirement system now. Susan has paid into the Social Security system for many years in other jobs that she held before she decided to teach. Because of her involvement in the teacher retirement system and because she has paid into her pension fund, she will be adversely affected by the government pension offset. Those are benefits that I earned because of my payment into Social Security.

Teachers do not make a great deal of money in the State of Texas, and in most other places as well; and it is hard to entice them to stay in the classroom. This legislation is going to have broad implications for those teachers and will most likely force many of them to leave this profession early, most likely, from our public schools. What impetus does an experienced teacher have to stay in the classroom and continue teaching, if the government is in effect going to significantly reduce his or her retirement payment potential after this year?

This bill fails to address a larger issue for public servants in this country. The government pension offset unfairly penalizes teachers and many other government workers, the employees who mostly pay into a public pension plan. How can we sit by idly while our public service employees are being penalized for serving their communities? Where is our loyalty to the first responders that so many of my colleagues have praised on this floor? When push comes to shove, are we willing to allow the firefighters and police officers in our hometowns to suffer?

The government pension offset is a deterrent to public service across this Nation; and if we are to attract the best and the brightest into public service, such as our teachers, such as my wife, Susan, and my daughter Stephanie, fire fighters and police officers, we must repeal this unfair provision. This is money that hardworking American citizens have earned and are indeed entitled to.

I truly wish, and I intended to make the point the gentleman from California (Mr. MATSUI) made a minute ago, I wish we would work as hard in repealing the loophole that has allowed corporations to avoid the payment of $40 billion in taxes each year by moving their corporations offshore.

I urge my colleagues to consider a ''no'' vote on this bill, as I am going to vote against H.R. 743. Our public servants deserve our support.

Mr. SHAW. Mr. Speaker, I reserve the balance of my time.

Mr. MATSUI. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. GREEN).

Mr. GREEN of Texas. Mr. Speaker, again I thank our ranking member on our Subcommittee on Social Security and also the chairman of the Subcommittee on Social Security. I know we have a difference of opinion on this issue; and I guess it is frustrating, because with what is happening with our general budget, this year, this Congress and this government will take $155 billion and borrow it from the Social Security trust fund, and what is it paying for? A lot of folks will say it is paying for the war in Iraq. No, it is also paying for tax cuts that this House passed on two different occasions. But by this bill today, we are going to take away these same Social Security trust funds that are for these widows and people who paid into Social Security.

Again, let me explain to my colleagues, these are people who may never have paid into Social Security. If they did, they are subject to government pension offset, like everyone. But these people never paid in. They were educators or firefighters or police officers in a system that was not part of Social Security, but they paid into their own pension fund; and if their spouses die and they have been married for less than 10 years, we will not pay them their spousal benefit.

I do not know how much harder this Congress can get. When we talk about giving tax cuts to everybody in the world, and we let companies move their headquarters overseas as a sham, and yet we are going to remove the Social Security benefits from a widowed educator, and typically 80 percent of them are women, and her only problem was that she taught school or worked in the cafeteria or helped clean up schools. Because their husband was a Social Security beneficiary, he paid into Social Security, maybe for their whole work life, and so you remove it.

It is just frustrating that this bill is going to make a bad system even worse. That is why I rise in opposition to H.R. 743 and urge my colleagues to join in voting against it.

In many ways, 743 is a good bill, and I know there are some good parts in it, and I heard my colleagues on both sides. It would help stem fraud and abuse in the Social Security system. Well, I support that. I agree that fugitive felons should not collect Social Security benefits. And I support a number of other provisions. But, in all honesty, if we have a fugitive felon getting Social Security benefits, why are they still a fugitive?

Unfortunately, this has been wrapped up in an explosive issue that has caused serious harm to educators who are widowed by someone who has paid into Social Security.

We are all familiar with the unfair government pension offset; 285 Members of this House have cosponsored legislation to reform the GPO. This provision of current law keeps public employees from collecting full spousal benefits if they receive a pension based on State, local, or Federal Government employment not covered by Social Security. This provision is unfair and targets government workers at the Federal, State, and local levels. Again, 285 of us think it ought to be reformed.

The GPO is a problem for many public servants, but it is especially bad for women. Eighty percent of the Texas school teachers and retirees are women, sixty percent of that group are married, and almost all of them are eligible for Medicare through their husbands; but none of them are eligible for their spousal benefit because of the GPO under this bill.

After a lifetime of being underpaid as teachers, they depend on their Social Security widow's benefit to make up for their retirement, but the GPO takes that benefit away. That is why, again, the repeal of H.R. 594 is so popular.

The bill by our colleagues, the gentleman from California (Mr. MCKEON) and the gentleman from California (Mr. BERMAN), have, again, garnered 285 bipartisan cosponsors. We had an opportunity to address this in H.R. 743; but instead of fixing the GPO, this bill makes it harder for Texas teachers to collect the full spousal benefit. Again, 285 members agree the GPO is unfair and should be repealed. We should not penalize Texas teachers for figuring out a way to do what this Congress will not do.

I urge my colleagues to stand for public servants everywhere and vote against H.R. 743.

□ 1500

Mr. MATSUI. Mr. Speaker, may I inquire as to how much time I have remaining.

The SPEAKER pro tempore (Mr. ISAKSON). The gentleman from California (Mr. MATSUI) has 7½ minutes remaining; the gentleman from Florida (Mr. SHAW) has 12½ minutes remaining.

Mr. MATSUI. Mr. Speaker, I yield the balance of my time to the gentleman from Texas (Mr. TURNER), the ranking member of the Committee on Homeland Security.

Mr. TURNER of Texas. Mr. Speaker, it does not happen very often on the floor of this House where a bill comes forward that has many good provisions in it, but there is one provision that is so damaging and so harmful and so unfair that it causes us to oppose an otherwise good bill. But as my colleagues have heard over and over again today in this debate, public school teachers in places like my State of Texas and other government employees feel very strongly that the government pension offset is wrong, that it must be corrected, the law must be changed; and this bill provided an opportunity to correct that injustice.

I know from personal experience how deeply this issue is felt by public school teachers. It was a couple of years ago in my office that I had a lady come to see me, and I really did not know why it was she really wanted to come see me, but my staff had said this lady really wants to talk to you, she needs to see you. So I said, well, let her come on, I would be glad to visit with her. I had no idea what it would be about.

She came and she began to tell me a story that quickly turned to tears in her eyes when she told me about how her husband had passed away just a few months before. After his death, she learned that she would not be able to collect any of the survivor benefits that she believed, rightfully, her husband had earned by a lifetime of contributions to the Social Security system. She explained to me that the law apparently said that because she was a public school teacher, an honorable profession, that somehow the law said that she could not qualify for survivor benefits that her husband had contributed for years to ensure that she would get. She told me, she said, if I had done anything else, if I had just worked in a private company, they tell me that I could get the survivor benefit; but because I am a teacher and receiving a benefit from the teacher retirement system, that I am disqualified. Her tears turned to anger as she said to me, this is wrong. And as I have learned over the years since, teachers all across my State of Texas feel very strongly about the unfairness of this provision of the Social Security law.

So I think with an overwhelming majority of this House having signed on to a bill to eliminate this offset, that we should have, in good conscience, taken the opportunity in this legislation to have corrected that unfair provision of the Social Security law.

I recognize that there are some who have logical arguments as to why this should not be changed, but I will tell my colleagues that after listening to this widow with tears in her eyes, I became convinced that she had the better side of the argument. Oh, I know it is going to have a cost to the Social Security trust fund to provide this benefit to all of these public school teachers who have had spouses who have passed away before them, but the reality is that getting it fixed is the right thing to do.

I would urge my colleagues today to take what will be perhaps somewhat of a difficult step and join with those of us who have stood on this floor arguing about this point for this entire hour of debate and vote against a bill that is otherwise a good bill, to give us the opportunity to correct what we believe, and many, many public employees believe, is a very unfair provision of the Social Security law.

I want to commend the gentleman from Florida for his leadership on Social Security. I know that he differs with us on this issue, but I hope that the Members who have joined on in supporting the McKeon bill to correct

this problem will also join with us today to vote against this bill so that once and for all we can do what is right for our teachers and for our public employees.

Mr. MATSUI. Mr. Speaker, I yield back the balance of my time.

Mr. SHAW. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, in looking at what is right, it is right to protect beneficiaries from representative payees who would misuse these benefits. We all agree on that, whether you are from Texas, Georgia, California, or New York. It is right to deny Social Security benefits to fugitive felons and probation parole violators. We can all agree on that. It is right for this Congress to pass a bill that deters waste, fraud, and abuse. That is in this bill, and that is the right thing to do. It helps individuals with disabilities gain access to representation, and it encourages disabled beneficiaries to return to work. That is the right thing to do.

Now we get to the hard question: Is it right to close a loophole that enables some teachers in Georgia and Texas to contribute just a few dollars to Social Security to receive nearly $100,000 in additional lifetime spousal benefits? I strongly believe this loophole should be closed.

Let me give an example which I think would be very helpful to the Members in deciding how they are going to vote on this issue. Any worker, corporate, executive, otherwise, or school teacher who pays into both Social Security and a retirement plan will receive both benefits based upon their work. However, no worker will receive a full spouse or widower benefit; those benefits are reduced or eliminated dollar for dollar by the earned Social Security benefit. Public employees who contribute to a public employee pension plan instead of Social Security actually face a lower, a lower offset under this bill of their spouse or widow benefits than workers who paid into Social Security their whole career. And that is only $2 for every $3. So these people who did not pay into Social Security are getting a better deal than people who paid into Social Security their whole working lives.

Also, this bill has bipartisan support and the support of key stakeholders, and it does save us money. This same identical bill was passed, almost identical bill, was passed by the House by a vote of 396 to 28. It passed. And then it passed by unanimous consent in the Senate with some minor changes, which is the reason we are back here today.

If we were to look at the arguments that have been made today as to what is fair and what is not fair and apply those same arguments as to spousal benefits, surviving spouse benefits to people who have paid into Social Security all their working life, it would cost the Social Security Administration $1 trillion and would bankrupt the system. This is what we are facing: basic fairness. I say, apply the law as this bill outlines it. It is fair. It is the right thing to do. I urge passage of the bill.

Mr. STARK. Mr. Speaker, today I rise in support of the Social Security Program Protection Act.

This legislation makes a strong Social Security program even stronger for the millions of Americans who rely on its benefits for stability through old age, disability or loss of a loved one. And this bill will help to protect the promise of economic security for future generations—a promise we must keep.

I strongly support the protections this legislation provides for some of the most vulnerable recipients of Social Security. Today, many beneficiaries are unable to manage their own benefits so a representative payee is often appointed to do so on their behalf. While this is undoubtedly necessary, too many seniors and people with disabilities have fallen victim to fraud and abuse.

This bill makes dramatic improvements to the representative payee system to help protect beneficiaries. It does so by initiating strict oversight of representative payees and expanding the ability of the Social Security Administration to repay benefits that have been misused or stolen. For many, this puts real financial security back in Social Security.

Despite the strengths of this bill, I am disappointed, however, that Republicans refused to accept an amendment I offered to this bill in the Ways and Means Committee to reduce the Government Pension Offset penalty. This penalty unfairly reduces or even eliminates Social Security benefits for millions of teachers, firefighters, police officers and others who serve the public.

I urge my colleagues to vote for the Social Security Program Protection Act to extend the promise of retirement security for every American, today and tomorrow.

Mr. PAUL. Mr. Speaker, I intend to vote for H.R. 743, the Social Security Protection Act, because it contains an important provision that was not included in previous versions of this bill. This provision takes a first step toward ensuring that non-citizens who are unauthorized to work in the United States do not receive Social Security benefits. Giving Social Security benefits to illegal immigrants is a slap in the faces of Americans who pay their entire working lives into the Social Security system and now face the possibility that there will be nothing left when it is their turn to retire. This is why, at the beginning of the 108th Congress, I introduced legislation, the Social Security for American Citizens Only Act (H.R. 489), which ensures no non-citizen can receive Social Security benefits. Therefore, I am pleased to see Congress beginning at last to address this issue.

However, I wish to make clear my continued opposition to a provision in the bill that removes the only means by which many widowed Texas public school teachers can receive the same personal Social Security benefits, as does every other American. As I am sure my colleagues are aware, widowed public school employees in Texas, like public employees throughout the nation, have their spousal Social Security benefits reduced if they receive a government pension. The Government Pension Offset even applies if the public employee in question worked all the quarters necessary to qualify for full Social Security benefits either before or after working in the public school system.

The Government Pension Offset punishes people for teaching in public schools. However, current law provides widowed Texas public school teachers a means of collecting a full Social Security spousal benefits. Unfortunately, this bill takes that option away from Texas teachers. I have twice voted against H.R. 743 because of my strong opposition to the provision removing the only way Texas teachers can avoid the Government Pension Offset.

Instead of repealing the only means Texas teachers have of avoiding the Government Pension Offset, Congress should pass H.R. 594, the Social Security Fairness Act that repeals both the Government Pension Offset and the Windfall Elimination Provision, another provision that denies public employees full Social Security benefits.

Congress should also be encouraging good people to enter the education profession by passing my Teacher Tax Cut Act (H.R. 613) that provides every teacher with a $1,000 tax credit, as well as my Professional Educators Tax Credit Act (H.R. 614), which provides a $1,000 tax credit to counselors, librarians, and all school personnel.

In conclusion, Mr. Speaker, I will support H.R. 743 because it restricts the ability of illegal immigrants to raid the Social Security Trust Fund. However, I remain opposed to the provision that punishes teachers by denying them Social Security benefits for which they would be eligible if they were not teachers. Instead of punishing teachers, Congress should be enacting pro-teacher legislation, such as the Social Security Fairness Act and the Teacher Tax Cut Act.

Mr. HOLT. Mr. Speaker, I rise in support of H.R. 743, the Social Security Protection Act. This bill will protect the integrity of the Social Security program for the nearly eight million Social Security and Supplemental Security Income (SSI) beneficiaries who are unable to manage their own financial affairs and must have a ''representative payee'' designated to receive and manage their benefits on their behalf.

I would, however, like to take this opportunity to discuss an important Social Security issue that this bill fails to address, the Government Pension Offset (GPO). This unjust, arcane law prevents government retirees from collecting a government pension and the Social Security benefits entitled to them through their spouse's history of employment.

The GPO current affects 335,000 people, a number that is growing by 15,000 each year. The people hit hardest by the GPO are State and municipal workers. Public employees like educators, police officers, and firefighters should not suffer a penalty for dedicating their lives to public service.

Take, for example, a teacher who has worked for 30 years and with her husband has managed to raise a family. After her husband passes away, the law prevents her from receiving most, if not all, of the Social Security benefits that her husband earned and rightfully belong to her. She would lose the benefits simply because she worked for the government making a modest salary.

Mr. Speaker, Congressman BUCK MCKEON has introduced H.R. 594, which would address the Government Pension Offset issue. Even though the bill currently has 285 cosponsors,

the House leadership has failed to bring it up for a vote.

Mr. Speaker, I have heard countless people say that teachers, police officers and firefighters deserve to be paid better for their public service. Fixing the GPO is our chance to say thanks to these selfless individuals whose work has helped make this country what it is today. I ask my colleagues on both sides of the aisle to urge the leadership to bring this issue to the floor during this session of Congress.

Mr. REYES. Mr. Speaker, I rise in strong opposition to H.R. 743, the Social Security Protection Act. I support provisions in the bill to better protect Social Security beneficiaries from fraud. However, I cannot support the legislation because it would also seriously harm the retirement of teachers, firefighters, police officers, and other State and local government workers in my congressional district of El Paso, Texas by subjecting them to the government pension offset.

Some public employees in my State have found a way to protect their retirement benefits from the unfair government pension offset, which targets public servants by refusing them their full spousal benefits under Social Security. The bill before us today would block these employees from protecting their benefits, subjecting them to the government pension offset and denying them the spousal benefits they rightfully deserve.

Among those hardest hit by this legislation will be women, and particularly widows, who very often rely on spousal benefits to make ends meet in their retirement. Many are not aware of the government pension offset, and will only learn of it as they prepare for retirement, when it is too late to make alternative plans.

We need to do more to support those who have dedicated their working lives to serving the public, rather than undermining their opportunity for a secure retirement with this bill. Therefore, I have cosponsored H.R. 594, the Social Security Fairness Act, which would allow all public employees to collect full spousal benefits.

Mr. Speaker, I urge my colleagues to show their support for teachers, and all of our hardworking public servants, by opposing this terribly unfair bill.

Mr. DELAHUNT. Mr. Speaker, I rise today to highlight the inexplicable failure of the U.S. Congress to address the inequities of the Government Pension Offset (GPO) and Windfall Elimination Provision (WEP). For more than 20 years, the GPO and WEP have created enormous burdens for many public service retirees.

More than half of the Members of this House want change; no fewer than 285 of my colleagues have co-sponsored bipartisan legislation for outright repeal of the GPO and WEP. But the House leadership won't even allow debate on the question.

The legislation before this chamber today will help protect many vulnerable beneficiaries from fraud and contains many other important provisions. However, once again, the House missed a perfect opportunity to repeal both the GPO and WEP.

Both the GPO and WEP unfairly reduce Social Security benefits for retirees who otherwise qualify, simply because they at some point worked in jobs covered by another government pension. In particular, the GPO and WEP penalize those who had short or intermittent careers, or who blended private jobs with stints in public service.

Often, these are people already losing out in their overall earnings because they chose to make a meaningful contribution to society in roles that just don't pay well. Think of those in your community who teach your children, fight your fires and keep your streets safe. Chances are, you're thinking of people who are suffering the impact of the GPO or WEP.

Because most paid Social Security taxes somewhere along the way, these people planned for retirement fully anticipating both pension and Social Security benefits. But when these teachers, police officers, and firefighters retired, they discovered all or much of their expected Social Security benefits wiped out by the WEP or GPO. In the case of the WEP, the Social Security benefit is reduced by up to 60 percent. If the GPO is triggered, it reduces a retiree's spousal benefit by two-thirds.

A Barnstable teacher wrote to me about her circumstances:

> I am a recently divorced woman, age 56, who has worked in the school district for five years. Before taking this job I was an at-home mother. Although I get very minimal alimony (which I don't always receive) I face the grim reality of what I will live on when—and if—I can retire. Having paid the Social Security system for many years before having children, the GPO and WEP would not permit me to collect on what I paid into the system. I also understand that if my ex-husband were to die, the amount I would be able to collect from his Social Security would also be cut.

Countless heart-wrenching personal stories dramatically illustrate the impact of these unfair benefit reductions. In my home state of Massachusetts, over 18,000 retirees are being penalized by the WEP. When it comes to the GPO, almost 15,000 are affected—and over a third are widows or widowers.

Consider this letter I received from a widow in Hull, MA:

> I am being punished because I worked for the Town for the past 23 years. My husband passed away after only receiving Social Security disability for six months. He worked 40 years toward his Social Security. Many people do not know about this penalty and find out when they go to collect their Social Security that they cannot receive what they totally deserve . . .

From a Marshfield, MA teacher:

> If my husband should pre-decease me, I am not eligible for his Social Security and would suffer a serious financial burden. I stayed at home to raise four children, while my husband worked six days a week and long hours and contributed the maximum to Social Security. I reentered the workforce late in life (to help pay for college tuitions) and made the mistake of getting employment with our local municipality.

From a 10-year employee of the town of Duxbury, MA:

> As I have been a part-time employee, my pension will be quite small, about $300 a month. I worked many years under Social Security with full and part-time jobs. As my Social Security would be reduced from $600 to $400 it does not leave much to live on, never mind paying for medical insurance.

From a Sagamore Beach widow:

> I recently had two more friends die after waiting since 1983 to receive help on the Government Pension Offset issue. If Congress waits much longer, they won't have many of us left to help.

It is particularly heartbreaking that retired women comprise over 70 percent of those penalized by the GPO reduction of spousal benefits. Many sacrificed to stay home and raise children in the 1940s, 1950s and 1960s—then went to work later in life. In retirement, they are hit especially hard. Not only did they face the challenges of a workplace that paid them far less than their male counterparts; now they face similarly diminished opportunities to enjoy their senior years. Many are widows with meager pensions, who now face drastically reduced financial support with the death of a spouse—and must also contend with reduced spousal Social Security benefits.

During this 108th Congress, we had strong support for bills that would have modified or repealed the WEP and GPO. We had significant bipartisan endorsement and literally hundreds of senior organizations calling for action.

In May of last year, we heard compelling testimony about the impact of these provisions in the House Ways and Means Social Security Subcommittee hearing. Chuck Canterbury, National President of the Fraternal Order of Police described why police officers in particular are penalized by the WEP:

> Owing to the physical demands of the job, a law enforcement officer is likely to retire between the ages of 45 and 60. After 20 or 25 years on the job, many law enforcement officers are likely to begin second careers and hold jobs that do pay into the Social Security system. Even more officers are likely to ''moonlight,'' that is, hold second or even third jobs throughout their law enforcement career in order to augment their income. This creates an unjust situation that too many of our members find themselves in: they are entitled to a State or local retirement benefit because they worked 20 or more years keeping their streets and neighborhoods safe, and also working at a job or jobs in which they paid into Social Security, entitling them to that benefit as well. However, because of the WEP, if their second career resulted in less than twenty (20) years of substantial earnings, upon reaching the age they are eligible to collect Social Security, they will discover that they lose sixty percent (60%) of the benefit for which they were taxed! Actuarially speaking, I doubt many officers will live long enough to ''break even''—that is collect the money they paid into the system, let alone receive any ''windfall.''

Even if the personal circumstances of today's public sector retirees fail to move you, consider the fact that it gets harder every day to recruit and retain people for public service jobs. Compared with the private sector, public services jobs offer significantly less pay and benefits. Personal satisfaction, while a powerful motivator, begins to fade when you realize you won't be able to put food on the table during retirement. We'll never attract the best possible candidates to public service unless we remove the stark disincentives characterized by the WEP and GPO.

Today this Congress failed to address the needs of almost one million former government employees who have already lost retirement dollars due to the GPO and WEP. Millions more face losses in the future. These are people we need, in every community, doing jobs that often keep us safe and secure in an era of unparalleled uncertainty.

Mr. SHAW. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. All time for debate having expired, pursuant to

House Resolution 520, the previous question is ordered.

The question is on the motion offered by the gentleman from Florida (Mr. SHAW).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. GREEN of Texas. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Without objection, further proceedings on this motion will be postponed.

There was no objection.

GENERAL LEAVE

Mr. SHAW. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the subject of the Senate amendment to H.R. 743.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered or on which the vote is objected to under clause 6 of rule XX.

Record votes on postponed questions will be taken later today.

SURFACE TRANSPORTATION EXTENSION ACT OF 2004

Mr. YOUNG of Alaska. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3783) to provide an extension of highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund pending enactment of a law reauthorizing the Transportation Equity Act for the 21st Century.

The Clerk read as follows:

H.R. 3783

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Surface Transportation Extension Act of 2004''.

SEC. 2. ADVANCES.

(a) IN GENERAL.—Section 2(a) of the Surface Transportation Extension Act of 2003 (23 U.S.C. 104 note; 117 Stat. 1110) is amended by inserting ''and the Surface Transportation Extension Act of 2004'' after ''as amended by this Act''.

(b) PROGRAMMATIC DISTRIBUTIONS.—

(1) ADMINISTRATION OF FUNDS.—Section 2(b)(3) of such Act (117 Stat. 1110) is amended by striking ''the amendment made under subsection (d)'' and inserting ''section 1101(c) of the Transportation Equity Act for the 21st Century''.

(2) SPECIAL RULES FOR MINIMUM GUARANTEE.—Section 2(b)(4) of such Act is amended by striking ''$1,166,666,667'' and inserting $2,100,000,000.

(3) EXTENSION OF OFF-SYSTEM BRIDGE SETASIDE.—Section 144(g)(3) of title 23, United States Code, is amended by striking ''February 29'' inserting ''June 30''.

(c) AUTHORIZATION OF CONTRACT AUTHORITY.—Section 1101(c)(1) of the Transportation Equity Act for the 21st Century (117 Stat. 1111) is amended by striking ''$13,483,458,333 for the period of October 1, 2003, through February 29, 2004'' and inserting ''$24,270,225,000 for the period of October 1, 2003, through June 30, 2004''.

(d) LIMITATION ON OBLIGATIONS.—Section 2(e) of the Surface Transportation Extension Act of 2003 (117 Stat. 1111) is amended to read as follows:

''(e) LIMITATION ON OBLIGATIONS.—

''(1) DISTRIBUTION OF OBLIGATION AUTHORITY.—Subject to paragraph (2), for the period of October 1, 2003, through June 30, 2004, the Secretary shall distribute the obligation limitation made available for Federal-aid highways and highway safety construction programs under the heading '(LIMITATION ON OBLIGATIONS)' under the heading 'FEDERAL-AID HIGHWAYS' in the Transportation, Treasury, and Independent Agencies Appropriations Act, 2004 (division F of Public Law 108–199) in accordance with section 110 of such Act; except that the amount of obligation limitation to be distributed for such period for each program, project, and activity specified in sections 110(a)(1), 110(a)(2), 110(a)(4), 110(a)(5), and 110(g) of such Act shall equal the greater of—

''(A) the funding authorized for such program, project, or activity in this Act and the Surface Transportation Extension Act of 2004 (including any amendments made by this Act and such Act); or

''(B) 9/12 of the funding provided for or limitation set on such program, project, or activity in the Transportation, Treasury, and Independent Agencies Appropriations Act, 2004.

''(2) LIMITATION ON TOTAL AMOUNT OF AUTHORITY DISTRIBUTED.—The total amount of obligation limitation distributed under paragraph (1) for the period of October 1, 2003, through June 30, 2004, shall not exceed $25,232,250,000; except that this limitation shall not apply to $479,000,000 in obligations for minimum guarantee for such period.

''(3) TIME PERIOD FOR OBLIGATIONS OF FUNDS.—A State shall not obligate after June 30, 2004, any funds for any Federal-aid highway program project made available by this Act and the Surface Transportation Extension Act of 2004 (including any amendments made by this Act and such Act), until the date of enactment of a law reauthorizing the Federal-aid highway program.

''(4) TREATMENT OF OBLIGATIONS.—Any obligation of obligation authority distributed under this subsection shall be considered to be an obligation for Federal-aid highways and highway safety construction programs for fiscal year 2004 for the purposes of the matter under the heading '(LIMITATION ON OBLIGATIONS)' under the heading 'FEDERAL-AID HIGHWAYS' in the Transportation, Treasury, and Independent Agencies Appropriations Act, 2004.''.

SEC. 3. TRANSFERS OF UNOBLIGATED APPORTIONMENTS.

Section 3 of the Surface Transportation Extension Act of 2003 (117 Stat. 1112–1113) is amended by adding at the end the following:

''(e) PROHIBITION OF TRANSFERS.—Notwithstanding any other provision of this section, no funds may be transferred after February 29, 2004, by a State under subsection (a)—

''(1) from amounts apportioned to the State for the congestion mitigation and air quality improvement program; and

''(2) from amounts apportioned to the State for the surface transportation program and that are subject to any of paragraphs (1), (2), and (3)(A)(i) of section 133(d) of title 23, United States Code.''.

SEC. 4. ADMINISTRATIVE EXPENSES.

Section 4(a) of the Surface Transportation Extension Act of 2003 (117 Stat. 1113) is amended by striking ''$187,500,000'' and inserting ''$337,500,000''.

SEC. 5. OTHER FEDERAL-AID HIGHWAY PROGRAMS.

(a) AUTHORIZATION OF APPROPRIATIONS UNDER TITLE I OF TEA21.—

(1) FEDERAL LANDS HIGHWAYS.—

(A) INDIAN RESERVATION ROADS.—Section 1101(a)(8)(A) of the Transportation Equity Act for the 21st Century (112 Stat. 112; 117 Stat. 1113) is amended—

(i) in the first sentence by striking ''$114,583,333 for the period of October 1, 2003, through February 29, 2004'' and inserting ''$206,250,000 for the period of October 1, 2003, through June 30, 2004''; and

(ii) in the second sentence by striking ''$5,416,667'' and inserting ''$9,750,000''.

(B) PUBLIC LANDS HIGHWAYS.—Section 1101(a)(8)(B) of such Act (112 Stat. 112; 117 Stat. 1113) is amended by striking ''$102,500,000 for the period of October 1, 2003, through February 29, 2004'' and inserting ''$184,500,000 for the period of October 1, 2003, through June 30, 2004''.

(C) PARK ROADS AND PARKWAYS.—Section 1101(a)(8)(C) of such Act (112 Stat. 112; 117 Stat. 1113) is amended by striking ''$68,750,000 for the period of October 1, 2003, through February 29, 2004'' and inserting ''$123,750,000 for the period of October 1, 2003, through June 30, 2004'' .

(D) REFUGE ROADS.—Section 1101(a)(8)(D) of such Act (112 Stat. 112; 117 Stat. 1113) is amended by striking ''$8,333,333 for the period of October 1, 2003, through February 29, 2004'' and inserting ''$15,000,000 for the period of October 1, 2003, through June 30, 2004''.

(2) NATIONAL CORRIDOR PLANNING AND DEVELOPMENT AND COORDINATED BORDER INFRASTRUCTURE PROGRAMS.—Section 1101(a)(9) of such Act (112 Stat. 112; 117 Stat. 1114) is amended by striking ''$58,333,333 for the period of October 1, 2003, through February 29, 2004'' and inserting ''$105,000,000 for the period of October 1, 2003, through June 30, 2004''.

(3) CONSTRUCTION OF FERRY BOATS AND FERRY TERMINAL FACILITIES.—

(A) IN GENERAL.—Section 1101(a)(10) of such Act (112 Stat. 113; 117 Stat. 1114) is amended by striking ''$15,833,333 for the period of October 1, 2003, through February 29, 2004'' and inserting ''$28,500,000 for the period of October 1, 2003, through June 30, 2004''.

(B) SET ASIDE FOR ALASKA, NEW JERSEY, AND WASHINGTON.—Section 5(a)(3)(B) of the Surface Transportation Extension Act of 2003 (117 Stat. 1114) is amended—

(i) in clause (i) by striking ''$4,166,667'' and inserting ''$7,500,000'';

(ii) in clause (ii) by striking ''$2,083,333'' and inserting ''$3,750,000''; and

(iii) in clause (iii) by striking ''$2,083,333'' and inserting ''$3,750,000''.

(4) NATIONAL SCENIC BYWAYS PROGRAM.—Section 1101(a)(11) of the Transportation Equity Act for the 21st Century (112 Stat. 113; 117 Stat. 1114) is amended by striking ''$11,458,333 for the period of October 1, 2003, through February 29, 2004'' and inserting ''$20,625,000 for the period of October 1, 2003, through June 30, 2004'' .

(5) VALUE PRICING PILOT PROGRAM.—Section 1101(a)(12) of such Act (112 Stat. 113; 117 Stat. 1114) is amended by striking ''$4,583,333 for the period of October 1, 2003, through February 29, 2004'' and inserting ''$8,250,000 for the period of October 1, 2003, through June 30, 2004''.

(6) HIGHWAY USE TAX EVASION PROJECTS.—Section 1101(a)(14) of such Act (112 Stat. 113; 117 Stat. 1114) is amended by striking ''$2,083,333 for the period of October 1, 2003, through February 29, 2004'' and inserting ''$3,750,000 for the period of October 1, 2003, through June 30, 2004''.

(7) COMMONWEALTH OF PUERTO RICO HIGHWAY PROGRAM.—Section 1101(a)(15) of such Act (112 Stat. 113; 117 Stat. 1114) is amended by striking ''$45,833,333 for the period of October 1, 2003, through February 29, 2004'' and inserting ''$82,500,000 for the period of October 1, 2003, through June 30, 2004''.

(8) SAFETY GRANTS.—Section 1212(i)(1)(D) of such Act (23 U.S.C. 402 note; 112 Stat. 196; 112 Stat. 840; 117 Stat. 1114) is amended by striking ''$208,333 for the period of October 1, 2003, through February 29, 2004'' and inserting ''$375,000 for the period of October 1, 2003, through June 30, 2004''.

(9) TRANSPORTATION AND COMMUNITY AND SYSTEM PRESERVATION PILOT PROGRAM.—Section 1221(e)(1) of such Act (23 U.S.C. 101 note; 112 Stat. 223; 117 Stat. 1114) is amended by striking ''$10,416,667 for the period of October 1, 2003, through February 29, 2004'' and inserting ''$18,750,000 for the period of October 1, 2003, through June 30, 2004''.

(10) TRANSPORTATION INFRASTRUCTURE FINANCE AND INNOVATION.—Section 188 of title 23, United States Code, is amended—

(A) by striking subsection (a)(1)(F) and inserting the following:

''(F) $105,000,000 for the period of October 1, 2003, through June 30, 2004.'';

(B) in subsection (a)(2) by striking ''$833,333 for the period of October 1, 2003, through February 29, 2004'' and inserting ''$1,500,000 for the period of October 1, 2003, through June 30, 2004''; and

(C) in the item relating to fiscal year 2004 in table contained in subsection (c) by striking ''$1,083,333,333'' and inserting ''$1,950,000,000''.

(b) AUTHORIZATION OF APPROPRIATIONS UNDER TITLE V OF TEA21.—

(1) SURFACE TRANSPORTATION RESEARCH.—Section 5001(a)(1) of the Transportation Equity Act for the 21st Century (112 Stat. 419; 117 Stat. 1115) is amended by striking ''$43,750,000 for the period of October 1, 2003, through February 29, 2004'' and inserting ''$78,750,000 for the period of October 1, 2003, through June 30, 2004''.

(2) TECHNOLOGY DEPLOYMENT PROGRAM.—Section 5001(a)(2) of such Act (112 Stat. 419; 117 Stat. 1115) is amended by striking ''$22,916,667 for the period of October 1, 2003, through February 29, 2004'' and inserting ''$41,250,000 for the period of October 1, 2003, through June 30, 2004''.

(3) TRAINING AND EDUCATION.—Section 5001(a)(3) of such Act (112 Stat. 420; 117 Stat. 1115) is amended by striking ''$8,750,000 for the period of October 1, 2003, through February 29, 2004'' and inserting ''$15,750,000 for the period of October 1, 2003, through June 30, 2004''.

(4) BUREAU OF TRANSPORTATION STATISTICS.—Section 5001(a)(4) of such Act (112 Stat. 420; 117 Stat. 1115) is amended by striking ''$12,916,667 for the period of October 1, 2003, through February 29, 2004'' and inserting ''$23,250,000 for the period of October 1, 2003, through June 30, 2004''.

(5) ITS STANDARDS, RESEARCH, OPERATIONAL TESTS, AND DEVELOPMENT.—Section 5001(a)(5) of such Act (112 Stat. 420; 117 Stat. 1115) is amended by striking ''$47,916,667 for the period of October 1, 2003, through February 29, 2004'' and inserting ''$86,250,000 for the period of October 1, 2003, through June 30, 2004''.

(6) ITS DEPLOYMENT.—Section 5001(a)(6) of such Act (112 Stat. 420; 117 Stat. 1116) is amended by striking ''$51,666,667 for the period of October 1, 2003, through February 29, 2004'' and inserting ''$93,000,000 for the period of October 1, 2003, through June 30, 2004''.

(7) UNIVERSITY TRANSPORTATION RESEARCH.—Section 5001(a)(7) of such Act (112 Stat. 420; 117 Stat. 1116) is amended by striking ''$11,250,000 for the period of October 1, 2003, through February 29, 2004'' and inserting ''$20,250,000 for the period of October 1, 2003, through June 30, 2004''.

(c) METROPOLITAN PLANNING.—Section 5(c)(1) of the Surface Transportation Extension Act of 2003 (117 Stat. 1116) is amended by striking ''$100,000,000 for the period of October 1, 2003, through February 29, 2004'' and inserting ''$180,000,000 for the period of October 1, 2003, through June 30, 2004''.

(d) TERRITORIES.—Section 1101(d)(1) of the Transportation Equity Act for the 21st Century (117 Stat. 1116) is amended by striking ''$15,166,667 for the period of October 1, 2003, through February 29, 2004'' and inserting ''$27,300,000 for the period of October 1, 2003, through June 30, 2004''.

(e) ALASKA HIGHWAY.—Section 1101(e)(1) of such Act (117 Stat. 1116) is amended by striking ''$7,833,333 for the period of October 1, 2003, through February 29, 2004'' and inserting ''$14,100,000 for the period of October 1, 2003, through June 30, 2004''.

(f) OPERATION LIFESAVER.—Section 1101(f)(1) of such Act (117 Stat. 1117) is amended by striking ''$208,333 for the period of October 1, 2003, through February 29, 2004'' and inserting ''$375,000 for the period of October 1, 2003, through June 30, 2004''.

(g) BRIDGE DISCRETIONARY.—Section 1101(g)(1) of such Act (117 Stat. 1117) is amended—

(1) by striking ''$41,666,667'' and inserting ''$75,000,000''; and

(2) by striking ''February 29'' and inserting ''June 30''.

(h) INTERSTATE MAINTENANCE.—Section 1101(h)(1) of such Act (117 Stat. 1117) is amended—

(1) by striking ''$41,666,667'' and inserting ''$75,000,000''; and

(2) by striking ''February 29'' and inserting ''June 30''.

(i) RECREATIONAL TRAILS ADMINISTRATIVE COSTS.—Section 1101(i)(1) of such Act (117 Stat. 1117) is amended by striking ''$312,500 for the period of October 1, 2003, through February 29, 2004'' and inserting ''$562,500 for the period of October 1, 2003, through June 30, 2004''.

(j) RAILWAY-HIGHWAY CROSSING HAZARD ELIMINATION IN HIGH SPEED RAIL CORRIDORS.—Section 1101(j)(1) of such Act (117 Stat. 1118) is amended—

(1) by striking ''$2,187,500'' and inserting ''$3,937,500'';

(2) by striking ''$104,167'' and inserting ''$187,500''; and

(3) by striking ''February 29'' each place it appears and inserting ''June 30''.

(k) NONDISCRIMINATION.—Section 1101(k) of such Act (117 Stat. 1118) is amended—

(1) in paragraph (1) by striking ''$4,166,667 for the period of October 1, 2003, through February 29, 2004'' and inserting ''$7,500,000 for the period of October 1, 2003, through June 30, 2004''; and

(2) in paragraph (2) by striking ''$4,166,667 for the period of October 1, 2003, through February 29, 2004'' and inserting ''$7,500,000 for the period of October 1, 2003, through June 30, 2004''.

(l) ADMINISTRATION OF FUNDS.—Section 5(l) of the Surface Transportation Extension Act of 2003 (117 Stat. 1118) is amended—

(1) by inserting ''and section 5 of the Surface Transportation Extension Act of 2004'' after ''this section'' the first place it appears; and

(2) by inserting ''or the amendment made by section 5(a)(1) of such Act'' before the period at the end.

(m) REDUCTION OF ALLOCATED PROGRAMS.—Section 5(m) of such Act (117 Stat. 1119) is amended—

(1) by inserting ''and section 5 of the Surface Transportation Extension Act of 2004'' after ''but for this section'';

(2) by striking ''both'';

(3) by striking ''and by this section'' and inserting '', by this section, and by section 5 of such Act''; and

(4) by inserting ''and by section 5 of such Act'' before the period at the end.

(n) PROGRAM CATEGORY RECONCILIATION.—Section 5(n) of such Act (117 Stat. 1119) is amended by inserting ''and section 5 of the Surface Transportation Extension Act of 2004'' after ''this section''.

SEC. 6. EXTENSION OF HIGHWAY SAFETY PROGRAMS.

(a) CHAPTER 1 HIGHWAY SAFETY PROGRAMS.—

(1) SEAT BELT SAFETY INCENTIVE GRANTS.—Section 157(g)(1) of title 23, United States Code, is amended by striking ''$46,666,667 for the period of October 1, 2003, through February 29, 2004'' and inserting ''$84,000,000 for the period of October 1, 2003, through June 30, 2004''.

(2) PREVENTION OF INTOXICATED DRIVER INCENTIVE GRANTS.—Section 163(e)(1) of such title is amended by striking ''$50,000,000 for the period of October 1, 2003, through February 29, 2004'' and inserting ''$90,000,000 for the period of October 1, 2003, through June 30, 2004''.

(b) CHAPTER 4 HIGHWAY SAFETY PROGRAMS.—Section 2009(a)(1) of the Transportation Equity Act for the 21st Century (112 Stat. 337; 117 Stat. 1119) is amended by striking '', and $68,750,000 for the period of October 1, 2003, through February 29, 2004'' and inserting '', and $123,019,875 for the period of October 1, 2003, through June 30, 2004''.

(c) HIGHWAY SAFETY RESEARCH AND DEVELOPMENT.—Section 2009(a)(2) of such Act (112 Stat. 337; 117 Stat. 1119) is amended by striking ''$30,000,000 for the period of October 1, 2003, through February 29, 2004'' and inserting ''$53,681,400 for the period of October 1, 2003, through June 30, 2004''.

(d) OCCUPANT PROTECTION INCENTIVE GRANTS.—Section 2009(a)(3) of such Act (112 Stat. 337; 117 Stat. 1120) is amended by striking ''$8,333,333 for the period of October 1, 2003, through February 29, 2004'' and inserting ''$14,911,500 for the period of October 1, 2003, through June 30, 2004''.

(e) ALCOHOL-IMPAIRED DRIVING COUNTERMEASURES INCENTIVE GRANTS.—Section 2009(a)(4) of such Act (112 Stat. 337; 117 Stat. 1120) is amended by striking ''$16,666,667 for the period of October 1, 2003, through February 29, 2004'' and inserting ''$29,823,000 for the period of October 1, 2003, through June 30, 2004''.

(f) NATIONAL DRIVER REGISTER.—Section 2009(a)(6) of such Act (112 Stat. 338; 117 Stat. 1120) is amended by striking ''$833,333 for the period of October 1, 2003, through February 29, 2004'' and inserting ''$2,684,070 for the period of October 1, 2003, through June 30, 2004''.

SEC. 7. EXTENSION OF MOTOR CARRIER SAFETY PROGRAM.

(a) ADMINISTRATIVE EXPENSES.—Section 7(a)(1) of the Surface Transportation Extension Act of 2003 (117 Stat. 1120) is amended by striking ''$71,487,500 for the period of October 1, 2003, through February 29, 2004'' and inserting ''$131,811,967 for the period October 1, 2003 through June 30, 2004''.

(b) MOTOR CARRIER SAFETY ASSISTANCE PROGRAM.—Section 31104(a)(7) of title 49, United States Code, is amended to read as follows:

''(7) Not more than $126,519,126 for the period of October 1, 2003, through June 30, 2004.''.

(c) INFORMATION SYSTEMS AND COMMERCIAL DRIVER'S LICENSE GRANTS.—

(1) AUTHORIZATION OF APPROPRIATION.—Section 31107(a)(5) of such title is amended to read as follows:

''(5) $14,972,678 for the period of October 1, 2003 through June 30, 2004.''.

(2) EMERGENCY CDL GRANTS.—Section 7(c) of the Surface Transportation Extension Act of 2003 (117 Stat. 1121) is amended—

(A) by striking ''February 29,'' and inserting ''June 30,''; and

(B) by striking ''$416,667'' and inserting ''$748,634''.

(d) CRASH CAUSATION STUDY.—Section 7(d) of such Act is amended—

(1) by striking ''$416,667'' and inserting ''$748,634''; and

(2) by striking ''February 29'' and inserting ''June 30''.

SEC. 8. EXTENSION OF FEDERAL TRANSIT PROGRAMS.

(a) ALLOCATING AMOUNTS.—Section 5309(m) of title 49, United States Code, is amended—

(1) in paragraph (1) by striking ''February 29'' and inserting ''June 30'';

(2) in paragraph (2)(B)(iii)—

(A) by striking ''FEBRUARY 29'' in the clause heading and inserting ''JUNE 30'';

(B) by striking ''$4,333,333'' and inserting ''$7,753,980'';

(C) by striking ''February 29'' and inserting ''June 30'';

(3) in paragraph (3)(B) by striking ''(and $1,250,000 shall be available for the period October 1, 2003, through February 29, 2004)'' and inserting ''(and $2,236,725 shall be available for the period October 1, 2003, through June 30, 2004)''; and

(4) in paragraph (3)(C) by striking ''(and $20,833,334 shall be available for the period October 1, 2003, through February 29, 2004)'' and inserting ''(and $37,278,750 shall be available for the period October 1, 2003, through June 30, 2004)''.

(b) APPORTIONMENT OF APPROPRIATIONS FOR FIXED GUIDEWAY MODERNIZATION.—The heading for paragraph (1) of section 8(b) of the Surface Transportation Extension of 2003 (117 Stat. 1121) is amended by striking ''FEBRUARY 29'' and inserting ''JUNE 30''.

(c) FORMULA GRANTS AUTHORIZATIONS.—Section 5338(a) of title 49, United States Code, is amended—

(1) in the heading to paragraph (2) by striking ''FEBRUARY 29'' and inserting ''JUNE 30''; and

(2) in paragraph (2)(A) by striking clause (vi) and inserting the following:

''(vi) $2,289,809,940 for the period of October 1, 2003, through June 30, 2004.'';

(3) in paragraph (2)(B) by striking clause (vi) and inserting the following:

''(vi) $572,452,485 for the period of October 1, 2003, through June 30, 2004.''; and

(4) in paragraph (2)(C) by striking ''February 29'' and inserting ''June 30''.

(d) ALLOCATION OF FORMULA GRANT FUNDS FOR OCTOBER 1, 2003, THROUGH JUNE 30, 2004.—Section 8(d) of the Surface Transportation Extension of 2003 (117 Stat. 1122) is amended—

(1) in the subsection heading by striking ''FEBRUARY 29'' and inserting ''JUNE 30'';

(2) in the matter preceding paragraph (1) by striking ''February 29'' and inserting ''June 30'';

(3) in paragraph (1) by striking ''$2,020,813'' and inserting ''$3,616,001'';

(4) in paragraph (1) by striking ''$20,833,334'' and inserting ''$37,278,750''.

(e) CAPITAL PROGRAM AUTHORIZATIONS.—Section 5338(b) of title 49, United States Code, is amended—

(1) in the heading to paragraph (2) by striking ''FEBRUARY 29'' and inserting ''JUNE 30'';

(2) in paragraph (2)(A) by striking clause (vi) and inserting the following:

''(vi) $1,871,393,250 for the period of October 1, 2003, through June 30, 2004.''; and

(3) in paragraph (2)(B) by striking clause (vi) and inserting the following:

''(vi) $467,848,313 for the period of October 1, 2003, through June 30, 2004.''.

(f) PLANNING AUTHORIZATIONS AND ALLOCATIONS.—Section 5338(c) of such title is amended—

(1) in the heading to paragraph (2) by striking ''FEBRUARY 29'' and inserting ''JUNE 30'';

(2) in paragraph (2)(A) by striking clause (vi) and inserting the following:

''(vi) $43,690,695 for the period of October 1, 2003, through June 30, 2004.''; and

(3) in paragraph (2)(B) by striking clause (vi) and inserting the following:

''(vi) $10,736,280 for the period of October 1, 2003, through June 30, 2004.''.

(g) RESEARCH AUTHORIZATIONS.—Section 5338(d) of such title is amended—

(1) in the heading to paragraph (2) by striking ''FEBRUARY 29'' and inserting ''JUNE 30'';

(2) in paragraph (2)(A) by striking clause (vi) and inserting the following:

''(vi) $31,463,265 for the period of October 1, 2003, through June 30, 2004.'';

(3) in paragraph (2)(B) by striking clause (vi) and inserting the following:

''(vi) $8,052,210 for the period of October 1, 2003, through June 30, 2004.''; and

(4) in paragraph (2)(C) by striking ''February 29'' and inserting ''June 30''.

(h) ALLOCATION OF RESEARCH FUNDS FOR OCTOBER 1, 2003, THROUGH FEBRUARY 29, 2004.—Section 8(h) of the Surface Transportation Extension Act of 2003 (117 Stat. 1123)—

(1) in the matter preceding paragraph (1) by striking ''February 29'' and inserting ''June 30'';

(2) in paragraph (1) by striking ''$2,187,500'' and inserting ''$3,914,269'';

(3) in paragraph (2) by striking ''$3,437,500'' and inserting ''$6,150,994'';

(4) in paragraph (3)—

(A) by striking ''$1,666,667'' and inserting ''$2,982,300''; and

(B) by striking ''$416,667'' and inserting ''$745,575''.

(i) UNIVERSITY TRANSPORTATION RESEARCH AUTHORIZATIONS.—Section 5338(e) of title 49, United States Code, is amended—

(1) in the heading to paragraph (2) by striking ''FEBRUARY 29'' and inserting ''JUNE 30'';

(2) in paragraph (2)(A) by striking ''$2,020,833 for the period of October 1, 2003, through February 29, 2004'' and inserting ''$3,578,760 for the period of October 1, 2003, through June 30, 2004''; and

(3) in paragraph (2)(B) by striking ''$505,833 for the period of October 1, 2003, through February 29, 2004'' and inserting ''$894,690 for the period of October 1, 2003, through June 30, 2004'' ; and

(4) in each of clauses (i) and (iii) of paragraph (2)(C) by striking ''February 29'' and inserting ''June 30''.

(j) ALLOCATION OF UNIVERSITY TRANSPORTATION RESEARCH FUNDS.—

(1) IN GENERAL.—Section 8(j)(1) of the Surface Transportation Extension Act of 2003 (117 Stat. 1124) is amended—

(A) in the matter preceding subparagraph (A) by striking ''February 29'' and inserting ''June 30'';

(B) in subparagraph (A) by striking ''$833,333'' and inserting ''$1,491,150''; and

(C) in subparagraph (B) by striking ''$833,333'' and inserting ''1,491,150''.

(2) CONFORMING AMENDMENT.—Section 3015(d)(2) of the Transportation Equity Act for the 21st Century (112 Stat. 857) is amended by striking ''February 29'' and inserting ''June 30''.

(k) ADMINISTRATION AUTHORIZATIONS.—Section 5338(f) of title 49, United States Code, is amended—

(1) in the heading to paragraph (2) by striking ''FEBRUARY 29'' and inserting ''JUNE 30'';

(2) in paragraph (2)(A) by striking clause (vi) and inserting the following:

''(vi) $45,032,730 for the period of October 1, 2003, through June 30, 2004.''; and

(3) in paragraph (2)(B) by striking clause (vi) and inserting the following:

''(vi) $11,258,183 for the period of October 1, 2003, through June 30, 2004.''.

(l) JOB ACCESS AND REVERSE COMMUTE PROGRAM.—Section 3037(l) of the Transportation Equity Act for the 21st Century (49 U.S.C. 5309 note; 112 Stat. 391–392; 117 Stat. 1124) is amended—

(1) in paragraph (1)(A) by striking clause (vi) and inserting the following:

''(vi) $74,557,500 for the period of October 1, 2003, through June 30, 2004.'';

(2) in paragraph (1)(B) by striking clause (vi) and inserting the following:

''(vi) $18,639,375 for the period of October 1, 2003, through June 30, 2004.''; and

(3) in paragraph (2) by striking ''February 29, 2004, $4,166,667'' and inserting ''June 30, 2004, $7,455,750 shall be used for such projects''.

(m) RURAL TRANSPORTATION ACCESSIBILITY INCENTIVE PROGRAM.—Section 3038(g) of such Act (49 U.S.C. 5310 note; 112 Stat. 393; 117 Stat. 1125) is amended—

(1) in paragraph (1) by striking subparagraph (F) and inserting the following:

''(F) $3,914,269 for the period of October 1, 2003, through June 30, 2004.''; and

(2) in paragraph (2) by striking ''(and $708,333 shall be available for the period of October 1, 2003, through February 29, 2004)'' and inserting ''(and $1,267,478 shall be available for the period of October 1, 2003, through June 30, 2004)''.

(n) URBANIZED AREA FORMULA GRANTS.—Section 5307(b) of title 49, United States Code, is amended—

(1) in the heading to paragraph (2) by striking ''FEBRUARY 29'' and inserting ''JUNE 30''; and

(2) in paragraph (2)(A) by striking ''February 29'' and inserting ''June 30''.

(o) OBLIGATION CEILING.—Section 3040(6) of the Transportation Equity Act for the 21st Century (112 Stat. 394; 117 Stat. 1125) is amended to read as follows:

''(6) $5,449,407,675 for the period of October 1, 2003, through June 30, 2004.''.

(p) FUEL CELL BUS AND BUS FACILITIES PROGRAM.—Section 3015(b) of such Act (112 Stat. 361; 117 Stat. 1125) is amended by striking ''February 29, 2004, $2,020,833)'' and inserting ''June 30, 2004, $3,616,039)''.

(q) ADVANCED TECHNOLOGY PILOT PROJECT.—Section 3015(c)(2) of such Act (49 U.S.C. 322 note; 112 Stat. 361; 117 Stat. 1125) is amended—

(1) by striking ''February 29'' and inserting ''June 30''; and

(2) by striking ''and $2,083,333'' and inserting ''and $3,727,875 ''.

(r) PROJECTS FOR NEW FIXED GUIDEWAY SYSTEMS AND EXTENSIONS TO EXISTING SYSTEMS.—Subsections (a), (b), and (c)(1) of section 3030 of such Act (112 Stat. 373–381; 117 Stat. 1125) are each amended by striking ''February 29'' and inserting ''June 30''.

(s) NEW JERSEY URBAN CORE PROJECT.—Subparagraphs (A), (B), and (C) of section 3031(a)(3) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2122; 112 Stat. 379) are each amended by striking ''February 29'' and inserting ''June 30''.

(t) TREATMENT OF FUNDS.—Section 8(t) of the Surface Transportation Extension Act of 2003 (23 U.S.C. 101 note; 117 Stat. 1126) is amended by inserting ''and by section 8 of the Surface Transportation Extension Act of 2004'' before ''shall be treated''.

(u) LOCAL SHARE.—Section 3011(a) of the Transportation Equity Act for the 21st Century (112 Stat. 357) is amended by inserting

''and for the period of October 1, 2003, through June 30, 2004'' after ''2003''.

SEC. 9. SPORT FISHING AND BOATING SAFETY.

(a) FUNDING FOR NATIONAL OUTREACH AND COMMUNICATIONS PROGRAM.—Section 4(c)(6)of the Dingell-Johnson Sport Fish Restoration Act (16 U.S.C. 777c(c)(6)) is amended to read as follows:

''(6) $7,500,000 for the period of October 1, 2003, through June 30, 2004;''.

(b) CLEAN VESSEL ACT FUNDING.—Section 4(b)(4) of such Act (16 U.S.C. 777c(b)(4)) is amended to read as follows:

''(4) FIRST 9 MONTHS OF FISCAL YEAR 2004.—For the period of October 1, 2003, through June 30, 2004, of the balance of each annual appropriation remaining after making the distribution under subsection (a), an amount equal to $61,500,000 , reduced by 82 percent of the amount appropriated for that fiscal year from the Boat Safety Account of the Aquatic Resources Trust Fund established by section 9504 of the Internal Revenue Code of 1986 to carry out the purposes of section 13106(a) of title 46, United States Code, shall be used as follows:

''(A) $7,500,000 shall be available to the Secretary of the Interior for 3 fiscal years for obligation for qualified projects under section 5604(c) of the Clean Vessel Act of 1992 (33 U.S.C. 1322 note).

''(B) $6,000,000 shall be available to the Secretary of the Interior for 3 fiscal years for obligation for qualified projects under section 7404(d) of the Sportfishing and Boating Safety Act of 1998 (16 U.S.C. 777g–1(d)).

''(C) The balance remaining after the application of subparagraphs (A) and (B) shall be transferred to the Secretary of Transportation and shall be expended for State recreational boating safety programs under section 13106 of title 46, United States Code.''.

(c) BOAT SAFETY FUNDS.—Section 13106(c) of title 46, United States Code, is amended—

(1) by striking ''$2,083,333'' and inserting ''$3,750,000''; and

(2) by striking ''$833,333'' and inserting ''$1,500,000''.

SEC. 10. EXTENSION OF AUTHORIZATION FOR USE OF TRUST FUNDS FOR OBLIGATIONS UNDER TEA–21.

(a) HIGHWAY TRUST FUND.—

(1) IN GENERAL.—Paragraph (1) of section 9503(c) of the Internal Revenue Code of 1986 is amended—

(A) in the matter before subparagraph (A), by striking ''March 1, 2004'' and inserting ''July 1, 2004'',

(B) by striking ''or'' at the end of subparagraph (E),

(C) by striking the period at the end of subparagraph (F) and inserting '', or'',

(D) by inserting after subparagraph (F), the following new subparagraph:

''(G) authorized to be paid out of the Highway Trust Fund under the Surface Transportation Extension Act of 2004.'', and

(E) in the matter after subparagraph (G), as added by this paragraph, by striking ''Surface Transportation Extension Act of 2003'' and inserting ''Surface Transportation Extension Act of 2004''.

(2) MASS TRANSIT ACCOUNT.—Paragraph (3) of section 9503(e) of such Code is amended—

(A) in the matter before subparagraph (A), by striking ''March 1, 2004'' and inserting ''July 1, 2004'',

(B) in subparagraph (C), by striking ''or'' at the end of such subparagraph,

(C) in subparagraph (D), by inserting ''or'' at the end of such subparagraph,

(D) by inserting after subparagraph (D) the following new subparagraph:

''(E) the Surface Transportation Extension Act of 2004,'', and

(E) in the matter after subparagraph (E), as added by this paragraph, by striking ''Surface Transportation Extension Act of 2003'' and inserting ''Surface Transportation Extension Act of 2004''.

(3) EXCEPTION TO LIMITATION ON TRANSFERS.—Subparagraph (B) of section 9503(b)(5) of such Code is amended by striking ''March 1, 2004'' and inserting ''July 1, 2004''.

(b) AQUATIC RESOURCES TRUST FUND.—

(1) SPORT FISH RESTORATION ACCOUNT.—Paragraph (2) of section 9504(b) of the Internal Revenue Code of 1986 is amended by striking ''Surface Transportation Extension Act of 2003'' each place it appears and inserting ''Surface Transportation Extension Act of 2004''.

(2) BOAT SAFETY ACCOUNT.—Subsection (c) of section 9504 of such Code is amended—

(A) by striking ''March 1, 2004'' and inserting ''July 1, 2004'', and

(B) by striking ''Surface Transportation Extension Act of 2003'' and inserting ''Surface Transportation Extension Act of 2004''.

(3) EXCEPTION TO LIMITATION ON TRANSFERS.—Paragraph (2) of section 9504(d) of such Code is amended by striking ''March 1, 2004'' and inserting ''July 1, 2004''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

(d) TEMPORARY RULE REGARDING ADJUSTMENTS.—During the period beginning on the date of the enactment of the Surface Transportation Extension Act of 2003 and ending on June 30, 2004, for purposes of making any estimate under section 9503(d) of the Internal Revenue Code of 1986 of receipts of the Highway Trust Fund, the Secretary of the Treasury shall treat—

(1) each expiring provision of paragraphs (1) through (4) of section 9503(b) of such Code which is related to appropriations or transfers to such Fund to have been extended through the end of the 24-month period referred to in section 9503(d)(1)(B) of such Code, and

(2) with respect to each tax imposed under the sections referred to in section 9503(b)(1) of such Code, the rate of such tax during the 24-month period referred to in section 9503(d)(1)(B) of such Code to be the same as the rate of such tax as in effect on the date of the enactment of the Surface Transportation Extension Act of 2003.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Alaska (Mr. YOUNG) and the gentleman from Illinois (Mr. LIPINSKI) each will control 20 minutes.

The Chair recognizes the gentleman from Alaska (Mr. YOUNG).

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

(Mr. YOUNG of Alaska asked and was given permission to revise and extend his remarks.)

Mr. YOUNG of Alaska. Mr. Speaker, H.R. 3783, the legislation now under consideration by the House, will continue for an additional 4 months the highway construction, highway safety, transit, motor carrier, and surface transportation research programs. These programs will be continued under current-law program structure and conditions.

This bill is necessary in order to give the House Committee on Transportation and Infrastructure and our colleagues in the Senate time to complete a multi-year surface transportation bill.

Mr. Speaker, H.R. 3783 provides for over $31 billion in new funding authority, which reflects 9 months' work or nine-twelfths of the budget authority and associated outlays in the year 2004 budget resolution that Congress passed last year.

As my colleagues may know, Mr. Speaker, I have introduced H.R. 3550 with the gentleman from Minnesota (Mr. OBERSTAR), the Transportation Equity Act: A Legacy For Users, or TEA–LU. TEA–LU will begin to meet the needs and begin to improve our aging and deteriorating transportation infrastructure.

TEA–LU will address and resolve the funding inequity issue between the donor and donee States, create new jobs, and stimulate the economy. Unfortunately, the overall funding for transportation has not been resolved entirely; and, therefore, we must pass this 4-month extension.

Even though TEA–LU has been introduced, there are many issues remaining for this House to resolve. As I mentioned earlier, identifying the appropriate resources to support funding levels over the next 6 years is the primary challenge. If TEA–LU is reduced to the level of the Senate bill, many worthy projects and programs will be reduced or quite possibly eliminated from the bill.

In the interim, this 4-month extension is a must-pass bill. If we do not pass this bill and send it to the President before February 29, four Department of Transportation agencies will close their doors and furlough their employees: the Federal Highway Administration, the Federal Transit Administration, National Highway Traffic Safety Administration, and the Federal Motor Carrier Safety Administration.

If we do not pass this extension, new highway projects will be shelved, States will not be reimbursed the Federal share of the projects, safety grants will not be provided to the States, transit construction will be halted, and Federal enforcement of our motor carrier safety regulations on the highways and at the borders will suffer.

It is crucial that H.R. 3783 be passed by both the House and the Senate and delivered to the Senate before February 29. Our economy cannot withstand the shutdown of the national surface transportation programs.

Mr. Speaker, I reserve the balance of my time.

Mr. LIPINSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of H.R. 3783, the Surface Transportation Extension Act of 2004.

This bill would extend surface transportation funding for an additional 4 months, from March 2004 through June 2004. TEA–21 expired on September 30, 2003. Current funds are flowing because we passed a 5-month extension last year. The Surface Transportation Extension Act of 2003 extended our highway and transit programs through February 29. That is only a short 2 weeks away. That is why we need to once again pass another extension to avoid

disruption of Federal surface transportation programs. If we do not pass an extension by February 29, current law would essentially cut off highway and transit funding as of March 1. That would result in devastating impacts to every single State in the Union.

Mr. Speaker, H.R. 3783 would extend the current programs and authorize a total of $32 billion in continued funding through June 2004. This bill would authorize $26.4 billion for highway programs, $5.4 billion for transit programs, and $499 million for motor carrier safety and highway safety programs. We need to pass this bill because it will keep our Nation moving.

□ 1515

However, I believe the real debate today is not just about the need for this extension, because we all know we need to pass it and sign it into law. The real debate today is about the need to pass a multi-year authorization bill at a robust funding level that will adequately address our surface transportation needs. The real debate today is why the administration is shortsighted and shortchanging the great American middle class.

Last year, the administration's $247 billion SAFETEA proposal was too little too late. Even with the revised funding level of $256 billion, it is still too little and too late. Most recent figures showed the U.S. unemployment rate is at 5.6 percent. Millions of Americans are still unemployed. They are struggling to put food on their kitchen tables. With our sluggish national economy and millions of Americans out of work, we need something much more than the administration's SAFETEA proposal.

What this Nation needs is a robust public works funding package, and SAFETEA just is not it. What we need is H.R. 3550, the Transportation Equity Act, A Legacy for Users. Under the leadership of the gentleman from Alaska (Mr. YOUNG), the gentleman from Wisconsin (Mr. PETRI), and the gentleman from Minnesota (Mr. OBERSTAR), this proposal on the House Committee on Transportation and Infrastructure would authorize $375 billion over 6 years.

Some have criticized that our proposed surface transportation funding will bust the budget and worsen the Federal deficit. Let us be clear about this, nothing could be further from the truth.

Ronald Wilson Reagan knew that fact. In 1982, he said that the highway program will not increase the Federal deficit because the Highway Trust Fund is off budget and because it is funded through user fees. It is a pay-as-you-go system that is deficit neutral.

In addition, I believe, just as Ronald Wilson Reagan believed when he asked Congress to raise the highway user fee by five cents, that highway user fees are simply good tax policy.

Let us pass the extension now because we need to do it. But, most importantly, let us pass a robust multi-year transportation funding bill because we ought to do it. Just as George Herbert Walker Bush said when he signed ISTEA into law back in December of 1991, this bill really is about one thing. It is all about jobs, jobs, jobs.

Mr. Speaker, I reserve the balance of my time.

Mr. YOUNG of Alaska. Mr. Speaker, I yield such time as he may consume to the gentleman from Wisconsin (Mr. PETRI), the chairman of the Subcommittee on Highways, Transit and Pipelines of the Committee on Transportation and Infrastructure.

Mr. PETRI. Mr. Speaker, I rise in support of the bill H.R. 3783, the Surface Transportation Extension Act of 2004.

Although a lot of work has been done on the reauthorization bill, there are challenges remaining, including identifying the needed resources to support funding levels over the next 6 years and addressing the concerns of donor States who want to get a better return on their contribution to the Highway Trust Fund.

This short-term extension is a must-pass bill and so, frankly, is the six-year reauthorization at some point. This is not, as some try to characterize it, pork. This is needed investment in our Nation's productive infrastructure.

If we fail to invest in our Nation's productive infrastructure, we will become less competitive as an economy, we will have a less productive economy, higher prices in the stores, less safe driving on our highways. It is estimated that one out of three deaths on our highways, some 40,000 a year, could be prevented if we had well-maintained, well-designed, modern transportation infrastructure.

This is an investment which, if we fail to make, we are going to pay anyway. The fact is we are not going to save any money by underinvesting in our transportation infrastructure as a country. We will pay in terms of blowing gas out of people's tailpipes, in terms of delay, in terms of inefficiencies in our economy or we can invest and have something to show for it: a first-rate transportation system linking our country together, making us competitive as an economy.

Today, we worry a lot in America about the growing economic competition we face from across the Pacific in China. Let me tell you what China is doing. They are taking a leaf out of our book. Back 60 years ago, Dwight Eisenhower, who knew something about war and about competitiveness and about our country, he stood back, put a cap as best he could on defense spending and pulled the lid full speed ahead on investing in our productive domestic transportation infrastructure. We built the interstate highway system.

What did the Soviet Union do? No roads to speak of. They relied on their railroads. Forty years later, who had the better investment strategy? We had something to save for. We were more competitive as a country, and they collapsed.

What is happening today in the world? We are talking and debating about whether we are going to maintain our commitment to a first-rate infrastructure, grow it to accommodate growth in our economy, grow it to accommodate on the public sector side the tremendous investment the private sector has made in communication and computer technology, to manage data, which at the end of the day squeeze inventory out of the system, go to just-in-time delivery, wonderful things that make us much more productive. But if the goods cannot be moved efficiently, none of that pays off the way it otherwise can.

What is China planning to do today? They are planning over the next 15 years to replicate our interstate transportation system, four-lane highways linking that continent. They are planning on doing in 15 years what it took us 60 years to do. If we fail to meet this challenge, where will we be? What will we have to show for all this supposed savings that we make as a country by underinvesting in our infrastructure? We will leave our children and our grandchildren disarmed in the face of that challenge.

So I ask my colleagues to put aside the rhetoric, recognize that there are different kinds of spending in this world. Everyone says their spending is investment. This is real investment. You have got something to show for it. We will leave a legacy to our children and our grandchildren that we can be proud of and that they can benefit from. This is must-pass legislation, and we are going to have to pay for it if we are going to want to get something for it.

I urge my colleagues to support the passage of the continuing resolution before us today. It is vitally important that this bill be passed by both the House and the Senate and delivered to the President before February 29. Our economy cannot withstand the shutdown of the national surface transportation programs, and it cannot withstand a kind of gnawing away and erosion of our commitment in this area otherwise, either. If we do that, we will regret it in years to come.

Mr. LIPINSKI. Mr. Speaker, I want to compliment the gentleman from Wisconsin (Mr. PETRI) on those excellent remarks of his.

Mr. Speaker, I yield 3 minutes to the gentlewoman from the District of Columbia (Ms. NORTON).

Ms. NORTON. Mr. Speaker, I thank the distinguished gentleman from Illinois (Mr. LIPINSKI) for yielding me time.

Mr. Speaker, I want to thank the three gentlemen who have preceded me in speaking, because what they have done is herculean. They have worked together in a bipartisan manner to try to get a bill for this House. I thought they were being wonderfully ambitious to try to get it this month; and I think

this House should be very grateful to them because they are having to contend with something that is very, very difficult.

There are three different figures here, Mr. Speaker. Our committee wants $375 billion, the Senate has come forward with $318 billion, and the administration has come forward with $256 billion. And these three gentlemen are trying to find some way to thread this needle and get us all through it. I want to thank them for it.

I do want to say that you would think that this was taxpayers' money. When you think about these different figures, the average person would not believe that this money is in trust to be spent on exactly what we are here on the floor getting an extension for, on mass transportation, on roads, on infrastructure. What we have got is a seminal decision waiting for us.

The best case for going full way with the House bill, of course, is the failure of the recovery to generate any jobs. We cannot go on this way without having to pay a price for it.

The difference in the figures bothers me. The gentleman from the other body, Mr. INHOFE, has indicated that if the full figure that our committee wants is not forthcoming, and I am here using his words, cutting the costs would cause more problems than it would solve because the committee's allocation of funds among the States would be in jeopardy.

This money does not go flinging all around. It goes to States desperately in need of it now, particularly given the huge funding problems the States are having across the board. He is talking about a figure that is less than our figure of $318 million, that the problem would go to the formula itself. So everybody would look to get a lot less money than they need if we cannot agree upon a formula that in fact uses the trust fund for what people paid at the pump to have it used for.

We would not be in this situation if we had passed the $50 billion bill where we came forward last year with $50 billion paid for bill, ready to go, projects in every Members' districts ready to go, sitting on the table, cannot go for lack of funds. That bill never made it to the floor. What jobs are flowing are flowing only anemically, left over from the old transportation bills.

I do not have any doubt that this bill will pass. I have come to the floor to speak about the bill that the gentlemen have been working on, a bill we must have, a bill that is adequately funded, a bill that will use the Highway Trust Fund for the purposes we have collected those funds for.

We must go forward, not backwards. If you need a reason besides the state of your own economy and your own State, think about drugs, think about jobs and the failure of our economy to recover.

Mr. YOUNG of Alaska. Mr. Speaker, I yield 5 minutes to the gentleman from Ohio (Mr. LATOURETTE).

Mr. LATOURETTE. Mr. Speaker, I thank the chairman of our committee for yielding me time.

I support this extension; and I recognize that, by supporting this extension, by the time this extension expires under the able leadership of the gentleman from Alaska (Mr. YOUNG), the ranking member, the gentleman from Minnesota (Mr. OBERSTAR) and the gentleman from Illinois (Mr. LIPINSKI) and the gentleman from Wisconsin (Mr. PETRI), we will have a bill produced in the House that will be worthy of our support.

There is a great American in Cleveland, Ohio, today speaking in support of the highway bill. It is the Secretary of the Department of Transportation, the former chairman of our committee, Norm Mineta, who I have nothing but respect for.

The problem is, he is supporting the wrong bill. He is supporting a bill that proposes to spend over 6 years about $258 billion that does not come close to meeting the needs of America's infrastructure.

The chairman and I were in our Republican conference today, and the transportation bill was the subject of some discussion. I have to tell you that if you are looking, not to be partisan, but if you are looking for Republican principles when it comes to highway spending, you can go to Abraham Lincoln, you can go to Dwight Eisenhower, you can go to Richard Nixon, you can go to Ronald Reagan, you can go to George H.W. Bush. All of those presidents recognized that you need to have a strong infrastructure in this country, you need to have a strong infrastructure bill, that the return on infrastructure spending is about six to one back to the government, produces hundreds of thousands, millions of jobs over the six-year life of the bill; and this President should have a bill, too.

I hope that those who are sort of trying to do transportation on the cheap and maybe have the ear of the President at the moment recognize that if you want to draw a line in the sand on spending, this is the wrong beach to draw that line on. If we are going to stay competitive with our folks around the world in Asia and in Europe, we need to make this serious investment in our Nation's infrastructure.

I just had, at the invitation of the gentleman from Alaska (Mr. YOUNG), the opportunity to be in Iraq. There is some discussion in this Chamber about whether or not we should have approved $18 billion for the reconstruction of Iraq. I happen to think it was money well spent. But I will say that if we can spend money building roads in Baghdad, and Tikrit and Um Qasr, we should be able to spend money in this country building roads in Anchorage and up in Duluth and in Portland and in Chicago and in Washington, D.C., and in Cleveland, Ohio.

So I hope that when this bill comes to the floor it is closer to the $375 billion than it is the $258 billion that our good friend and former chairman, Secretary Mineta, is talking about in Cleveland, Ohio, today.

Mr. LIPINSKI. Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota (Mr. OBERSTAR), the ranking member of the full committee.

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Mr. OBERSTAR. Mr. Speaker, I thank the gentleman for yielding the time and for his excellent management of the bill and the splendid work the gentleman from Illinois has invested over these many months on the bill, and our chairman of the full committee, the gentleman from Alaska, who has spearheaded the drive for the right policy for America. The gentleman from Ohio said a moment ago this is an investment in America; it is an investment in jobs at home.

The gentleman from Wisconsin talked about China's investment in highways. That is just a pittance of what China is investing: $200 billion to double the capacity of their existing waterway ports; $100 billion to modernize their airports, build six new airports, modernize 35 existing airports, build regional airports, to move goods and people more efficiently and effectively and to compete in the globalized marketplace.

Japan, 10 years ago, launched a $1 trillion infrastructure investment program to upgrade the Shinkansen high-speed rail that carries 256 million passengers a year at speeds of nearly 200 miles an hour; upgrade their ports; build a new airport in the ocean as they have already done, extend that; and improve their existing international airport in Tokyo. Why are they doing that? Because they want to compete in the global marketplace more effectively, more efficiently; and every investment they make is a disadvantage to us if we do not keep up, if we do not make our infrastructure investments at home to keep America productive.

Time is running out. I said that 7 years ago. I was on this floor saying time is running out on us. We need to extend this bill, but we need to pass this bill. This was then BESTEA in 1997, and we did, we extended; but we did get a bill passed.

So last fall we were here for the expiration of TEA–21; and I said in this well on this floor, I am afraid we will be back here on this floor once again pleading for another extension of time to keep transportation programs from once again expiring. I do not want to be back on this floor saying again what I said 6 years ago, time is running out, end of quote; but here we are, once again, not because we cannot get a bill accomplished in this committee.

I want it said on the record. We have had a very, how shall I say, competitive negotiation in committee, competing ideas, competing thoughts, competing policies; but we have worked them out. We have the major policy

issues agreed upon largely, a few things yet to be done; and we will get those done in the historic bipartisan spirit of this committee and practice of this committee.

What we cannot get done is the funding side. We cannot do that alone. We need the executive branch to participate with us. We need the Committee on Ways and Means to participate, and they will if they are released. Free the Committee on Ways and Means. Let them go ahead. I think the gentleman from California (Mr. THOMAS) will agree with us that we need a robust bill.

What we cannot have is a reverse option. We started off with $375 billion. Do I hear $350 billion? Do I hear 325? Do I hear 318? Do I hear 311? Do I hear 300? Auctions are supposed to go the other way. We are going in the wrong way, not for lack of effort by our chairman, by members of the committee on both sides.

The gentleman from Alaska (Chairman YOUNG) has stuck his neck out and said it time and again. He has led the way. He has told the White House what we need to do. He has told his Republican conference what we need to do. He has told every user group in America what we need to do. He sent us out on the road as missionaries advocating for a robust bill; and nowhere that I have been, nowhere the gentleman from Wisconsin (Chairman PETRI) has been, nowhere that the gentleman from Illinois (Ranking Member LIPINSKI) has been, nowhere the gentleman from Alaska (Chairman YOUNG) has been has anyone said we should not do five cents for America.

This investment in the highway trust fund is the best investment America makes. We have an anti-deficiency provision in the highway trust fund law that says you cannot run a deficit and never have in the nearly 50 years of the highway trust fund, never have, never will; and the users of the system understand that. That is why they are willing to pay the five cents.

Yesterday, OPEC announced that they are going to cut back on production of oil to drive the price of fuel up so that they can continue to generate profits in the face of an eroding American dollar. We are going to sit here and let them do that and say, oh, we cannot burden the American public with five cents? Thirty-six dollars per capita in America to get a better highway system, to get a better investment in transit.

If we were to pass this bill at $375 billion now and the President sign it into law in the next 2 months, we would have 475,000 people in the construction trades working in America by Labor Day, $60 billion of economic activity, putting America back to work. How can that be wrong? How can that be partisan? It is the best investment we can make in America. Get this country moving again, create the jobs. We did it under TEA–21, created 1.3 million jobs in construction trades. No one was sitting on the benches of America. Today we have 800,000 construction workers out of a job and can put half of them to work in the next four months if we pass our bill, our committee bill, and leave a legacy for the chairman, leave a legacy for America. That is what we have got to do, do the right thing for America, not sit around here and fritter away our future and be subject to globalization.

We have seen textiles move offshore. We have seen leather goods move offshore. We have seen steel production move offshore. We now even have call centers moving offshore. We are bringing people from India into universities, community colleges in Indiana, Ohio, Iowa to train them with speech therapists in a Midwest accent so they can go back to India and run call centers. That is actually happening.

Well, one thing they cannot build in China is the Alameda Corridor. They cannot build CREATE in Tokyo for Illinois, for Chicago. They cannot build Anchorage roadways in Taiwan. You build them in America. You create those jobs in America, right here. This is an American program. This is an investment for the future of this country. Why are we quibbling around with five cents? Get over it.

We could have 200 Democrats voting for that bill if we could get it on the House floor, and how can that be a liability for the President if we all stand together and do the right thing for America?

Right now, we are going to kick the can down the road a little bit and hope the people come to their senses, do the $375 billion bill so we do not have to be here another 3 months saying, well, sorry, we could not do it, folks; sorry, America, we could not put you back to work; sorry, we cannot do the right thing for this country, we will wait till next year.

Well, if that is what it comes to, we will wait till next year; but I want to do the right thing, want to do it now. We are going to join in partnership to get there. We have got to make the right investments. We have got to do the right thing. For the time being, the right thing is to pass this extension.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

I want to thank my good friend from Minnesota on his eloquent presentation. I want to thank the gentleman from Wisconsin (Mr. PETRI), the gentleman from Illinois (Mr. LIPINSKI), and the committee members and the staffs who have worked so hard on this legislation and the parent legislation.

There is not much I can add to what the gentleman from Minnesota (Mr. OBERSTAR) has said. Everybody knows where I am standing on this legislation; and by the way, the number 375 is not an artificial number. It is the number that came from the administration, what is needed to improve and maintain the existing highway system, when the interstate highway system becomes 50 years old, or will be 50 years old 3 years from now; and that is an old system.

This is the legislation that can solve the economic woes of this country, not just because of jobs but because transportation provides the resources for the prescription drugs, for Medicare, for education, for Social Security. All those things thrive on our economy, and our economy cannot provide the basis for those systems without transportation.

Truck traffic alone will increase 90 percent over what it is now in the next 15 years. Car traffic, the mileage being used will increase a huge amount over the next 15 years. The most expensive thing we can do today is not the five cents, not the two cents, not even using the funds out of the general fund for the trust fund, but to do nothing. To do nothing is the most expensive cost to the American people. The most expensive cost to the American people is to do nothing.

I can assure my good friends that I am working and my colleagues are working, and we are going to try to achieve the goal we seek; but I will not support a bill that goes so far below the needs. My administration is wrong in this, and I have told them that. I think most of my colleagues have read my letter to the President. They are dead wrong. Because if we do not do this, the legacy we leave behind will, in fact, I think be a legacy of incompetency.

I do not want to wear that label. The gentleman from Minnesota (Mr. OBERSTAR) and myself and the gentleman from Illinois (Mr. LIPINSKI) and the gentleman from Wisconsin (Mr. PETRI) and the staffs and everybody, we are trying to do something that is right for this great Nation, a legacy for users, a need, jobs for America. That is the parent bill, H.R. 3550; and I hope we continue this discussion but reach a solution in the very near future.

The legislation we are addressing today is mandatory because if we do not do it, not only will the agency be shut down, but the States will not issue contracts for the upcoming building session; and so I urge full support for this legislation.

I will ask for a vote. I want my colleagues all to know that, because I think it is important we are on the record of where we stand as a body about building for the future of our great Nation in transportation.

Mr. Speaker, I reserve the balance of my time.

Mr. LIPINSKI. Mr. Speaker, could the Chair inform me how much time I have left.

The SPEAKER pro tempore (Mr. ISAKSON). The gentleman from Illinois (Mr. LIPINSKI) has 4 minutes remaining. The gentleman from Alaska (Mr. YOUNG) has 7½ minutes remaining.

Mr. LIPINSKI. Mr. Speaker, I yield 2 minutes to the gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. Mr. Speaker, I am honored to join with my colleagues

today on what is the most important economic, environmental, and public safety issue that we will be facing.

I for one was a little bit startled when we had the President refer to this transportation bill as an entitlement program. With all due respect, this is not an entitlement, except to the point that I think, as referenced by our committee chair, the American public is entitled to have infrastructure investment.

I find it striking that we can have conservative icons like Grover Norquist, Paul Weyrich, we have the Chamber of Commerce, along with environmentalists, with unions, with development interests, with Realtors, all coming together with one of the broadest coalitions we have seen. All understand that this transportation funding is a user fee. To keep pace with inflation is an important national goal that was endorsed by no less a conservative icon than President Reagan. We are attempting to move forward in this fashion. It does not have to be this hard.

I would hope that our membership across the aisles will support our leadership on this committee who have taken a principled and strong stand to fund needs, as the gentleman from Alaska (Chairman YOUNG) mentioned, that were identified by a study from the administration itself. It is not a hard sell to the American public. Eighty percent of the public feels that our highway and transit network are important to our economy. Sixty-nine percent of the public support increasing our Federal transportation investment, even if it means raising the gas tax.

TEA–21 has provided money for roads, for bridges, for virtually every metropolitan area. It has helped with air quality. It has helped with transportation enhancements, transit freight movement, bicycles. Communities large and small have used all of these provisions. Now is the time for all of us to step forward.

I am sorry we are not debating the 6-year reauthorization, but I hope that we will be using the next 4 months to actually do our job of legislating and passing a bipartisan bill that funds these needs, balances transportation, places a premium on environmental protection, and maintains local flexibility and control of decisionmaking.

□ 1545

Mr. YOUNG of Alaska. Mr. Speaker, I reserve the balance of my time.

Mr. LIPINSKI. Mr. Speaker, I yield 1 minute 25 seconds to the gentleman from Maryland (Mr. CUMMINGS).

Mr. CUMMINGS. Mr. Speaker, I rise in support of the Surface Transportation Extension Act of 2004. Although we have made progress on the full reauthorization bill, we still have miles to go before we finish. However, I believe passing the full reauthorization as close as possible to the $375 billion figure supported by many Members of this body will be one of our most significant accomplishments of this Congress.

The challenges we are working to meet through passage of this bill are very significant to the people of our Nation, especially during these difficult economic times. These challenges are central to the lives of working families like those in my district as well as those around the country.

Transportation is about more than concrete, asphalt and steel. It is about people and about providing them with the opportunity to lead safer, healthier and more fulfilling lives.

The much-needed investment in our steadily deteriorating infrastructure would provide a proverbial shot in the arm for the economy, while helping to improve America's prosperity and quality of life. Our country's economic strength, our ability to improve productivity, and our capacity to create jobs are all dependent upon expanded investment in transportation infrastructure. The 6-year reauthorization will have a lasting impact on all three of these areas.

This extension will provide funding for 4 months. In those 4 months, we have a lot of work to do. I hope the Bush administration will see the wisdom of passing a full 6-year reauthorization at a number far above the proposed $256 billion figure. So far, they have missed the mark.

Mr. LIPINSKI. Mr. Speaker, I yield 35 seconds to the gentlewoman from Texas (Ms. JACKSON-LEE).

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in support of the temporary extension of the Transportation legislation for $375 billion and to say that these types of transportation projects actually create jobs.

However, I go on record to say several things.

First, this is an engine that makes a difference for the 21st century. I hope we can work with local communities and our local agencies, like the Texas Department of Transportation to insure that they do more to enlist the input of citizens to make sure these projects are neighborhood friendly and supported.

In addition, we really must address the crisis of drunk driving on our freeways. Houston has recently had several deaths due to drunk driving. I hope to work with the chairman and the ranking member and the ranking member of the subcommittee to ensure that we have safe highways and freeways by addressing the question in the final bill. We should have full funding and an extension of the surface highway and transportation bill because it equates to jobs for America.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in support of this bill, H.R. 3783, the Surface Transportation Extension Act of 2004. This four-month extension of the "Transportation Equity Act for the 21st Century (TEA–21; PL 105–178)" that was set to expire in 18 days is a very important legislative measure to the safety of our highways.

Under H.R. 3783, $224 million will be awarded for the National Highway Traffic Safety Administration for various grant programs. Similarly, $255 million will go to the Federal Motor Carrier Safety Administration for grants to enforce safety regulations and inspections along the Mexican border.

If this bill is not extended by February 29, 2004, the consequences will be grave for the safety of our motorists as well as for the construction workers who await the beginning of contracts of employment. This 4-month extension of TEA–21 will preserve the basic structure of our Federal surface transportation programs, which have proven to be extremely beneficial for our citizens' mobility and our national economy over the last 6 years.

The guaranteed funding, the program structure, and the balanced approach to transportation planning found in TEA–21 amount to positive growth and increased safety for the country. Transit has experienced the highest percentage of ridership growth among all modes of surface transportation, growing over 28 percent between 1993 and 2001. Therefore, I look forward to this legislation's preservation of the structure and programs of TEA–21 for the next 4 months.

The transportation needs of this Nation are significant, as more and more communities find themselves confronting the problems of traffic congestion and delay. According to the Texas Transportation Institute, in the year 2000, Americans in 75 urban areas spent 3.6 billion hours stuck in traffic, with an estimated cost to the Nation of $67.5 billion in lost time and wasted fuel. As these figures show, congestion has a real economic cost to this Nation, in addition to the psychological and social costs of spending hours each day sitting in traffic.

With respect to highway safety, we need these funds to address the horrible problem of drunk driving. The National Highway Traffic Safety Administration grant programs will ensure that new drivers get the safety education that is so critical when the risk is so high. In Houston during the year 2000, there were a total of 48,025 motor vehicle accidents. There were 219 fatal accidents and 243 killed in accidents. Also in that year, there were 33,370 accidents that caused injuries and 60,105 were injured.

Furthermore, on January 27, 2004, three fatal accidents occurred in Houston.

First, a pickup truck ran into a parked 18-wheeler when it tried ducking into a service land to get ahead of another car. The passenger died in the crash and the driver was listed in poor condition.

Another accident at Jones Road and FM1960 in Houston occurred when a man's car jumped the curb, hit a car then rear-ended a big rig. Authorities said the driver was speeding when the accident happened near the parking lot of a Krogers grocery store.

Moreover, a 15-year-old Pasadena girl was killed in a drunk driving accident. In that instance, police said that the driver of the car she was in lost control and flipped over in southeast Houston. The driver was arrested for DUI and manslaughter charges are pending.

Therefore, for reasons related to the safety of our drivers, the safety of the narrow roads and to the availability of jobs, among other reasons, I urge my colleagues to pass H.R. 3738.

Mr. Speaker, for the above reasons, I support this legislation, and I urge my colleagues to join me.

Mr. DINGELL. Mr. Speaker, I rise today to call on the President and House Leadership to come together with Chairman YOUNG and Ranking Member OBERSTAR and complete a robust and comprehensive transportation bill that addresses the economic needs of our country. A little less than five months ago, I, along with a majority of the House, voted for an extension. I did so reluctantly then, and will do so again today. But, we cannot continue down this path of short-term extensions.

Short-term extensions shortchange our economy, leaving state and local governments in a difficult situation when planning and assessing highway and transit projects. In fact, these short-term extensions result in an estimated $2.1 billion in project delays and the loss of more than 90,000 jobs. As I said last time, we cannot continue to operate the government through continuing resolution. To do so not only puts our infrastructure in jeopardy, but the well being of our nation. I would hope that those opposing Chairman YOUNG and Ranking Member OBERSTAR's efforts realize that they are hindering our economy at a time when we need to get things moving again.

Mr. Speaker, nearly 3 million private-sector jobs have been lost since January 2001. We should be doing everything in our power to help get this economy back on track. A good robust transportation policy is a good place to start. For every $1 billion invested in federal highway and transit spending, 47,000 jobs are created. These are good paying jobs. Jobs that provide money to families to put food on the table and clothe their children.

Yet, the President remarked a robust bill is somehow an entitlement program. It seems to me that he should take a second look at the bill that was proposed and reconsider his position. 1.7 million jobs would be a good start in trying to make up for the losses we have experienced in the last 3 years.

In Michigan, a good robust transportation bill would help our state begin an economic recovery due to the heavy loss of manufacturing jobs. It also would ensure that Michigan receives its fair share of transportation dollars. Michigan and other states need action on this bill soon. To prolong this process after this extension will have undesirable consequences on our economy.

I support my Transportation and Infrastructure Chairman and Ranking Member in their goals for our nation. They understand the investment we can put into our great nation through a robust bill. I stand by ready to help in any way I can.

Mr. YOUNG of Alaska. Mr. Speaker, this extension is an important piece of legislation, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. ISAKSON). The question is on the motion offered by the gentleman from Alaska (Mr. YOUNG) that the House suspend the rules and pass the bill, H.R. 3783.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. YOUNG of Alaska. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. YOUNG of Alaska. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 3783.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alaska?

There was no objection.

NATIVE AMERICAN TECHNICAL CORRECTIONS ACT OF 2003

Mr. POMBO. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 523) to make technical corrections to laws relating to Native Americans, and for other purposes.

The Clerk read as follows:

S. 523

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION. 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Native American Technical Corrections Act of 2003''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Definition of Secretary.
TITLE I—TECHNICAL AMENDMENTS AND OTHER PROVISIONS RELATING TO NATIVE AMERICANS
Subtitle A—Technical Amendments
Sec. 101. Bosque Redondo Memorial Act.
Sec. 102. Navajo-Hopi Land Settlement Act.
Sec. 103. Tribal sovereignty.
Sec. 104. Cow Creek Band of Umpqua Indians.
Sec. 105. Pueblo de Cochiti; modification of settlement.
Sec. 106. Four Corners Interpretive Center.
Sec. 107. Mississippi Band of Choctaw Indians.
Sec. 108. Rehabilitation of Celilo Indian Village.
Subtitle B—Other Provisions Relating to Native Americans
Sec. 121. Barona Band of Mission Indians; facilitation of construction of pipeline to provide water for emergency fire suppression and other purposes.
Sec. 122. Conveyance of Native Alaskan objects.
Sec. 123. Pueblo of Acoma; land and mineral consolidation.
Sec. 124. Quinault Indian Nation; water feasibility study.
Sec. 125. Santee Sioux Tribe; study and report.
Sec. 126. Shakopee Mdewakanton Sioux Community.
Sec. 127. Agua Caliente Band of Cahuilla Indians.
Sec. 128. Saginaw Chippewa Tribal College.
Sec. 129. Ute Indian Tribe; oil shale reserve.
TITLE II—PUEBLO OF SANTA CLARA AND PUEBLO OF SAN ILDEFONSO
Sec. 201. Definitions.
Sec. 202. Trust for the Pueblo of Santa Clara, New Mexico.
Sec. 203. Trust for the Pueblo of San Ildefonso, New Mexico.
Sec. 204. Survey and legal descriptions.
Sec. 205. Administration of trust land.
Sec. 206. Effect.
Sec. 207. Gaming.
TITLE III—DISTRIBUTION OF QUINAULT PERMANENT FISHERIES FUNDS
Sec. 301. Distribution of judgment funds.
Sec. 302. Conditions for distribution.

SEC. 2. DEFINITION OF SECRETARY.

In this Act, except as otherwise provided in this Act, the term ''Secretary'' means the Secretary of the Interior.

TITLE I—TECHNICAL AMENDMENTS AND OTHER PROVISIONS RELATING TO NATIVE AMERICANS

Subtitle A—Technical Amendments

SEC. 101. BOSQUE REDONDO MEMORIAL ACT.

Section 206 of the Bosque Redondo Memorial Act (16 U.S.C. 431 note; Public Law 106–511) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking ''2000'' and inserting ''2004''; and

(B) in paragraph (2), by striking ''2001 and 2002'' and inserting ''2005 and 2006''; and

(2) in subsection (b), by striking ''2002'' and inserting ''2007,''.

SEC. 102. NAVAJO-HOPI LAND SETTLEMENT ACT.

Section 25(a)(8) of Public Law 93–531 (commonly known as the ''Navajo-Hopi Land Settlement Act of 1974'') (25 U.S.C. 640d–24(a)(8)) is amended by striking ''annually for fiscal years 1995, 1996, 1997, 1998, 1999, and 2000'' and inserting ''for each of fiscal years 2003 through 2008''.

SEC. 103. TRIBAL SOVEREIGNTY.

Section 16 of the Act of June 18, 1934 (25 U.S.C. 476), is amended by adding at the end the following:

''(h) TRIBAL SOVEREIGNTY.—Notwithstanding any other provision of this Act—

''(1) each Indian tribe shall retain inherent sovereign power to adopt governing documents under procedures other than those specified in this section; and

''(2) nothing in this Act invalidates any constitution or other governing document adopted by an Indian tribe after June 18, 1934, in accordance with the authority described in paragraph (1).''.

SEC. 104. COW CREEK BAND OF UMPQUA INDIANS.

Section 7 of the Cow Creek Band of Umpqua Tribe of Indians Recognition Act (25 U.S.C. 712e) is amended in the third sentence by inserting before the period at the end the following: '', and shall be treated as on-reservation land for the purpose of processing acquisitions of real property into trust''.

SEC. 105. PUEBLO DE COCHITI; MODIFICATION OF SETTLEMENT.

Section 1 of Public Law 102–358 (106 Stat. 960) is amended—

(1) by striking ''implement the settlement'' and inserting the following: ''implement—

''(1) the settlement;'';

(2) by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(2) the modifications regarding the use of the settlement funds as described in the agreement known as the 'First Amendment to Operation and Maintenance Agreement for Implementation of Cochiti Wetlands Solution', executed—

''(A) on October 22, 2001, by the Army Corps of Engineers;

''(B) on October 25, 2001, by the Pueblo de Cochiti of New Mexico; and

''(C) on November 8, 2001, by the Secretary of the Interior.''.

SEC. 106. FOUR CORNERS INTERPRETIVE CENTER.

Section 7 of the Four Corners Interpretive Center Act (113 Stat. 1706) is amended—

(1) in subsection (a)(2), by striking ''2005'' and inserting ''2008'';

(2) in subsection (b), by striking ''2002'' and inserting ''2005''; and

(3) in subsection (c), by striking ''2001'' and inserting ''2004''.

SEC. 107. MISSISSIPPI BAND OF CHOCTAW INDIANS.

Section 1(a)(2) of Public Law 106–228 (114 Stat. 462) is amended by striking ''report entitled'' and all that follows through ''is hereby declared'' and inserting the following: ''report entitled 'Report of May 17, 2002, Clarifying and Correcting Legal Descriptions or Recording Information for Certain Lands placed into Trust and Reservation Status for the Mississippi Band of Choctaw Indians by Section 1(a)(2) of Pub. L. 106–228, as amended by Title VIII, Section 811 of Pub. L. 106–568', on file in the Office of the Superintendent, Choctaw Agency, Bureau of Indian Affairs, Department of the Interior, is declared''.

SEC. 108. REHABILITATION OF CELILO INDIAN VILLAGE.

Section 401(b)(3) of Public Law 100–581 (102 Stat. 2944) is amended by inserting ''and Celilo Village'' after ''existing sites''.

Subtitle B—Other Provisions Relating to Native Americans

SEC. 121. BARONA BAND OF MISSION INDIANS; FACILITATION OF CONSTRUCTION OF PIPELINE TO PROVIDE WATER FOR EMERGENCY FIRE SUPPRESSION AND OTHER PURPOSES.

(a) IN GENERAL.—Notwithstanding any other provision of law, subject to valid existing rights under Federal and State law, and to any easements or similar restrictions which may be granted to the city of San Diego, California, for the construction, operation and maintenance of a pipeline and related appurtenances and facilities for conveying water from the San Vicente Reservoir to the Barona Indian Reservation, or for conservation, wildlife or habitat protection, or related purposes, the land described in subsection (b), fee title to which is held by the Barona Band of Mission Indians of California (referred to in this section as the ''Band'')—

(1) is declared to be held in trust by the United States for the benefit of the Band; and

(2) shall be considered to be a portion of the reservation of the Band.

(b) LAND.—The land referred to in subsection (a) is land comprising approximately 85 acres in San Diego County, California, and described more particularly as follows: San Bernardino Base and Meridian; T. 14 S., R. 1 E.; sec. 21: W½ SE¼, 68 acres; NW¼ NW¼, 17 acres.

(c) GAMING.—The land taken into trust by subsection (a) shall neither be considered to have been taken into trust for gaming, nor be used for gaming (as that term is used in the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.)).

SEC. 122. CONVEYANCE OF NATIVE ALASKAN OBJECTS.

Notwithstanding any provision of law affecting the disposal of Federal property, on the request of the Chugach Alaska Corporation or Sealaska Corporation, the Secretary of Agriculture shall convey to whichever of those corporations that has received title to a cemetery site or historical place on National Forest System land conveyed under section 14(h)(1) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(h)(1)) all artifacts, physical remains, and copies of any available field records that—

(1)(A) are in the possession of the Secretary of Agriculture; and

(B) have been collected from the cemetery site or historical place; but

(2) are not required to be conveyed in accordance with the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.) or any other applicable law.

SEC. 123. PUEBLO OF ACOMA; LAND AND MINERAL CONSOLIDATION.

(a) DEFINITION OF BIDDING OR ROYALTY CREDIT.—The term ''bidding or royalty credit'' means a legal instrument or other written documentation, or an entry in an account managed by the Secretary, that may be used in lieu of any other monetary payment for—

(1) a bonus bid for a lease sale on the outer Continental Shelf; or

(2) a royalty due on oil or gas production; for any lease located on the outer Continental Shelf outside the zone defined and governed by section 8(g)(2) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(g)(2)).

(b) AUTHORITY.—Notwithstanding any other provision of law, the Secretary may acquire any nontribal interest in or to land (including an interest in mineral or other surface or subsurface rights) within the boundaries of the Acoma Indian Reservation for the purpose of carrying out Public Law 107–138 (116 Stat. 6) by issuing bidding or royalty credits under this section in an amount equal to the value of the interest acquired by the Secretary, as determined under section 1(a) of Public Law 107–138 (116 Stat. 6).

(c) USE OF BIDDING AND ROYALTY CREDITS.—On issuance by the Secretary of a bidding or royalty credit under subsection (b), the bidding or royalty credit—

(1) may be freely transferred to any other person (except that, before any such transfer, the transferor shall notify the Secretary of the transfer by such method as the Secretary may specify); and

(2) shall remain available for use by any person during the 5-year period beginning on the date of issuance by the Secretary of the bidding or royalty credit.

SEC. 124. QUINAULT INDIAN NATION; WATER FEASIBILITY STUDY.

(a) IN GENERAL.—The Secretary is authorized to carry out, in accordance with Federal reclamation law (the Act of June 17, 1902 (32 Stat. 388, chapter 1093), and Acts supplemental to and amendatory of that Act (43 U.S.C. 371 et seq.)), a water source, quantity, and quality feasibility study for land of the Quinault Indian Nation to identify ways to meet the current and future domestic and commercial water supply and distribution needs of the Quinault Indian Nation on the Olympic Peninsula, Washington.

(b) PUBLIC AVAILABILITY OF RESULTS.—As soon as practicable after completion of a feasibility study under subsection (a), the Secretary shall—

(1) publish in the Federal Register a notice of the availability of the results of the feasibility study; and

(2) make available to the public, on request, the results of the feasibility study.

SEC. 125. SANTEE SIOUX TRIBE; STUDY AND REPORT.

(a) STUDY.—Pursuant to reclamation laws, the Secretary, acting through the Bureau of Reclamation and in consultation with the Santee Sioux Tribe of Nebraska (referred to in this subtitle as the ''Tribe''), shall conduct a feasibility study to determine the most feasible method of developing a safe and adequate municipal, rural, and industrial water treatment and distribution system for the Santee Sioux Tribe of Nebraska that could serve the tribal community and adjacent communities and incorporate population growth and economic development activities for a period of 40 years.

(b) COOPERATIVE AGREEMENT.—At the request of the Tribe, the Secretary shall enter into a cooperative agreement with the Tribe for activities necessary to conduct the study required by subsection (a) regarding which the Tribe has unique expertise or knowledge.

(c) REPORT.—Not later than 1 year after funds are made available to carry out this subtitle, the Secretary shall submit to Congress a report containing the results of the study required by subsection (a).

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section $500,000, to remain available until expended.

SEC. 126. SHAKOPEE MDEWAKANTON SIOUX COMMUNITY.

(a) IN GENERAL.—Notwithstanding any other provision of law, without further authorization by the United States, the Shakopee Mdewakanton Sioux Community in the State of Minnesota (referred to in this section as the ''Community'') may lease, sell, convey, warrant, or otherwise transfer all or any part of the interest of the Community in or to any real property that is not held in trust by the United States for the benefit of the Community.

(b) NO EFFECT ON TRUST LAND.—Nothing in this section—

(1) authorizes the Community to lease, sell, convey, warrant, or otherwise transfer all or part of an interest in any real property that is held in trust by the United States for the benefit of the Community; or

(2) affects the operation of any law governing leasing, selling, conveying, warranting, or otherwise transferring any interest in that trust land.

SEC. 127. AGUA CALIENTE BAND OF CAHUILLA INDIANS.

(a) IN GENERAL.—Notwithstanding any other provision of law (including any restrictive covenant in effect under, or required by operation of, a State law), title to land that the Secretary of the Interior agrees is to be acquired by the United States in accordance with the Act of June 18, 1934 (25 U.S.C. 465), for the Agua Caliente Band of Cahuilla Indians shall be taken in the name of the United States.

(b) COVENANTS.—A restrictive covenant referred to in subsection (a) shall be unenforceable against the United States if the land to which the restrictive covenant is attached was held in trust by the United States for, or owned by, the Agua Caliente Band of Cahuilla Indians, or an individual member of the Band, before the date on which the restrictive covenant attached to the land.

SEC. 128. SAGINAW CHIPPEWA TRIBAL COLLEGE.

Section 532 of the Equity in Educational Land Grant Status Act of 1994 (7 U.S.C. 301 note; Public Law 103–382) is amended—

(1) by redesignating paragraphs (22) through (31) as paragraphs (23) through (32), respectively; and

(2) by inserting after paragraph (21) the following:

''(22) Saginaw Chippewa Tribal College.''.

SEC. 129. UTE INDIAN TRIBE; OIL SHALE RESERVE.

Section 3405(c) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (10 U.S.C. 7420 note; Public Law 105–261) is amended by striking paragraph (3) and inserting the following:

''(3) With respect to the land conveyed to the Tribe under subsection (b)—

''(A) the land shall not be subject to any Federal restriction on alienation; and

''(B) notwithstanding any provision to the contrary in the constitution, bylaws, or charter of the Tribe, the Act of May 11, 1938 (commonly known as the 'Indian Mineral Leasing Act of 1938') (25 U.S.C. 396a et seq.), the Indian Mineral Development Act of 1982

(25 U.S.C. 2101 et seq.), section 2103 of the Revised Statutes (25 U.S.C. 81), or section 2116 of the Revised Statutes (25 U.S.C. 177), or any other law, no purchase, grant, lease, or other conveyance of the land (or any interest in the land), and no exploration, development, or other agreement relating to the land that is authorized by resolution by the governing body of the Tribe, shall require approval by the Secretary of the Interior or any other Federal official.''.

TITLE II—PUEBLO OF SANTA CLARA AND PUEBLO OF SAN ILDEFONSO

SEC. 201. DEFINITIONS.

In this title:

(1) AGREEMENT.—The term ''Agreement'' means the agreement entitled ''Agreement to Affirm Boundary Between Pueblo of Santa Clara and Pueblo of San Ildefonso Aboriginal Lands Within Garcia Canyon Tract'', entered into by the Governors on December 20, 2000.

(2) BOUNDARY LINE.—The term ''boundary line'' means the boundary line established under section 204(a).

(3) GOVERNORS.—The term ''Governors'' means—

(A) the Governor of the Pueblo of Santa Clara, New Mexico; and

(B) the Governor of the Pueblo of San Ildefonso, New Mexico.

(4) INDIAN TRIBE.—The term ''Indian tribe'' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(5) PUEBLOS.—The term ''Pueblos'' means—

(A) the Pueblo of Santa Clara, New Mexico; and

(B) the Pueblo of San Ildefonso, New Mexico.

(6) TRUST LAND.—The term ''trust land'' means the land held by the United States in trust under section 202(a) or 203(a).

SEC. 202. TRUST FOR THE PUEBLO OF SANTA CLARA, NEW MEXICO.

(a) IN GENERAL.—All right, title, and interest of the United States in and to the land described in subsection (b), including improvements on, appurtenances to, and mineral rights (including rights to oil and gas) to the land, shall be held by the United States in trust for the Pueblo of Santa Clara, New Mexico.

(b) DESCRIPTION OF LAND.—The land referred to in subsection (a) consists of approximately 2,484 acres of Bureau of Land Management land located in Rio Arriba County, New Mexico, and more particularly described as—

(1) the portion of T. 20 N., R. 7 E., sec. 22, New Mexico Principal Meridian, that is located north of the boundary line;

(2) the southern half of T. 20 N., R. 7 E., sec. 23, New Mexico Principal Meridian;

(3) the southern half of T. 20 N., R. 7 E., sec. 24, New Mexico Principal Meridian;

(4) T. 20 N., R. 7 E., sec. 25, excluding the 5-acre tract in the southeast quarter owned by the Pueblo of San Ildefonso;

(5) the portion of T. 20 N., R. 7 E., sec. 26, New Mexico Principal Meridian, that is located north and east of the boundary line;

(6) the portion of T. 20 N., R. 7 E., sec. 27, New Mexico Principal Meridian, that is located north of the boundary line;

(7) the portion of T. 20 N., R. 8 E., sec. 19, New Mexico Principal Meridian, that is not included in the Santa Clara Pueblo Grant or the Santa Clara Indian Reservation; and

(8) the portion of T. 20 N., R. 8 E., sec. 30, that is not included in the Santa Clara Pueblo Grant or the San Ildefonso Grant.

SEC. 203. TRUST FOR THE PUEBLO OF SAN ILDEFONSO, NEW MEXICO.

(a) IN GENERAL.—All right, title, and interest of the United States in and to the land described in subsection (b), including improvements on, appurtenances to, and mineral rights (including rights to oil and gas) to the land, shall be held by the United States in trust for the Pueblo of San Ildefonso, New Mexico.

(b) DESCRIPTION OF LAND.—The land referred to in subsection (a) consists of approximately 2,000 acres of Bureau of Land Management land located in Rio Arriba County and Santa Fe County in the State of New Mexico, and more particularly described as—

(1) the portion of T. 20 N., R. 7 E., sec. 22, New Mexico Principal Meridian, that is located south of the boundary line;

(2) the portion of T. 20 N., R. 7 E., sec. 26, New Mexico Principal Meridian, that is located south and west of the boundary line;

(3) the portion of T. 20 N., R. 7 E., sec. 27, New Mexico Principal Meridian, that is located south of the boundary line;

(4) T. 20 N., R. 7 E., sec. 34, New Mexico Principal Meridian; and

(5) the portion of T. 20 N., R. 7 E., sec. 35, New Mexico Principal Meridian, that is not included in the San Ildefonso Pueblo Grant.

SEC. 204. SURVEY AND LEGAL DESCRIPTIONS.

(a) SURVEY.—Not later than 180 days after the date of enactment of this Act, the Office of Cadastral Survey of the Bureau of Land Management shall, in accordance with the Agreement, complete a survey of the boundary line established under the Agreement for the purpose of establishing, in accordance with sections 3102(b) and 3103(b), the boundaries of the trust land.

(b) LEGAL DESCRIPTIONS.—

(1) PUBLICATION.—On approval by the Governors of the survey completed under subsection (a), the Secretary shall publish in the Federal Register—

(A) a legal description of the boundary line; and

(B) legal descriptions of the trust land.

(2) TECHNICAL CORRECTIONS.—Before the date on which the legal descriptions are published under paragraph (1)(B), the Secretary may correct any technical errors in the descriptions of the trust land provided in sections 3102(b) and 3103(b) to ensure that the descriptions are consistent with the terms of the Agreement.

(3) EFFECT.—Beginning on the date on which the legal descriptions are published under paragraph (1)(B), the legal descriptions shall be the official legal descriptions of the trust land.

SEC. 205. ADMINISTRATION OF TRUST LAND.

(a) IN GENERAL.—Effective beginning on the date of enactment of this Act—

(1) the land held in trust under section 202(a) shall be declared to be a part of the Santa Clara Indian Reservation; and

(2) the land held in trust under section 203(a) shall be declared to be a part of the San Ildefonso Indian Reservation.

(b) APPLICABLE LAW.—

(1) IN GENERAL.—The trust land shall be administered in accordance with any law (including regulations) or court order generally applicable to property held in trust by the United States for Indian tribes.

(2) PUEBLO LANDS ACT.—The following shall be subject to section 17 of the Act of June 7, 1924 (commonly known as the ''Pueblo Lands Act'') (25 U.S.C. 331 note):

(A) The trust land.

(B) Any land owned as of the date of enactment of this Act or acquired after the date of enactment of this Act by the Pueblo of Santa Clara in the Santa Clara Pueblo Grant.

(C) Any land owned as of the date of enactment of this Act or acquired after the date of enactment of this Act by the Pueblo of San Ildefonso in the San Ildefonso Pueblo Grant.

(c) USE OF TRUST LAND.—

(1) IN GENERAL.—Subject to the criteria developed under paragraph (2), the trust land may be used only for—

(A) traditional and customary uses; or

(B) stewardship conservation for the benefit of the Pueblo for which the trust land is held in trust.

(2) CRITERIA.—The Secretary shall work with the Pueblos to develop appropriate criteria for using the trust land in a manner that preserves the trust land for traditional and customary uses or stewardship conservation.

(3) LIMITATION.—Beginning on the date of enactment of this Act, the trust land shall not be used for any new commercial developments.

SEC. 206. EFFECT.

Nothing in this title—

(1) affects any valid right-of-way, lease, permit, mining claim, grazing permit, water right, or other right or interest of a person or entity (other than the United States) that is—

(A) in or to the trust land; and

(B) in existence before the date of enactment of this Act;

(2) enlarges, impairs, or otherwise affects a right or claim of the Pueblos to any land or interest in land that is—

(A) based on Aboriginal or Indian title; and

(B) in existence before the date of enactment of this Act;

(3) constitutes an express or implied reservation of water or water right with respect to the trust land; or

(4) affects any water right of the Pueblos in existence before the date of enactment of this Act.

SEC. 207. GAMING.

Land taken into trust under this title shall neither be considered to have been taken into trust for, nor be used for, gaming (as that term is used in the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.)).

TITLE III—DISTRIBUTION OF QUINAULT PERMANENT FISHERIES FUNDS

SEC. 301. DISTRIBUTION OF JUDGMENT FUNDS.

(a) FUNDS TO BE DEPOSITED INTO SEPARATE ACCOUNTS.—

(1) IN GENERAL.—Subject to section 302, not later than 30 days after the date of enactment of this Act, the funds appropriated on September 19, 1989, in satisfaction of an award granted to the Quinault Indian Nation under Dockets 772–71, 773–71, 774–71, and 775–71 before the United States Claims Court, less attorney fees and litigation expenses, and including all interest accrued to the date of disbursement, shall be distributed by the Secretary and deposited into 3 separate accounts to be established and maintained by the Quinault Indian Nation (referred to in this title as the ''Tribe'') in accordance with this subsection.

(2) ACCOUNT FOR PRINCIPAL AMOUNT.—

(A) IN GENERAL.—The Tribe shall—

(i) establish an account for the principal amount of the judgment funds; and

(ii) use those funds to establish a Permanent Fisheries Fund.

(B) USE AND INVESTMENT.—The principal amount described in subparagraph (A)(i)—

(i) except as provided in subparagraph (A)(ii), shall not be expended by the Tribe; and

(ii) shall be invested by the Tribe in accordance with the investment policy of the Tribe.

(3) ACCOUNT FOR INVESTMENT INCOME.—

(A) IN GENERAL.—The Tribe shall establish an account for, and deposit in the account, all investment income earned on amounts in the Permanent Fisheries Fund established under paragraph (2)(A)(ii) after the date of distribution of the funds to the Tribe under paragraph (1).

(B) USE OF FUNDS.—Funds deposited in the account established under subparagraph (A) shall be available to the Tribe—

(i) subject to subparagraph (C), to carry out fisheries enhancement projects; and

(ii) pay expenses incurred in administering the Permanent Fisheries Fund established under paragraph (2)(A)(ii).

(C) SPECIFICATION OF PROJECTS.—Each fisheries enhancement project carried out under subparagraph (B)(i) shall be specified in the approved annual budget of the Tribe.

(4) ACCOUNT FOR INCOME ON JUDGMENT FUNDS.—

(A) IN GENERAL.—The Tribe shall establish an account for, and deposit in the account, all investment income earned on the judgment funds described in subsection (a) during the period beginning on September 19, 1989, and ending on the date of distribution of the funds to the Tribe under paragraph (1).

(B) USE OF FUNDS.—

(i) IN GENERAL.—Subject to clause (ii), funds deposited in the account established under subparagraph (A) shall be available to the Tribe for use in carrying out tribal government activities.

(ii) SPECIFICATION OF ACTIVITIES.—Each tribal government activity carried out under clause (i) shall be specified in the approved annual budget of the Tribe.

(b) DETERMINATION OF AMOUNT OF FUNDS AVAILABLE.—Subject to compliance by the Tribe with paragraphs (3)(C) and (4)(B)(ii) of subsection (a), the Quinault Business Committee, as the governing body of the Tribe, may determine the amount of funds available for expenditure under paragraphs (3) and (4) of subsection (a).

(c) ANNUAL AUDIT.—The records and investment activities of the 3 accounts established under subsection (a) shall—

(1) be maintained separately by the Tribe; and

(2) be subject to an annual audit.

(d) REPORTING OF INVESTMENT ACTIVITIES AND EXPENDITURES.—Not later than 120 days after the date on which each fiscal year of the Tribe ends, the Tribe shall make available to members of the Tribe a full accounting of the investment activities and expenditures of the Tribe with respect to each fund established under this section (which may be in the form of the annual audit described in subsection (c)) for the fiscal year.

SEC. 302. CONDITIONS FOR DISTRIBUTION.

(a) UNITED STATES LIABILITY.—On disbursement to the Tribe of the funds under section 301(a), the United States shall bear no trust responsibility or liability for the investment, supervision, administration, or expenditure of the funds.

(b) APPLICATION OF OTHER LAW.—All funds distributed under this title shall be subject to section 7 of the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1407).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. POMBO) and the gentleman from New Mexico (Mr. UDALL) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. POMBO).

GENERAL LEAVE

Mr. POMBO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the Senate bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. POMBO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 523, the Native American Technical Corrections Act of 2003, makes over 20 changes to current law to assist Indian tribes with matters that may seem relatively small to some of us but are quite important to individual tribes across this country.

I am pleased we are able to bring this legislation to the floor today. Tribal leaders from various regions have flown to Washington, D.C., for meetings, conferences and interaction with their congressional representatives.

The continual input from tribes and their willingness to work directly with the Congress as sovereign entities on a government-to-government basis brings us to our debate and vote on S. 523.

Specifically, the legislation will make technical corrections to laws relating to Native Americans, including the extension of expiring authorizations, amendments to statutes relating to particular Indian tribes, and modifications to certain Native American programs. It makes these beneficial changes in areas relating to tribal sovereignty and culture and will encourage economic development.

To illustrate the importance of this bill, let me offer an example of how one of the provisions will offer urgent assistance to a tribe that suffered the consequences of the recent wildfires in California. The Barona Band of Mission Indians was devastated by catastrophic wildfires last year. Section 121 of this bill places a certain amount of land in trust in order to facilitate the construction of a pipeline that will deliver water from the San Vincente Reservoir to the tribe's reservation. This pipeline is badly needed for fire suppression that may threaten the reservation in the future.

Numerous tribes will be able to move forward on projects that will help to strengthen their tribal government and better illuminate their history and culture. This includes reauthorization of sections of the Bosque Redondo Memorial Act, which memorializes lands on which members of the Navaho Nation were forcibly marched by the U.S. Army beginning in 1863 after they were forced to leave their traditional homes in northeastern Arizona and northwestern New Mexico. S. 523 improves the implementation of this Act.

There are many other provisions too numerous to mention here, and I am proud that the House can deliver this package to the President for his signature. This legislation represents a step in the right direction for Indian country, and I appreciate the bipartisan work of the ranking member, the gentleman from West Virginia (Mr. RAHALL), in bringing us to this point today. I look forward to continuing to work together on various initiatives as they relate to American Indians and Alaskan Natives.

Finally, I would also like to point out that S. 523, as amended, was passed in the Senate by unanimous consent on July 30, 2003. I hope we can now act in the same bipartisan fashion. I urge adoption of this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. UDALL of New Mexico. Mr. Speaker, I yield myself such time as I may consume.

(Mr. UDALL of New Mexico asked and was given permission to revise and extend his remarks.)

Mr. UDALL of New Mexico. Mr. Speaker, I thank the gentleman from California (Mr. POMBO) and the ranking member, the gentleman from West Virginia (Mr. RAHALL), for their hard work on this bill. I am pleased to rise in support of Senate 523, the Native American Technical Corrections Act of 2003.

This bipartisan legislation, which reflects the work product of a number of Members, contains a variety of provisions that would benefit Indian tribes and Alaskan Natives. One provision of the bill extends the authorization through 2008 for the Four Corners Interpretive Center. This Center focuses on Native American culture through a cooperative agreement between the area's Indian tribes and my State of New Mexico as well as Colorado, Utah and Arizona.

Another provision of the bill clarifies the authority of the Secretary of Interior to issue bidding or royalty credits as a form of payment to acquire land and subsurface rights on the Acoma Indian Reservation for that tribe. This will permit the Pueblo to gain more control over lands within its reservation. This is related to legislation that the former Member from New Mexico, Joe Skeen, was involved with in the last session.

In addition, this bill authorizes the transfer of surplus lands from the Bureau of Land Management to the Pueblo of Santa Clara and the Pueblo of San Ildefonso to be used for traditional purposes only. Some Members may recall we passed similar legislation just last year. In an effort to get the other provisions of this bill signed into law without having to return to the other body, we have agreed to allow this provision pertaining to San Ildefonso and Santa Clara to remain in the bill knowing that it will not impede the transfer already under way.

In short, this bill makes minor changes to several laws by extending authorizations, clarifying congressional intent, and generally addressing some needs of various Indian tribes.

From the distribution of judgment funds to the Quinault Indian Nation in Washington State to the reauthorization of the Navaho-Hopi Land Settlement Act, passage of this legislation is important to each Indian tribe named in the bill.

Furthermore, this legislation is noncontroversial, and I urge Members to support S. 523.

Mr. Speaker, I reserve the balance of my time.

Mr. POMBO. Mr. Speaker, I yield such time as he may consume to the

gentleman from California (Mr. HUNTER).

Mr. HUNTER. Mr. Speaker, I thank the chairman, the gentleman from California (Mr. POMBO), for his great work in putting together this bill, particularly for a guy who represents the district where the Barona tribe have had major problems with water. They have had substantial water problems for the last several years. The tribe and the residents of the Old Barona Road have been working together to try to bring this pipeline up from the San Vincente reservoir, up over the saddle that separates the Barona Valley from the reservoir, and provide water in that area. It is expected that the rural residents of the Old Barona Road and the tribe will work together to make sure that there is a connection there off that main pipeline so that everyone can partake of this secure water supply that is not dependent on the well water level in that particular valley.

I thank the chairman, and ask him if that is his intent with this legislation.

Mr. POMBO. Mr. Speaker, will the gentleman yield?

Mr. HUNTER. I yield to the gentleman from California.

Mr. POMBO. Mr. Speaker, I thank the gentleman for his statement and his continued involvement as this legislation has moved forward.

Obviously, the growth that we have experienced in California, coupled with the recent wildfires, have pointed out to a greater extent the need for this pipeline to be put in.

I agree that it is important that the Barona Band of Mission Indians continue to work with the local communities to address everyone's concerns. I did have an opportunity to tour the site of the proposed pipeline that was going to go in, as well as the neighbors and the issues that they have, and I will continue to work with Barona and make sure that everyone's concerns are addressed.

Mr. HUNTER. Mr. Speaker, I thank the gentleman. This is great legislation.

Mr. UDALL of New Mexico. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I also would just like to congratulate Senator Ben Nighthorse Campbell on this legislation and all of the staff members that worked on it, and especially Marie Howard.

Mr. Speaker, I yield back the balance of my time.

Mr. POMBO. Mr. Speaker, I urge my colleagues to support the legislation, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. POMBO) that the House suspend the rules and pass the Senate bill, S. 523.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

□ 1600

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. ISAKSON). Pursuant to clause 8 of rule XX, proceedings will resume on the motion to concur and on the motion to suspend the rules previously postponed.

Votes will be taken in the following order:

Motion to concur in Senate amendment to H.R. 743, by the yeas and nays; and

H.R. 3783, by the yeas and nays.

The first electronic vote will be conducted as a 15-minute vote. The remaining electronic vote will be conducted as a 5-minute vote.

SOCIAL SECURITY PROTECTION ACT OF 2003

The SPEAKER pro tempore. The pending business is the question on the motion to concur in the Senate amendment to the bill, H.R. 743, offered by the gentleman from Florida (Mr. SHAW) on which the yeas and nays are ordered.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion to concur in the Senate amendment.

The vote was taken by electronic device, and there were—yeas 402, nays 19, not voting 11, as follows:

[Roll No. 23]

YEAS—402

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Castle
Chabot
Chocola
Clay
Clyburn
Coble
Cole
Collins
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Dicks
Dingell
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Flake
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gephardt
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Gordon
Goss
Graves
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hobson
Hoeffel
Hoekstra
Holden
Holt
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Osborne
Ose
Otter
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Rangel
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Spratt
Stark
Stearns
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—19

Bell
Burgess
Carter
Edwards
Frost
Gonzalez
Green (TX)
Hall
Hinojosa
Jackson-Lee (TX)
Johnson, E. B.
Lampson
Neugebauer
Ortiz
Owens
Reyes
Rodriguez
Sandlin
Stenholm

NOT VOTING—11

DeGette
Diaz-Balart, M.
Doggett
Granger
Honda
Kucinich
Murtha
Rahall
Solis
Turner (TX)
Watson

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. ISAKSON) (during the vote). Members are advised there are 2 minutes remaining in this vote.

□ 1623

Messrs. HINOJOSA, SANDLIN, and BELL changed their vote from ''yea'' to ''nay.''

Mr. INSLEE changed his vote from ''nay'' to ''yea.''

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Ms. SOLIS. Mr. Speaker, during rollcall vote No. 23 on H.R. 743, the Social Security Protection Act, I was unavoidably detained. Had I been present, I would have voted ''yea.''

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the next vote will be conducted as a 5-minute vote.

SURFACE TRANSPORTATION EXTENSION ACT OF 2004

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 3783.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Alaska (Mr. YOUNG) that the House suspend the rules and pass the bill, H.R. 3783, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 421, nays 0, not voting 11, as follows:

[Roll No. 24]

YEAS—421

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clay
Clyburn
Coble
Cole
Collins
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Dicks
Dingell
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Flake
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gephardt
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Rangel
Regula
Rehberg
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—11

DeGette
Diaz-Balart, M.
Doggett
Honda
Kucinich
Linder
Murtha
Rahall
Renzi
Solis
Watson

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised there are 2 minutes remaining in this vote.

□ 1632

So (two thirds having voted in the favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Ms. SOLIS. Mr. Speaker, during rollcall vote No. 24 on H.R. 3783, I was unavoidably detained. Had I been present, I would have voted ''yea.''

□ 1633

COMMENDING LOUISIANA STATE UNIVERSITY TIGERS FOR WINNING 2003 BOWL CHAMPIONSHIP SERIES NATIONAL CHAMPIONSHIP GAME AND COMMENDING SOUTHERN UNIVERSITY JAGUARS FOOTBALL TEAM FOR WINNING 2003 SBN BLACK COLLEGE NATIONAL FOOTBALL CHAMPIONSHIP

Mr. BAKER. Mr. Speaker, I ask unanimous consent that it be in order at any time for the majority leader or his designee to call up House Resolution 496; the resolution be considered as read; and the previous question be considered as ordered on the resolution to final adoption without intervening motion except (1) one hour of debate and (2) one motion to recommit.

The SPEAKER pro tempore (Mr. CULBERSON). Is there objection to the request of the gentleman from Louisiana?

There was no objection.

Mr. BAKER. Mr. Speaker, pursuant to the previous order of the House, and as the designee of the majority leader, I call up the resolution (H. Res. 496) commending the Louisiana State University Tigers football team for winning the 2003 Bowl Championship Series national championship game, and commending the Southern University Jaguars football team for winning the 2003 SBN Black College National Football championship, and ask for its immediate consideration.

The Clerk read the title of the resolution.

The text of House Resolution 496 is as follows:

H. RES. 496

Whereas the Louisiana State University Tigers football team won the 2003 Bowl Championship Series national championship game, defeating Oklahoma University by a score of 21–14 in the Nokia Sugar Bowl at the Louisiana Superdome in New Orleans, Louisiana, on January 4, 2004;

Whereas the Louisiana State University football team won the Southeastern Conference Championship, defeating the University of Georgia by a score of 34–13 in the Southeastern Conference Championship game at the Georgia Dome in Atlanta, Georgia, on December 6, 2003;

Whereas the Louisiana State University football team won 13 games during the 2003 season, more games than in any other season in Louisiana State University history;

Whereas the Louisiana State University football team won 5 games against nationally ranked opponents during the 2003 season;

Whereas the Louisiana State University football team set 8 school records during the 2003 season;

Whereas in 2003 the Louisiana State University football team was first in the Nation in total defense, allowing only 252 yards per game, and scoring defense, allowing only 1 team to score more than 20 points in any game during the season;

Whereas Louisiana State University football head coach Nick Saban was named the National Coach of the Year by the Associated Press and the Football Writers Association of America;

Whereas 4 players—Chad Lavalais, Corey Webster, Skyler Green, and Stephen Peterman—were named first-team All-Americans;

Whereas offensive tackle Rodney Reed was named a National Scholar-Athlete by the National Football Foundation and was named first-team Academic All-American;

Whereas quarterback Matt Mauck threw 28 touchdown passes during the 2003 season, a Louisiana State University single season record, and was named second-team Academic All-American;

Whereas running back Justin Vincent was named most valuable player of the Southeastern Conference Championship game and the Nokia Sugar Bowl;

Whereas the Southern University Jaguars were named the 2003 SBN Black College National Football Champions;

Whereas on December 13, 2003, in front of 31,617 fans in Birmingham, Alabama, the Southern University football team defeated Alabama State University by a score of 20–9 to win the Southwestern Athletic Conference Championship game and Southern University's 19th Southwestern Athletic Conference title;

Whereas the Southern University football team beat Grambling State University by a score of 44–41 to win the 2003 State Farm Bayou Classic and a trip to the Southwestern Athletic Conference Championship game;

Whereas the Southern University football team finished the 2003 football season with a 12–1 record;

Whereas the Southern University Jaguars' football head coach, Pete Richardson, earned his 5th conference title in his 11th year of coaching at Southern University;

Whereas Southern University coach Pete Richardson was named Coach of the Year by the Southwestern Athletic Conference;

Whereas Southern University quarterback Quincy Richard led the most effective offense in Black college football this year and was named Offensive Player of the Year by the Southwestern Athletic Conference;

Whereas 4 Southern University football players have been named to the 2003 SBN Black College All-American Team, including quarterback Quincy Richard, offensive linemen Arnold Sims and Miniya Smith, and defensive back Lenny Williams;

Whereas the Southern University football team was the most efficient and dominant football team in the Southwestern Athletic Conference in the 2003 season; and

Whereas over 1,000,000 devoted fans attended the top 30 Black college football games in the 2003 season: Now, therefore, be it

Resolved, That the House of Representatives—

(1) commends the Louisiana State University Tigers football team for winning the 2003 Bowl Championship Series national championship game;

(2) recognizes the achievements of all the players, coaches, and support staff who were instrumental in helping the Louisiana State University football team during the 2003 football season;

(3) directs the Clerk of the House of Representatives to make available enrolled copies of this resolution to Louisiana State University for appropriate display and distribution to the coaches and members of the 2003 Louisiana State University football team;

(4) commends the Southern University Jaguars football team for winning the 2003 SBN Black College National Championship;

(5) recognizes the achievements of all the players, coaches, and support staff who were instrumental in helping the Southern University football team during the 2003 football season; and

(6) directs the Clerk of the House of Representatives to make available enrolled copies of this resolution to Southern University for appropriate display and distribution to the coaches and members of the 2003 Southern University football team.

The SPEAKER pro tempore. Pursuant to the order of the House of today, the gentleman from Louisiana (Mr. BAKER) is recognized for 1 hour.

Mr. BAKER. Mr. Speaker, I yield the customary 30 minutes to the gentleman from Louisiana (Mr. JOHN), for purposes of debate only.

GENERAL LEAVE

Mr. BAKER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H. Res. 496.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

Mr. BAKER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today with a particular note of pride to speak on behalf of two fine athletic achievements from institutions both domiciled within the great city of Baton Rouge.

It began last fall when LSU set eight school records during the 2003 season. They won 13 games during that season, more games than in any other season in Louisiana State University history. They won the Southeastern Conference championship, defeating the University of Georgia by a score of 34 to 13 in the Southeastern Conference championship game at the Georgia Dome in Atlanta on December 6, 2003. This was followed by a terrific game and a victory in the 2003 Bowl Championship Series for the national championship, defeating Oklahoma University by a score of 21 to 14 in the Nokia Sugar Bowl on January 4, 2004.

Let me say a word about the excellent Oklahoma team and the manner in which their athletes competed. There was no giving up until the final whistle blew. It was a terrific game to watch.

But I want to express great appreciation to the young men of the LSU football team for their commitment to excellence and their hard work in pursuit of this championship. As a result of this effort, they were first in the Nation in total defense, allowing only 252 yards per game, and scoring defense, allowing only one team in a game to score more than 20 points. As a result of this outstanding effort, Coach Nick Saban was named the National Coach of the Year by the Associated Press and the Football Writers Association of America, and Chad Lavalais, Corey Webster, Skyler Green and Stephen Peterman were all named first-team All-Americans.

At the same time, as amazing as this accomplishment was for any athletic program, located just across the city is the great Southern University, also within the Sixth Congressional District of Louisiana.

They ended their football season, finishing with a 12 and 1 record, defeating Grambling State University in an exciting game, 44 to 41, to win the 2003 State Farm Bayou Classic and the right to go to the Southwestern Athletic Conference championship game.

On December 13, 2003, in front of 31,617 fans in Birmingham, Alabama, the Southern University team defeated Alabama State by a score of 20 to 9 to win the Southwestern Athletic Conference championship game and Southern University's 19th Southwestern Athletic Conference title, consequently were named the 2003 SBN Black College National Football Champions.

This is an extraordinary occurrence, when two programs of such excellence achieve national prominence and bring home the national championship.

Although there has been some discussion about the manner in which this championship was arrived at, I would be quick to point out that this resolution is the first such resolution to be considered on the House floor, and appropriately so, because I believe, without doubt, LSU and Southern University are first in the Nation in football excellence.

Mr. Speaker, I reserve the balance of my time.

Mr. JOHN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, first let me thank my good friend and colleague from Baton Rouge, Louisiana, for introducing this resolution, and, of course, thank him for extending me the time.

I am very proud to stand up here today to congratulate two national

championships from the same city. I think that is an accomplishment that we all in Louisiana, and certainly the Congressman from Baton Rouge, should be very proud of.

As the gentleman mentioned, on January 4, down in the Louisiana Superdome in the Sugar Bowl, which was the BCS national championship, the LSU Fighting Tigers, my alma mater, defeated the Oklahoma Sooners in the Bowl Championship Series national title. The Tigers did the State proud by bringing home the first national championship in 45 years, Mr. Speaker; and I think that is a proud accomplishment.

However, LSU, as the gentleman from Louisiana (Mr. BAKER) has mentioned, is not the only collegiate football team to excel this year. The Southern University Jaguars gave the fans throughout the country something to cheer about when they were recognized in the Sheraton Poll as the 2004 Historical Black College National Championship, completing the dual national championships from two universities from the same town.

The Southern Jaguars completed an impressive 12 and 1 season, including a very exciting football game in the Superdome in the Bayou Classic and also the Southwest Athletic Conference title championship game.

Mr. Speaker, but this was more than just about two football games. I am very proud to stand up here and congratulate the athletic programs of both universities, but this was also an opportunity to showcase the academic excellence of both of those universities. I am very proud of that.

LSU chancellor, Mark Emmert; Southern University chancellor, Ed Jackson; the LSU football coach, Nick Saban; the Southern football coach, Peter Richardson; all the students; the great fans from Louisiana should all be proud and join us in recognizing this wonderful accomplishment of the two national championships from my home State. I am very proud to stand here and congratulate them.

Mr. Speaker, I reserve the balance of my time.

Mr. BAKER. Mr. Speaker, I yield such time as he may consume to the gentleman from Louisiana (Chairman TAUZIN).

Mr. TAUZIN. Mr. Speaker, this is a very important resolution, because it recognizes a most unusual event in our Nation's sports history, when two college teams in the same town, Baton Rouge, Louisiana, not a big metropolitan town like Los Angeles or New York or what have you, but a small southern capital city, when two universities in that town achieve the ranking of number one in the Nation, national championships, both the Black College National Championship with Southern and the NCAA championship with the LSU Tigers, that is a remarkable event.

I missed the LSU game, by the way. My friend from Crowley should know the fact I spent the night in Crowley Hospital in fact attending to a problem I was having that night and missed the game, and my wife had to tell me who won the next morning.

But I did watch the replay, and the gentleman is absolutely right, it was an amazing game. Unfortunately, I stayed there with my two tickets, knocked out for the evening, and did not see the game. But when I saw the replay, I realized how tough a game it was.

Oklahoma was a great team. The Oklahoma Sooners were supposed to be the ''team of the century'' as they began their season, stumbled with Kansas State, and again faced an incredibly improving LSU team under Nick Saban. Coach Richardson with the Southern team had an amazing run of great victories to a national championship as well. What an outstanding year Baton Rouge, Louisiana, had and our State of Louisiana had in these two national championships.

The most remarkable thing, of course, is the way these two coaches have brought these players along. If you watched the season of these two teams, you saw coaches really working with young men and bringing them along, both athletically and in many other ways, making great men of them as they proceeded through their schedule. When the end of the season came, they were all much better than when they started, both academically, athletically and in so many other ways.

I should also tell you one of my best friends in this world is a former Member, Bill Brewster. You should know that last Friday Bill Brewster went through open heart surgery here in Washington, D.C. He had five bypasses, and he is back at his desk today. He is doing great; he has recovered.

But I called him up when I knew he was going into that surgery, since he is from Oklahoma and he was a Congressman from Oklahoma, to offer him some LSU surgeons, since we had learned to cut up on Oklahoma pretty good in the stadium in New Orleans. He had a good laugh and said, ''You are going to break my stitches. Don't do that, please.''

The bottom line is we had a great year. The coaches and players at LSU, my son is an LSU senior right now, as you and I, all of us are LSU graduates, he is a senior now at LSU, and the thrill of those students, I know at LSU and Southern, to watch their team achieve such great heights is an inspiration for all those young people. They are going to be better students. They are going to be better people because they went through a great year, and they saw what hard work, determination and just gutting it out means in terms of winning a great victory the way the teams won those victories.

So, again, our great congratulations to the LSU Tigers and the Southern Jaguars, our great appreciation to the coaches and their staffs and the students and those folks who run those two great institutions, and our congratulations to the fans of our great State, who stuck with our teams through some hard times until this great year we experienced.

So, again, thank you for bringing this resolution forward, Richard, and again congratulations at Mardi Gras time to the State of Louisiana.

''Laissez les bon temps rouler,'' let the good times roll.

Mr. BAKER. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from North Louisiana (Mr. MCCRERY).

Mr. MCCRERY. Mr. Speaker, I appreciate the gentleman bringing this resolution to the floor.

Mr. Speaker, I am a graduate of LSU Law School, so, of course, I am very proud of the LSU Tigers and their national championship this year. But I have to tell you not only LSU graduates are proud of the LSU Tigers. LSU is an institution in Louisiana that exceeds just the confines of the campus and the student body and the alumni. Everybody in Louisiana takes great pride in watching the LSU Tigers play, so, of course, the State is just very excited still about the national championship.

Southern University, the Jaguars, have a long history of great football teams, this year, of course, winning the national championship for Black Colleges. So Baton Rouge, as the gentleman from Louisiana (Mr. TAUZIN) pointed out, is the home of two national champions, and we all of us in Louisiana, north Louisiana and south Louisiana alike, are very proud of those two schools and our capital of Baton Rouge.

I took my two boys and my wife to the Sugar Bowl; and just to give you some idea of the excitement that was generated by LSU, my two boys, who are 10 and 8, I have never seen them get so excited about anything, whether it is Christmas morning or birthday presents. These guys were excited. Just throughout the stadium, people were excited about what was going on in our State and with our football team, the LSU Tigers.

□ 1645

So it was a great victory not only for LSU but for everybody who lives in Louisiana and who enjoys watching the LSU Tigers play football. The same thing I am sure for the alumni fans, children of graduates of Southern University. So, all in all, this year we just could not have asked for a better ending to the football season at both Southern and LSU.

So I thank the gentleman for bringing this resolution to the floor.

I commend the coaches of both schools and the players. I want to particularly point out Nick Saban's performance not only on the football field and not only on the sideline but before the cameras. In every interview leading up to the Sugar Bowl, I think Coach Saban was extremely gracious in his

comments about the BCS and who might be the eventual champion, who should be and what game. He never, ever got cross-wise with the press. He never stuck his nose up and said LSU ought to be here or there. He just said, look, we are just going to play the game and see what happens; and whatever game they tell us to go to and play, that is where we will go and play. I thought he exhibited a great deal of character and class in that whole time period leading up to the game.

So congratulations to Coach Saban for a fine performance on the field and off the field.

Mr. JOHN. Mr. Speaker, I yield myself such time as I may consume.

I have the gentleman from New Orleans, Louisiana, (Mr. JEFFERSON) who is on his way to also join in this celebration of two national championships.

Of course, I am very proud of being not only an alumnus of that great institution but also for being present at the game. It was an incredible game. It was a defensive game. Of course, Coach Saban always said, and borrowed a line from many famous coaches, that defense wins national championships. Of course, the 21-to-14 score at the end of the game I think reiterated the fact that the defense indeed did win this national championship.

I am actually looking forward to the 2004 season with the BCS to ending up very similar to this year, but the only difference is it will happen in Miami and not New Orleans.

Mr. Speaker, I reserve the balance of my time.

Mr. BAKER. Mr. Speaker, I yield myself such time as I may consume.

I wish to read into the RECORD additional commendations that are certainly appropriate. I recognize that Coach Saban was named the Associated Press Coach of the Year. I would like to also recognize the Southern University Coach, Pete Richardson, who was named Coach of the Year by the Southwestern Athletic Conference, as well as having young men named to the SBN Black College All American Team, including quarterback Quincy Richard, offensive linemen Arnold Sims and Miniya Smith, and defensive back Lenny Williams. So the achievements and recognition coming to both universities, their football leadership, and the members of the team have been extraordinary.

It is with great pleasure that I participate in this discussion this afternoon and note, as I did a few moments ago to the gentleman from Louisiana, that this is also the first resolution to be considered in the House on this matter. Although there appeared to be controversy, I do not consider it so. There was merely discussion about the efficacy of Louisiana State University being named number one as a result of some expressed concerns about the BCS. Those concerns only became apparent when the calculations turned out the way they did at the end of the day. Many people were quite happy to abide by the BCS scientific analysis as long as LSU remained in third position.

So I just wanted to enter into the RECORD that once again, with the consideration of this resolution, LSU is moving forward in first place through the legislative process.

Mr. Speaker, I reserve the balance of my time.

Mr. JOHN. Mr. Speaker, I yield myself such time as I may consume.

As the gentleman mentioned, I happen to be, I guess notwithstanding anything else, a big fan of the BCS. I believe that it is a system that is maybe far from perfect, but I am very supportive of the theory of what it is all about. It puts to strength the schedule and also puts the games, who you play, and not just how many points you score. And I think that, in the end, it was very close. It was in the decimal points.

But I also want to congratulate the University of Southern California, who had a very excellent season and ended on a very positive note. But the BCS, I think we will hear lots of controversy about it, but I think it worked. I think it was something that is far from perfect, as I mentioned before, but it is something that is needed in college football, and we are moving towards that.

Mr. BAKER. Mr. Speaker, will the gentleman yield?

Mr. JOHN. I yield to the gentleman from Louisiana.

Mr. BAKER. Mr. Speaker, I would like to point out that when we start a political campaign as hopeful candidates to be elected to Congress, we set up a standard of rules, we conduct the campaign, and we finalize the campaign based on those pre-determined sets of rules. Rarely do we get engaged in a discussion about changing the rules during the course of the campaign.

I think, although I had some differences myself with the way the BCS calculations were to ultimately be determined, once the BCS was put in place, win or lose, we had to abide by those rules until that season was over.

Now next season may bring us new opportunities to talk about perhaps playoff opportunities. Some were interested in seeing a playoff game between LSU and USC. I would personally have enjoyed that to a great extent.

Mr. JOHN. Mr. Speaker, reclaiming my time, it is also just interesting to note that all of the conferences across the NCAA signed off on those rules before the season started, so we must play by those rules.

Mr. Speaker, I yield such time as he may consume to the gentleman from New Orleans (Mr. JEFFERSON), my friend and colleague.

Mr. JEFFERSON. Mr. Speaker, I thank the gentleman for yielding me this time.

I hope the Nation can appreciate this bipartisan effort here that is being made to bring to the attention of those who are still unconvinced that LSU is the undisputed national champion of college football. I hear no objection to that on this floor from any of my colleagues, because it is a fact.

I am very proud that this event that established LSU as the undisputed national champion was held in my home district in New Orleans in the Super Dome. It was a rousing crowd and a wonderful event; and, of course, the right team won.

I am also here to say for Southern University how proud we are of that university. That is a school to which I went some 35 years ago now, from which I graduated before law school and which I hold very close to my heart. Southern University has won the National Black College Championship Award for this year. So two schools from Louisiana, both from Baton Rouge, from the biggest district have distinguished themselves and therefore brought honor on our State and I believe for our entire Nation.

We ought to be very proud of them. They not only distinguish themselves in football, as my colleagues know. They have wonderful records of accomplishments in academia, which is their major function. They graduate as athletes, and they do a wonderful job all the way around.

So Louisiana is in the spotlight tonight for something that is very, very good. All of us are proud of them, Republicans and Democrats across this country. We are proud of our schools and proud of what they stand for and proud of the tradition that they represent, the best of competition in college football. This year that competition being rewarded in the fact that both of them are undisputed national champions in their respective fields of operation.

Mr. JOHN. Mr. Speaker, I have no more speakers, and I yield back the balance of my time.

Mr. BAKER. Mr. Speaker, I am proud to offer this resolution for consideration by the House. I look forward to its final adoption and, more importantly, next season.

Mr. VITTER. Mr. Speaker, I rise to today to congratulate the Louisiana State University Fighting Tigers football team for winning the 2003 National Championship and the Southern University Jaguars for being named the 2003 SBN Black College Football championship. Both of these schools brought great excitement to the people of Louisiana, including myself, and undoubtedly deserving champions.

As I watched the game in the Superdome I knew I was watching something special, a part of history that folks in Louisiana would be proud of for a long time. LSU defensively dominated Oklahoma on its way to a 21–14 victory over the heavily favored Sooners to bring the national title back to Baton Rouge for first time since the ''Chinese Bandits'' secured it in 1958. Led by coach of the year Nick Saban, the Tigers won a school record 12 games this year and their 9th Southeastern Conference Championship beating arch rivals Ole Miss, Auburn, Alabama, and Arkansas by a combined score of 130–48.

The Tigers got outstanding performances from several players during the season. True Freshman Justin Vincent was named the most valuable player of the Southeastern Conference Championship game against Georgia, where he rushed for 201 yards and the Sugar Bowl where he ran for 117 yards with 1 touchdown.

LSU's defense led by first team all-American Chad Lavlais ranked number 1 in the Nation this season in scoring defense allowing only an average of 11 points per game and only yielding more that 20 points in 1 game. The defense was the difference in the National Championship game as Defensive End Marcus Spears intercepted a Jason White pass and ran it back for what turned out to be the go ahead touchdown.

But this is not the only title that now resides in Louisiana. The Southern University Jaguars defeated Alabama State University 20–9 to win their 19th Southwestern Athletic Conference title and become the SBN Black College Football National Champions.

Under the guidance of Pete Richardson, this year's Southwestern Conference coach of the year, the Jaguars earned their 5th conference title in Coach Richarson's 11 year tenure and defeated Grambling State University in a 44–41 shootout to win the annual Bayou Classic held in the New Orleans Superdome.

Southern Quarterback Quincy Richard was named the Offensive Player of the year and was named to the SBN Black College All American Team, along with offensive lineman Arnold Sims, Miniya Smith, and defensive back Lenny Williams.

It is an honor to congratulate both these teams on a memorable and historic season that will forever bring great pride to each University and the people to Louisiana.

Mr. BAKER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SIMPSON). Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

GOOD NEWS AND BAD NEWS FOR AMTRAK

(Mr. BLUMENAUER asked and was given permission to address the House for 1 minute.)

Mr. BLUMENAUER. Mr. Speaker, I rise this afternoon with some good news and bad news for Amtrak. I congratulate Amtrak for having the highest ridership ever experienced in the Nation's intercity passenger rail service in its 32-year history. In my region of the Pacific Northwest, we have seen ridership increase 520 percent since the inception just 10 years ago of service between Eugene and Seattle and on to Vancouver, BC. It has had massive improvements in its infrastructure; very, very exciting.

The bad news is that, despite all of this progress with Amtrak, we have a proposal from the administration that would break it apart, it would privatize it, it would lease out its assets and abandon some of its routes, which would jeopardize the very existence of this important transportation mode. It would place heavy financial burdens on the States to fund what is essentially a national system, the only country in the world that has abandoned its commitment to rail passenger service.

I sincerely hope, Mr. Speaker, that this Chamber will once again rise to the support of a strong intercity rail passenger system, support Amtrak, support the new leadership there under President David Gunn, and provide a service that the American public desperately wants.

LIABILITY REFORM MEANS HUGE SAVINGS

(Mr. BURGESS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURGESS. Mr. Speaker, we have heard a lot of discussion in the past couple of days about the Medicare bill that we passed at daybreak on November 22 of this past year, and a lot of that discussion has centered around the fact of was that prescription drug benefit $400 billion over 10 years or was it $500 billion over 10 years.

The fact of the matter remains, whether it is $40 billion or $50 billion a year over the next 10 years, Mr. Speaker, there is an equal amount of money that could be saved right now, this year, in the Medicare program if we would simply pass the liability reform that this House took up over a year ago.

Mr. Speaker, in my home State of Texas, we recently passed a constitutional amendment to allow the same type of caps on noneconomic damages in medical liability suits; and we have seen medical liability insurance prices fall in our State. But, more importantly, the cost of defensive medicine is estimated by a study out of Stanford University to be $50 billion a year. That is the same amount of money that the prescription drug benefit will cost at the higher estimate from Health and Human Services.

Mr. Speaker, if Texas has passed a law we might say, why do we think the Nation needs a law? Just because of that reason: because of the cost to the Medicare system. Mr. Speaker, we could generate that savings tomorrow if we could urge our colleagues in the other body to take up that bill.

GENERAL DAVID H. PETRAEUS JOINS RANKS OF AMERICA'S GREAT MILITARY LEADERS

(Mrs. BLACKBURN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BLACKBURN. Mr. Speaker, America has a long tradition of producing great generals; and Major General David Petraeus, the Commander of the 101st Airborne Division, has joined the ranks of America's great military leaders. Like his predecessors, Generals Washington, Patton, and Eisenhower, to name a few, he has spent a career defending our Nation and bringing freedom to people all over the world.

I have been to Iraq and I have seen General Petraeus' leadership firsthand, and the awards and distinctions that he has received in his career are not empty. The true meaning behind each of these commendations is crystal-clear when you meet the men, women, and children who would have lived a lifetime of terror under the old Iraq had the General of the 101st Airborne from Fort Campbell not helped lead Operation Iraqi Freedom. He is an example of why the American military is so great. He is a true leader.

Today, we join the newly-free people of Iraq to thank him for his dedication to our Nation and our belief that no people should be denied freedom.

□ 1700

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SIMPSON). The Chair will recognize Members for Special Order speeches without prejudice to possible further legislative business.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BURTON) is recognized for 5 minutes.

(Mr. BURTON of Indiana addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. HINCHEY) is recognized for 5 minutes.

(Mr. HINCHEY addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

WARMING OF THE EARTH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland (Mr. GILCHREST) is recognized for 5 minutes.

Mr. GILCHREST. Mr. Speaker, what I would like to do this evening is give the Members some ideas of a phenomenon that is occurring in the oceans that is clearly observed by the scientific community that is having an effect on the Earth's climate.

Ocean currents that flow throughout the entire world stabilize the heat balance on the planet so that the northern

hemisphere does not get frigidly cold and many people that live in the southern hemisphere are not forced to move because of the increased heat.

To give some example of this, if you look in this area of Canada, you know that it is quite cold there. But if you go right across the Atlantic Ocean and visit England, you will know that the weather is quite moderate. In fact, the weather in England is often and most often is much more moderate than much further in latitude to the south and mid-Atlantic part of the United States.

If you look at the Scandinavian countries and their latitude, in Labrador you will see that their climate is more moderate than the climate we see on that latitude in North America. The reason for this is the ocean has currents that take warm from the equatorial regions to the northern regions that moderate their temperature. At the same time, when those warm waters reach the north, because they get colder and because of the salinity they drop to the ocean bottom and come to the south. As they gradually warm, they rise, because we know that warm air rises and colds air falls. Well, that is the same thing that happens with water.

Part of what I am trying to explain here is that there is a constant dispute about whether or not there is such a thing as global warming. Is the climate changing? Does human activity put more greenhouse gasses into the atmosphere to cause a warming in the atmosphere?

What I would like to do in just a brief minute here is to explain the fact that there is clear, unequivocal evidence that the ocean surface water is warming. As a result of that, there is more evaporation in the equatorial regions of the ocean. With more evaporation, that means there is more rain further north, and so the northern ocean is becoming more fresh.

Now what does that mean? What that means is, as the ocean current moves from the equatorial regions north in its current and it moves into the northern hemisphere, as the water becomes more fresh, it becomes less dense. That means it will sink a lot slower. As the water evaporates more, it leaves more saltwater in the southern hemisphere, less saltwater in the northern hemisphere.

There are two things that cause this ocean current to occur, fresh water and salinity. As the ocean water becomes more salty, it sinks up here; and when it sinks to the bottom, it returns down to the equatorial regions like we have here. When the ocean becomes saltier up here and more or less saltier, that water sinks.

Without becoming too complicated, the phenomenon is that the ocean currents are changing as a result of the increase in temperature of surface water. The increase in temperature of surface water is happening because, over the last 40 years, the warmth or the increase in temperatures in the atmosphere is moving up.

Now, whether or not you think there is more CO_2, more greenhouse gasses, is almost at this point beside the point, because the fact of the matter is here, over the last 40 years, temperatures on the planet have been increasing, thereby causing the temperatures of the surface of the ocean to increase. As a result of that increase in temperature of the ocean, we are actually redistributing fresh water and saltwater so we are having an effect on ocean current.

Saltwater, the density of salt, the amount of fresh water in its distribution of the ocean are fundamental to moving water from one place to another. As a result of that, as a result of the current moving in this way, the cycle of ocean current is slowing down; and when the cycle of currents slow down there is less warm water moving north and less cold water moving south. The result of that, this region of the United States receiving less warm water, this region of Europe is moving into an era when it is becoming colder. So that is a counterintuitive observation when you consider that the Earth is getting warmer.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. BROWN) is recognized for 5 minutes.

(Mr. BROWN of Ohio addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

ORDER OF BUSINESS

Mr. GUTIERREZ. Mr. Speaker, I ask unanimous consent to speak out of order for 5 minutes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

SAFEGUARDING ASSETS FOR EMPLOYEES IN BANKRUPTCY ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. GUTIERREZ) is recognized for 5 minutes.

Mr. GUTIERREZ. Mr. Speaker, today I rise to introduce the Safeguarding Assets for Employees in Bankruptcy Act, along with my colleagues, the gentlewoman from Illinois (Ms. SCHAKOWSKY), the gentleman from Illinois (Mr. DAVIS), the gentleman from Illinois (Mr. LIPINSKI), the gentleman from Illinois (Mr. COSTELLO), the gentleman from Illinois (Mr. RUSH), the gentleman from Illinois (Mr. JACKSON), and the gentleman from Illinois (Mr. EMANUEL).

The SAFE in Bankruptcy language is designed to protect workers' claims when their employer files for bankruptcy.

My bill would create a priority for claims arising under the Worker Adjustment and Retraining Notification, or what is commonly known as the WARN Act. The WARN Act requires an employer to provide 60-days notice to workers before closing its doors. If a company fails to comply with the law and gives fewer than 60-days notice, workers are entitled to salary and benefits, according to the Federal legislation, for up to 60 days. My legislation provides a priority for those claims of 60 days in bankruptcy court.

When a company closes its doors and files for bankruptcy, the effects on the employees and the community are often devastating. A number of my constituents have lost their jobs at the Fannie May Candy Company in Chicago, which has closed its doors and filed for bankruptcy. These employees, many of whom had loyally served the company for decades, up to 37 years, were provided with only 10 days notice before they lost their jobs.

Too often, companies hope to duck their responsibilities of 60 days of pay under the WARN Act by filing for bankruptcy, assuming that the claims for the workers would be paid last and only if there is any money left to all the others owed in the estate. My legislation makes these claims a priority, ensuring that companies will think twice before ignoring their responsibilities to employees under Federal law.

In addition, my legislation provides a long overdue increase in the wage cap for employees from $4,000 to $20,000 and eliminates the lookback periods for these claims. The current lookback period limits the recovery of benefits to those earned within the last 90 days, which unfairly penalizes employees whose benefits have accrued over a longer period.

As in the case of Fannie May, the contract said for every year of employment they would get one week of severance pay. Well, we have employees that were there for 37 years, and they are getting nothing.

These small reforms are designed to soften the blow to employees who have had the rug pulled out from under them without warning. Unfortunately, in the current economy, this problem is not limited to my constituents but is occurring in every district.

I urge all of my colleagues to join me in supporting these needed reforms for the loyal workers of Fannie May and other hard-working employees across the country. I think it is important, Mr. Speaker, that when a company closes its doors and does not even follow Federal law under the WARN Act and gives them the 60 days, they simply walk into court and say, we filed bankruptcy, now we do not have to pay them the 60 days, that those employees that were owed 60 days are properly adjusted in bankruptcy court.

That is what my legislation wishes to do to honor the work of hard-working Americans.

With that, I will bring this up to the desk and introduce this legislation.

The SPEAKER pro tempore (Mr. BEAUPREZ). Under a previous order of

the House, the gentleman from Indiana (Mr. PENCE) is recognized for 5 minutes.

(Mr. PENCE addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

VIOLATION OF HUMAN RIGHTS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from the District of Columbia (Ms. NORTON) is recognized for 5 minutes.

Ms. NORTON. Mr. Speaker, I come to the floor this afternoon to inform this body that, for the first time in the history of the United States, our country has been found guilty of a major human rights violation.

The Commission on Human Rights of the Organization of American States, a body in which we proudly participate, a body which we helped to finance, has made public its finding today after an 11-year investigation. I would like to quote what the Commission found.

''The commission concludes that the State,'' meaning the United States, ''has failed to justify the denials of the petitioners of the effective representation in their Federal Government and, consequently, that the petitioners have been denied an effective right to participate in their government, directly or through freely chosen representatives and in general conditions of equality, contrary to Articles XX and II of the American Declaration'' of rights of man.

The Commission was referring to the denial of voting representation in the Congress of the United States to the residents of the capital of the United States who are second per capita in the Federal income taxes they pay to support their government and who have fought and died in every war, fought and died, since the Revolutionary War, since the establishment of our government.

This ruling comes at a very important time in our history because we have not only declared that democracy and democratic principles must be universal, we have invaded another country. We are, as I speak, around the world proclaiming that each and every government must give full democracy, equal democracy to all the people of that government.

This government does not do that for the people of the District of Columbia, and an international body for the first time has so found. The international body, the Commission on Human Rights of the OAS, enjoys great prestige. We cannot say that this is not a body that does not enjoy our respect, and it is a body in which we have proudly participated.

The United States defended fully, and its defense was found wanting. We have every reason to desire the full confidence of the world. We need the world with us as we fight against terrorists bent on destroying us. We have lost much of that confidence because of the invasion of Iraq. We have rallied around our troops in Iraq and around our country because our country is at war. But our country now needs the world more than the world needs our country.

I cannot imagine anything that would go further to restore the waning confidence of the world in our leadership then for the Congress, for the administration to reach out and say to the people who live here, you are entitled to no fewer rights than any other American citizens.

Even as our country decided when I was a child going to segregated schools in the Nation's capital, no less that we could apply our own self-corrective and, indeed, integrate those schools and declare discriminatory practice off limits in our country, so we can take this last remaining scar on our democracy and wipe it from us. We simply must do it now.

The shame of having a violation of human rights declared upon us even as we have a long list of violators that we publish every year cannot be longstanding. This country has always stepped up to correct its own problems. This is a problem that stares in the face of the Congress of the United States every day that we open for business and meet because the 600,000 people who live here do not have a vote on this floor and have no senators who represent them.

□ 1715

This country, our people would not stand for this anywhere in the world; and if I may say so, our people do not stand for it now. Polls show they do not even know it, that the American people think that the people who live in their Nation's capital have the same rights that they do. Shame on us that they do not.

I ask the Congress of the United States to, in fact, adhere to the decision of the Commission on Human Rights of the Organization of American States and grant full and equal voting rights in the Congress of the United States to the people of the District of Columbia.

The SPEAKER pro tempore (Mr. BEAUPREZ). Under a previous order of the House, the gentleman from Indiana (Mr. SOUDER) is recognized for 5 minutes.

(Mr. SOUDER addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

ORDER OF BUSINESS

Mr. GINGREY. Mr. Speaker, I ask unanimous consent to speak out of order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

THE NON-NEGOTIATION CLAUSE IN THE MEDICARE BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. GINGREY) is recognized for 5 minutes.

Mr. GINGREY. Mr. Speaker, we have heard since the passage of the Prescription Drug and Medicare Modernization Act that this law is a Republican giveaway to the pharmaceutical industry. Why, or maybe more importantly, who is telling American seniors this important legislation is bad for them but good for the drug companies? In this election year, it seems that some individuals are using disingenuous political rhetoric to scare our seniors.

Mr. Speaker, I would like to discuss one provision in the bill that is called out as the ''drug company giveaway.'' There is a clause in the legislation that directly states, ''Noninterference. In order to promote competition under this part and in carrying out this part, the Secretary may not interfere with the negotiations between drug manufacturers and pharmacies and prescription drug plan sponsors; and may not require a particular formulary or institute a price structure for the reimbursement of covered drugs under part D.''

Simple enough, right? The government cannot interfere with negotiations between private entities and cannot set price controls. The marketplace, free enterprise, will set the price of prescription drugs and do a much better job of driving down prices than some government bureaucrat.

Mr. Speaker, this is not a new idea. This language has been used in the same context before by one of the prescription drug bill's biggest detractors. This may come as a surprise to many of my colleagues on both sides of the aisle, but it is probably an even bigger surprise to the American people who are listening to the rhetoric from the opponents of the Medicare Modernization and Prescription Drug Act.

Let me quote a section from a prescription drug bill introduced in the Senate by the minority leader, TOM DASCHLE. MR. DASCHLE's bill reads: ''Noninterference. In administering the prescription drug benefit established under this part, the Secretary may not require a particular formulary or initiate a price structure for benefits; may not interfere in any way with negotiations between private entities and drug manufacturers or wholesalers; or otherwise interfere with the competitive nature of providing a prescription drug benefit through private entities.''

Democrats have been blasting the ban on negotiations as a giveaway to the drug industry. Yet their Senate minority leader included in his own bill a provision with the exact same effect as the non-negotiation provision found in H.R. 1. It seems to me that the minority leader and the Democrats are not being straight with America's seniors. On the one hand, the Senate minority leader says a non-negotiation clause is

a Republican-led, taxpayer giveaway to the pharmaceutical industry; and on the other hand, he includes the very same provision in his own prescription drug bill. Plain as day, in black and white. It can be no clearer.

As a side note, Mr. Speaker, just in case my colleagues were wondering, the non-negotiation language also appeared in legislation introduced by the gentlewoman from California (Ms. ESHOO) and the gentleman from Texas (Mr. FROST), Democratic Representatives, in 2000, a bill by the gentleman from California (Mr. STARK) in 2000, which, by the way, 204 Democrats voted for as their floor alternative to H.R. 4680 in the previous Congress; and in the other body, Mr. Speaker, the noninterference or non-negotiation clause was used in legislation authored by Democratic Senator WYDEN in 2001 and again in the Jeffords-Breaux-Landrieu legislation in 2002.

A version of the noninterference language also appeared in the underlying Senate Medicare bill that passed the Senate June 27, 2003, by a bipartisan vote of 76 to 21. Thirty-five Democrats voted for it, a number of Senators, and I will not name their names, but a number of Democratic Senators all voted for that bill.

So why, Mr. Speaker, if this language has appeared so many times in legislation sponsored by both sides of the aisle, in both Chambers of Congress, do we continue to hear the negative rhetoric about such a great bill for our seniors? My guess, Mr. Speaker, it is just political posturing during an election year.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Members are reminded to refrain from improper references to the Senate.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. PALLONE) is recognized for 5 minutes.

(Mr. PALLONE addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

EXCHANGE OF SPECIAL ORDER TIME

Mr. DEFAZIO. Mr. Speaker, I ask unanimous consent to claim the time of the gentleman from New Jersey (Mr. PALLONE).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

There was no objection.

PRESCRIPTION DRUG BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. DEFAZIO) is recognized for 5 minutes.

Mr. DEFAZIO. Mr. Speaker, I did not come to the floor to speak about prescription drugs, but I cannot let what the gentleman before me in the well said. He voted to prevent the Federal Government, unlike any other industrial nation on Earth, any other developed country, negotiating with the pharmaceutical industry for lower drug prices, unlike the private insurance industry, that can negotiate lower prices.

He says market forces will do better. Well, that is funny. Maybe the pharmaceutical industry would have fought against market forces. They plain and simple want to continue to gouge American consumers. The Bush administration's working day and night on this.

The Australian Free Trade Agreement prohibits the reimportation of U.S.-manufactured, FDA-approved drugs from Australia if they are cheaper than sold in the United States. They are working day and night to get Canada to agree to raise the price of FDA-approved, U.S.-manufactured drugs exported and sold in Canada at a lower price. They want the price lifted for the reimportation to the United States, and he comes to give us this little joke here after he has voted to prevent the one most effective measure we could have taken to give seniors and everyone else in this country a better deal on prescription drugs than market forces would do better. Yeah, sure.

JOB CREATION IN AMERICA

Mr. DEFAZIO. Mr. Speaker, here is another thing that the Republicans have been talking a lot about. The President is concerned about jobs. Despite the worst job-loss record of any President since Herbert Hoover, he is really concerned. He has been appearing around the country with people and actually I kind of doubted him, but I found out yesterday in reading the Los Angeles Times that he does really care about jobs. The President really does care about creating jobs. The only problem is, he does not put any priority on where those jobs are created.

Here it is right here. Los Angeles Times, Bush supports shift of jobs overseas.

Whoa. Where is that coming from? Well, we have a few quotes to back it up. The administration's top economic adviser, ''Outsourcing,'' i.e., moving American jobs overseas, ''is just a new way of doing international trade. More things are tradeable than were tradeable in the past. And that's a good thing,'' says the President's own personally chosen senior economic adviser, Mr. Mankiw, chairman of the Council of Economic Advisors.

He goes on to say, ''The market is the best determinant of where the jobs should be,'' and that is according to Bush and Mankiw, overseas, not in the United States of America because there is cheaper labor over there.

He says here, people are concerned, maybe we will outsource a few radiologists. What does that mean? That means the false promise that was heard for years, do not worry about the industrial jobs; they are obsolete. They say, I wonder how you are a great Nation if you do not make things. Let us accept their argument for a moment.

Then they said they would retrain American workers for those high-tech knowledge industry jobs. Radiology, that is a pretty educated job. We are going to export those. We are going to export a whole host of IT jobs. In fact, the prediction is we will export 3 million U.S. IT jobs over the next 10 years. This is the next huge hemorrhaging of U.S. jobs overseas, and what does the President think? He thinks it is a good thing because the labor is cheaper over there. It gives a better bottom line for the corporations.

What about the American workers? What are they going to do? Here are a couple of other quotes from Mr. Mankiw: ''Shipping jobs to low-cost countries is the 'latest manifestation of the gains from trade.'" Shipping U.S. jobs overseas by the Bush administration is considered to be a gain from trade.

This is unbelievable, but at least they are finally being honest with us what they really believe, and they are now engaged in negotiating an expansion of NAFTA through the entire Central America, and they tell us this will be good for America. Why? Well, because the jobs would not have to travel quite as far from the United States. They would not have to go all the way to India or China. Maybe we can just export the jobs 1,000 miles down to South America so the owners of the corporations, the few managers that are left in the United States, can more easily get there to occasionally supervise their new workforce working down there in Chile or Argentina or someplace else.

That is their bottom line agenda here. They do not give a darn about American workers, American jobs, the industrial might of this country, the economic base of this country, the huge and growing trade deficit.

We are going to borrow more than $500 billion from overseas this year because of our trade deficit. That is not sustainable. The dollar is dropping like a rock, and the Bush administration says that is a good thing because our goods will become cheaper. Guess what. We do not make much in America anymore; and if Bush has his way, we will not make anything in America anymore.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. BURGESS) is recognized for 5 minutes.

(Mr. BURGESS addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

LESSONS LEARNED FROM MY TRIP TO IRAQ AND AFGHANISTAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Missouri (Mr. SKELTON) is recognized for 5 minutes.

Mr. SKELTON. Mr. Speaker, I rise today to offer my reflections on a trip I recently took with the gentlewoman from California (Ms. PELOSI), leader, and the gentleman from North Carolina (Mr. HAYES) to Iraq and Afghanistan. I think it is important to publicly discuss the situation in those countries because events there have implications for all of us here in our country, as well as for the future of our foreign policy.

We are less than 5 months from the planned transfer of sovereignty to a new Iraqi government. Yet it seems clear from talking to many groups in Iraq that the administration's proposed deadline for the transfer of power is unrealistic. Commanders we talked to indicated it would be logistically difficult, if not impossible, to conduct an election before July 1. There is no census. There are no registered voters. The likelihood of fraud would be great, and I think there is a strong likelihood that the United Nations representatives now in Iraq will reach the same conclusions. By the same token, Shia religious leaders in Iraq do not support the caucus system for choosing a new government that the administration has advocated.

Finally, I do not think we can transfer sovereignty to a new Iraqi government until the rules of engagement for our forces are agreed upon. We simply cannot afford to have restrictions on the ability of our forces to pursue terrorists and to protect themselves.

Simply put, we must handle the transition right, even if it means rethinking our original timeline. The outcome must be a government with legitimacy, a process that prevents civil war from erupting, and rules of engagement that leave our forces free to continue to fight against the insurgents.

A second related conclusion from my trip is that it is clear that whatever new government assumes power must not be seen as a puppet of the United States Government or it will lack legitimacy. One way to help build that legitimacy is to get NATO involved in helping to establish security and provide stability in Iraq, as they are already doing constructively in Afghanistan. NATO involvement will reinforce the perception that it is the international community, not just the United States, that wants a new representative government in Iraq to succeed. Bringing NATO troops to Iraq to supplement our forces will also likely reduce the number of American military casualties, something I know we are all concerned about.

My third conclusion about Iraq is that we are in a guerilla war there. It is not really terrorism because I do not think the attacks against Iraqi citizens and our forces are aimed just at terrorism. Their purpose is to prevent the installation of a new, stable regime and to expel our forces, a classic goal of guerrilla warfare.

□ 1730

I also want to mention Afghanistan. The simple truth is we are short-changing our effort to establish a viable Federal government and rebuild the country of Afghanistan. I understand that, on the face of it, Afghanistan is not as strategically as important as Iraq, but our efforts there are critical.

Mr. Bin Laden and other leaders of al Qaeda and the leadership of the former Taliban regime remain at large. In the near term, the United States must bring renewed attention to our offensive operations there to flush those forces out. Over the long term, we need to ensure that a terrorist harboring the regime never again gains hold. If we poured half as many people and resources into Afghanistan as we have into Iraq, I think that country would be well on the way to recovering from the 20-plus years of warfare that have plagued that country.

With few natural resources, little infrastructure, and a long history of tribalism, Afghanistan has a long way to go. I do not think we are making progress as fast as we need to in order for the Karzai government to survive in the long term. Simply put, we need to do more in Afghanistan.

My final observation concerns our great men and women in uniform. They are doing a fantastic job under the most trying circumstances. They are living under the most arduous of conditions, and are literally putting their lives on the line every day. They are superbly trained, superbly led, and they are the finest force the world and our country have ever seen. We owe them a deep debt of gratitude. As we go into this budget cycle, we owe it to them to provide them everything they need in order to succeed, in Iraq as well as Afghanistan.

The SPEAKER pro tempore (Mr. BEAUPREZ). Under a previous order of the House, the gentleman from Illinois (Mr. LIPINSKI) is recognized for 5 minutes.

(Mr. LIPINSKI addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

TRUE COST OF WAR TO BE HIDDEN UNTIL AFTER ELECTIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee (Mr. COOPER) is recognized for 5 minutes.

Mr. COOPER. Mr. Speaker, I addressed the House last night on the subject of President Bush's State of the Union message and compared his words on that evening in this Chamber just some 3 weeks ago in which he said he would present to us a budget which paid for the war, and let me read his words exactly. ''In 2 weeks, I will send you a budget that funds the war.''

Well, 2 weeks later, the President failed to do that. He failed to include any of the cost for the conflict in Iraq and Afghanistan in his budget. You might think that is just a conflict, maybe a miscommunication with speech writers. But yesterday on the Senate side in a very important hearing the service chiefs of the Marines, Army and Air Force all said that this funding gap, the possible failure of our forces in Afghanistan and Iraq to have the money that they need come this fall, could create serious consequences.

Let me read the article from today's New York Times. ''In an unusual display of difference with the White House, the top officers of the Army, Marine Corps and Air Force all raised questions on Tuesday about how the Bush administration plans to pay for operations in Afghanistan and Iraq after the current financing runs out at the end of September.

''Appearing before the Senate Armed Services Committee, three of the four chiefs of the Armed Services expressed concerns about a financing gap, perhaps of 4 months, for the two missions, whose combined cost is about $5 billion a month.

''They were left out of President Bush's budget request for the 2005 fiscal year, with the administration saying it would make a supplementary request for up to $50 billion probably next January, after the elections this year.

'''I am concerned,' General Peter J. Schoomaker, the Army Chief of Staff, said in response to a question from Senator Jack Reed, Democrat of Rhode Island, 'on how we bridge between the end of this fiscal year and whenever we could get a supplemental in the next year.'

''General Michael W. Hagee, the Commandant of the Marine Corps, and General John P. Jumper, the Air Force Chief of Staff, agreed with General Schoomaker's concerns.''

A little further down in the article, General Schoomaker stated, ''We are all concerned about maintaining continuity of operations. We want to make sure that we minimize the bridge.'' He emphasized that the timing and mechanics of seeking a supplemental spending bill were up to the Defense Secretary Donald Rumsfeld and White House officials. He said that he was simply describing the possible consequences for the Army.

Mr. Speaker, America knows we are at war. We know that 120,000 of our men and women in uniform are in daily, constant danger in Iraq, and 10,000 more troops are at danger in Afghanistan. Yet none of the cost of this war is in the President's budget. The President has said that he will get a supplemental request to us after the election. That is probably not time enough, according to these top military officials.

Our men and women in uniform deserve better treatment. They deserve full funding, full continuity of funding, and full, honest accounting of how much this operation costs, and the American taxpayer is ready to step up

to those needs. We should not hide the true cost until after the election and risk undercutting our men and women in uniform in the field when they are at war because of politics in this political season. Let us do better in this House to fully fund our men and women in uniform.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. KIRK) is recognized for 5 minutes.

(Mr. KIRK addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas (Ms. JACKSON-LEE) is recognized for 5 minutes.

(Ms. JACKSON-LEE of Texas addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

BUSH ADMINISTRATION'S GROWING CREDIBILITY PROBLEM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. EMANUEL) is recognized for 5 minutes.

Mr. EMANUEL. Mr. Speaker, last week the President of the United States introduced a budget with a $520 billion deficit. If we look across the spectrum, not only does this budget have a fiscal deficit of historic highs of $521 billion, the budget has a credibility deficit, blaming 9/11 and corporate scandals for the creation of this deficit. In fact, the Bush administration is continually facing a growing credibility problem not just in fiscal terms but also in policy terms at home and also overseas. America's word must be respected abroad as well as here, but the administration's word is coming under question.

If we take it from issue to issue, whether it is on the deficit, and we are running a record-high deficit, and the President wants to claim to be a fiscally responsible President, but not once in any of his budgets has he introduced a budget that is either balanced or gets to a road to balance. Not once.

In November, this House debated a $400 billion prescription drug bill, and yet we learn that all along the administration knew it cost $550 billion. That is for a program that we debated and understood to be $400 billion, and not the $400 billion, not even the $500 billion, is paid for, driving the American taxpayer as well as our seniors further into debt.

The other day they talked about the importance of manufacturing jobs, yet they cut the manufacturing extension program which has helped small- and medium-sized manufacturers compete in the world market and add jobs.

The other day, a senior adviser to the President for economic policy announced that outsourcing of jobs was a good thing for the economy.

Mr. Speaker, the outsourcing of American jobs are a good thing for the Indian economy, not the American economy. Any administration who has a top economic adviser who believes outsourcing of jobs is a good thing is an administration with a record that has lost three million jobs in 3 years.

Whether it is on the budget that is out of whack with our values and our principles and our priorities, and as Goldman Sachs and the international monetary funds have announced, it is not even a credible budget. There is not a cent or direction in how we are going to reduce this deficit.

This President, from day one when he came into office, had a surplus north of $100 billion. In his last budget before his reelection, he submits a deficit of $521 billion.

In the area of jobs, three million Americans since he has been President have lost their jobs. They fake an interest in offering a manufacturing extension program and then call for its election or cuts by two-thirds.

Take the funding of police. They have advocated the importance of helping police and firefighters, talked about funding them, and in the President's budget a billion dollars was cut from the police and over $500 million from helping our firefighters.

If we take it from area to area, from section to section, this administration says one thing and then does another. The budget is a blueprint and a document representing the values, principles and priorities of the administration as well as for the United States. I cannot think of a worse example, to have a policy in which we are presented a budget with a $521 billion deficit, record numbers for the country. They are numbers that in my view put us at grave economic risk. We are now beholden to the Chinese and Japanese to continue to buy our securities where, God forbid, at any moment if we need their support they hold our economic security and determine our economic future, which puts us in a terribly vulnerable position.

Across the board on any number of subjects, we can watch how this administration continues both here at home to have its word questioned and also overseas has its word questioned. When a President of the United States has a credibility gap like that, it is not only endangering in my view his administration but our own economic security as Americans. We can see from the value of the dollar and the way it is falling people's judgment about the importance of our word and credibility.

On the issue of weapons of mass destruction in the recent report, that, too, is another example, and a glaring example, where the word of this administration now will be questioned rather than heeded.

In closing, as written in Time magazine, ''Any of those challenges may have been manageable. The problem was that each news cycle brought a new question about the President's judgment and candor, which Democrats lost no time exploiting. Fiscal conservatives had been howling for months about a budget that seemed totally out of control.''

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. CONYERS) is recognized for 5 minutes.

(Mr. CONYERS addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

BUSH SPIN-DOCTORS ALTER HEALTH DISPARITIES REPORT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. MCDERMOTT) is recognized for 5 minutes.

Mr. MCDERMOTT. Mr. Speaker, the gentleman from Illinois (Mr. EMANUEL) has just talked about the credibility of this administration, and there was an incident which happened yesterday which I think was really quite stunning.

Tommy Thompson, the Secretary of Health and Human Services, came before the Committee on Ways and Means. I have know him a long time. He is a dedicated, hard-working public servant. He is a straight shooter. When he appeared before us, I reluctantly had to ask my old friend tough questions. His answers were stunning. They were stunning because, without equivocation, Tommy Thompson told the truth.

Tommy Thompson acknowledged that someone significantly altered a report on health disparities in America, and he was having none of it. This is the guy who ought to be in charge, and we need help. He told the truth and took the fall for the political spin doctors inside his own agency, inside the White House, or both. We commissioned a report by the Institute of Medicine, and when it came back, it was changed. The American people need to know who did this. Significantly altering a report about health disparities in America is a betrayal of public trust. People of color, everyone in America ought to be outraged and demand accountability.

□ 1745

Political spin doctors turned science, and serious data about national health disparities affecting Native Americans, people of color and others, into a whitewash that taints anyone near it.

Let me give my colleagues an example. The first sentence of the original health disparities report circulated last June said, and I quote, ''Inequalities in health care that affect some racial, ethnic, socioeconomic and geographic subpopulations in the United States ultimately affect every American.'' The alteration was, ''The overall health of Americans has improved dramatically over the last century.'' One

would hardly think they were talking about the same subject. It is a whitewash. It is a blatant disregard for the American people and an insult to every person of color. This was a study we commissioned to find out about the health disparities between groups in this country. Congress asked for science, and the administration's spin doctors buried it. They hid it from view and substituted their own version of the country.

In the June original document, the Department's scientists found ''significant inequality'' in health care. The last one, the doctored one, became ''national problems.'' The scientists emphasized that these disparities are ''pervasive in our health care system.'' The whitewash omitted those conclusions. Text describing data tables inside the paper was altered. In the key findings section, the whitewash omitted 28 of the 30 references to disparity. Everything was done to hide the real facts from people of color, from every citizen in America.

What does the administration say tonight to people of color? What does this administration say tonight to every American? Somebody ordered this whitewash. The American people need to know who did it. I would think there ought to be an investigation to find out who was responsible and take appropriate action. We cannot allow someone to hide the truth from Americans, no matter who they are. We cannot permit someone to deceive Members of Congress and every American. We cannot tolerate someone who alters a report that directly affects people of color and their health status in this country.

Someone is trying to trick us into thinking that the administration has all the answers and that everything is hunky-dory. This is one more evidence for the fact that this administration will not tell the truth, whether it is about weapons of mass destruction or about al Qaeda connections or even down to a health report. They will not even tell us what happens in communities of color with respect to diabetes, with respect to high blood pressure.

They said about Native Americans, Native Americans have a lower cancer rate. That sounds good. But not one single mention of the fact that they have the lowest life expectancy and the highest infant mortality rate among all Americans. How can they put a report out like that and let people believe that everything is equal in this country? It is not. We have not paid attention. When we put more money into national health institutes, and I agree with that, we ought to use science as the basis on which we allocate the money for the problems that affect the most people.

Mr. Speaker, we ought to ask the President to find out who did this in his administration. It is a travesty.

The SPEAKER pro tempore (Mr. BEAUPREZ). Under a previous order of the House, the gentleman from Ohio (Mr. STRICKLAND) is recognized for 5 minutes.

(Mr. STRICKLAND addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. HOEFFEL) is recognized for 5 minutes.

(Mr. HOEFFEL addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. BLUMENAUER) is recognized for 5 minutes.

(Mr. BLUMENAUER addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

WAS AMERICA AT WAR IN THE 1990S?

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentleman from Michigan (Mr. HOEKSTRA) is recognized for 60 minutes as the designee of the majority leader.

Mr. HOEKSTRA. Mr. Speaker, I am joined tonight by my colleague from Georgia. What we would like to talk about tonight is the issue of whether America is at war. Were we at war in the 1990s? What was the reaction of the administration in the 1990s? What do we see in the year 2000 and beyond? And what have we found about the weapons of mass destruction in Iraq?

First, were we a country at war during the 1990s? We have all the examples of the attacks on the United States. In 1993, the World Trade Center was bombed. In 1996, our military barracks were bombed in Saudi Arabia. Our embassies were attacked in Africa. The USS *Cole* was attacked in 2000. In 1995, two unidentified gunmen killed two U.S. diplomats and wounded a third in Karachi. A Palestinian sniper opened fire on tourists atop the Empire State Building. In 2000, a bomb exploded across the street from the U.S. embassy in Manila. It is not only the high-profile attacks that we should be concerned about, but what we saw during the 1990s was a pattern of attacks against the U.S., against our embassies, against our economic interests, against our military personnel, and against American civilians.

If we take a look at the quotes and the things that folks said about the 1990s and what was going on specifically, and maybe focused more on Iraq than anywhere else, you kind of get a feeling as to whether in the 1990s people in the administration understood the threat that terrorist groups and that Saddam Hussein posed to the United States.

The question that some ask today, or the facts that they state today is that, well, you know, this all came up after 2001, that the data was fabricated.

What did Bill Clinton say during his administration? February 17, 1998:

''Iraqi agents have undermined and undercut U.N. inspectors. They've harassed the inspectors, lied to them, disabled monitoring cameras, literally spirited evidence out of the back doors. And they will be all the more lethal if we allow them to build arsenals of nuclear, chemical and biological weapons and the missiles to deliver them. We simply cannot allow that to happen.''

Again continuing, President Clinton in 1998:

''There should be no doubt Saddam's ability to produce and deliver weapons of mass destruction poses a grave threat to the peace of that region and the security of the world. There is no more clear example of this threat than Saddam Hussein's Iraq. His regime threatens the safety of his people, the stability of his region and the security of all the rest of us. In the next century, the community of nations may see more and more the very kind of threat Iraq poses now, a rogue state with weapons of mass destruction ready to use them or provide them to terrorists who travel the world. If we fail to respond today, Saddam will be emboldened tomorrow by the knowledge that they can act with impunity. I have no doubt he would use them again if permitted to develop them.'' A clear case that on February 17, 1998, President Clinton was not only aware of the threats that Saddam Hussein and Iraq posed but that the threat extended to people like Saddam and to different terrorist organizations.

I do not know if my colleague from Georgia has any other quotes from President Clinton or not. I yield to the gentleman.

Mr. GINGREY. I thank the gentleman for yielding. Yes, certainly I do. Here is one, and I quote, from President Clinton:

''Iraq repeatedly made false declarations about the weapons that it had left in its possession after the Gulf War. When UNSCOM would then uncover evidence that gave a lie to those declarations, Iraq would simply amend the reports.''

Another quote, again from President Clinton:

''And someday, some way, I guarantee you he'll use the arsenal, and I think every one of you who has really worked on this for any length of time believes that, too.''

Mr. HOEKSTRA. Reclaiming my time, in comments by President Bill Clinton at the meeting of the National Security Council, comments on the bombing of strategic interests in Iraq: ''I am convinced the decision I made to order this military action, though difficult, was absolutely the right thing to do. It is in our interest and in the interest of people around the world. Saddam has used weapons of mass destruction and ballistic missiles before. I have no doubt he would use them again if permitted to develop them.''

I yield to my colleague from Georgia.

Mr. GINGREY. Here are another couple of quotes. Again, President Clinton:

''We want to seriously reduce his capacity to threaten his neighbors.''

President Clinton again:

''We have learned through harsh experience that the only answer to aggression and illegal behavior is firmness, determination and, when necessary, action.''

Mr. HOEKSTRA. There is no doubt that in the 1990s the Clinton administration, or at least the President, voiced the concerns about terrorist organizations, Iraq and specifically Saddam Hussein; but it was not only the President. The Vice President, May 23, 2000, during a conference breakfast with the American-Israeli Public Affairs Committee:

''Despite our swift victory and our efforts since, there is no doubt in my mind that Saddam Hussein still seeks to amass weapons of mass destruction. You know as well as I do that as long as Saddam Hussein stays in power, there can be no comprehensive peace for the people of Israel or the people of the Middle East. We have made it clear that it is our policy to see Saddam Hussein gone.''

Al Gore, May 23, 2000: ''We have made it clear that it is our policy to see Saddam Hussein gone.''

Mr. GINGREY. Just listen to former, actually Senator Gore at the time and former Vice President Gore in a speech, a major policy speech made on September 29, 1992 by then Senator Al Gore, and I quote:

''He, Saddam, had already launched poison gas attacks repeatedly and Bush''—referring to Bush I—''looked the other way.''

Mr. HOEKSTRA. If the gentleman will yield, this is the Vice President, or at that point in time the Senator?

Mr. GINGREY. The Senator running for Vice President.

Mr. HOEKSTRA. Referring to Bush I, and, what, accusing him of inaction?

Mr. GINGREY. Absolutely.

I will finish that quote:

''He, Saddam, had already conducted extensive terrorism activities and Bush looked the other way. He was already deeply involved in the effort to acquire nuclear weapons and other weapons of mass destruction and he, President Bush, looked the other way.

''Well, in my view the Bush administration was acting in a manner directly opposite to what you would expect with all of the evidence that it had available at the time. Saddam Hussein's nature and intentions were perfectly visible.'' Again, a major policy speech made by then Senator and Vice Presidential candidate Al Gore, September 29, 1992.

Mr. HOEKSTRA. We go on through the administration. Remarks by Madeleine Albright, the Secretary of State:

''In this struggle our adversaries are likely to avoid traditional battlefield situations because there American dominance is well established. We must be concerned instead by weapons of mass destruction and by the cowardly instruments of sabotage and hidden bombs. These unconventional threats endanger not only our Armed Forces but all Americans and America's friends everywhere.''

Madeleine Albright in the Clinton administration got much of this right in perceiving the threat, as was so brutally proved on September 11.

Mr. GINGREY. If the gentleman will yield, continuing on, then Secretary of State Madeleine Albright as quoted in the Chicago Tribune, November 16, 1997: ''Hussein's weapons will not discriminate if and when they are used, and therefore it is important for the region to understand that he is a threat.''

□ 1800

Mr. HOEKSTRA. Mr. Speaker, we are going to talk a little bit more about some of these quotes, and then we will talk about exactly what the Clinton administration did in the 1990s as they laid out the threat from terrorist organizations, as they laid out the threat from Saddam and Iraq.

Madeleine Albright, subject: Tonight's air strikes against strategic targets in Iraq. ''This is a moment of grave determination. We have decided to use force because other means simply have not worked. Saddam's capacity to develop and brandish such armaments poses a threat to international security and peace that cannot be ignored. Month after month we have given Iraq chance after chance to move from confrontation to cooperation. We have explored and exhausted every diplomatic action. We will see whether force can persuade Iraq's misguided leaders to reverse course and to accept at long last the need to abide by the rule of law and the will of the world.''

It took 3 years before inspectors on a limited basis were ever allowed back.

I yield to my colleague from Georgia.

Mr. GINGREY. Mr. Speaker, I think it would be informative to people who are paying attention, and I think all Americans are paying attention and they are listening to a lot of political rhetoric during this Presidential election year and the criticism that they are hearing not only from the leaders of our military, from the chairman of the Joint Chiefs, but especially to the Secretary of Defense, the honorable Donald Rumsfeld.

Listen to what former Secretary of Defense William Cohen had to say: ''Noted again Tuesday that in the past Iraq imported enough material to produce up to 200 tons of the deadly chemical agent VX, 'theoretically enough to kill every man, woman, and child' on earth. Finding and eliminating all such chemical and biological warfare stocks must be an international priority.'' L.A. Times, November 26, 1997, Secretary of Defense William Cohen under the Clinton administration.

Mr. HOEKSTRA. Mr. Speaker, he goes on in another talk with an interview with Katie Couric on December 18. ''One of reasons we are taking this action,'' and this is the Secretary of Defense, ''is we don't want to see it taken with chemical or biological agents, but we do know,'' not we estimate, we think, ''but we do know that Iraq has been in process of building that kind of capability. But we're looking at the intelligence very closely. We anticipate there will be terrorist attacks in a variety of areas of the globe, and we are taking whatever precautions we can against it.''

Remember those words, because we will get back to it in a few minutes. ''We are taking whatever precautions we can against it.''

And what is against it? The variety of terrorist attacks in all areas of the globe.

I yield to my colleague.

Mr. GINGREY. Mr. Speaker, this next quote from former President Bill Clinton, I think, really speaks to it as much as any that we have given tonight, and here is the quote: ''In the next century, the community of nations may see more and more the very kind of threat Iraq poses now, a rogue state with weapons of mass destruction, ready to use them or provide them to terrorists, drug traffickers, or organized criminals who travel the world among us unnoticed. If we fail to respond today, Saddam, and all those who would follow in his footsteps, will be emboldened tomorrow by the knowledge that they can act with impunity, even in the face of a clear message from the United Nations Security Council and clear evidence of a weapons of mass destruction program.''

And what was done then, Mr. Speaker? It was just drawing lines in the sand and then another line in the sand and another line in the sand and a dare and a double dare and a double-dog dare, and nothing was happening to deal with this until, of course, we had to strike the strike on 9/11 that resulted in over 3,000 lives lost.

Mr. HOEKSTRA. Mr. Speaker, here we go on and we go back to President Clinton on February 17, 1998, talking about the kind of environment that we see in Iraq and the kind of folks that we are trying to work on and taking a look at denial and deception. But how did Iraq work? This is President Clinton's description in 1998:

''Iraq repeatedly made false declarations about the weapons that it had left in its possession after the Gulf War. When UNSCOM,'' that is, the UN inspectors, ''would then uncover evidence that gave lie to those declarations, Iraq would simply amend the reports.

''Iraqi agents have undermined and undercut UNSCOM. They've harassed the inspectors, lied to them, disabled monitoring cameras, literally spirited evidence out of the back doors of suspect facilities as inspectors walked through the front door. And our people were there observing it and had the pictures to prove it.

''If he refuses or continues to evade his obligations through more tactics of

delay and deception, he and he alone will be to blame for the consequences.''

September 9: ''We've pushed and pushed some more to help UNSCOM,'' this is Secretary of State Madeleine Albright, ''break through the smokescreen of lies and diction put out by the Iraqi regime . . . ''

''. . . UNSCOM was able for the first time to conduct inspections of sensitive sites where it found new evidence that Iraq had lied about the size of its chemical weapons stock.''

These are really interesting quotes, considering the debate. We have gone into this war situation with a number of allies, but the President has been critiqued because there were not enough partners in the process.

Here is what President Clinton said in a debate with Robert Dole on October 6, 1996: ''Sometimes the U.S. has to act alone, or at least has to act first. Sometimes we cannot let other countries have a veto on our foreign policy.''

Madeleine Albright's quote in 1998: ''I am going to explain our position. And while we always prefer to act multilaterally, we are prepared to go unilaterally.''

President Clinton, Time Magazine, 1998: ''Would the Iraqi people be better off if there was a change in leadership? I certainly think they would be.'' Remember, by the year 2000, the official policy of the United States was regime change in Iraq.

1998, President Clinton: ''If we fail to respond today, Hussein, and all those who would follow in his footsteps,'' and I think the President was referencing terrorist organizations that would attack America and other freedom-loving people around the world, ''and all those who would follow in his footsteps, will be emboldened tomorrow by the knowledge that they can act with impunity.'' This is President Clinton.

And ''what if he fails to comply and we fail to act? . . . Some day, some way, I guarantee you, he'll use the arsenal.'' President Clinton, August 31, 1998.

What we are seeing throughout the 1990s, whether it is President Clinton, whether it is the Vice President, whether it is the Secretary of State, or whether it is the Secretary of Defense, there is a clear pattern that the Clinton administration, rightfully so, identified terrorist threats, Saddam Hussein, and Iraq as a threat to the people of Iraq, as a threat to Israel, as a threat to the stability of the Middle East, and as a threat to the United States and the rest of the world.

I yield to the gentleman from Georgia.

Mr. GINGREY. Mr. Speaker, continuing on the line of reason the gentleman from Michigan is presenting, again Secretary of State Madeleine Albright in 1998, in fact, November 23, and this was in Time Magazine: ''Up to now we've had diplomacy backed by force. Now we need to shift to force backed by diplomacy.''

And listen to what she says less than a month later: ''Month after month we have given Iraq chance after chance to move from confrontation to cooperation, and we have explored and exhausted every diplomatic action. We will see now whether force can persuade Iraq's misguided leaders to reverse course and to accept at long last the need to abide by the rule of law and the will of the world.''

These were remarks made by Secretary of State Madeleine Albright on the night of the air strikes, the very limited air strikes, against strategic targets in Iraq, her comments made December 16, 1998.

What happened over the next 2 years? Nothing. These limited air strikes did nothing, and Saddam continued with his weapons of mass destruction, his terrorism on his own people, his refusal to let the weapons inspectors come back into the country and make sure he was complying with the U.N. resolutions.

Mr. HOEKSTRA. Mr. Speaker, there are those who say that this administration was the first to try to create a link between al Qaeda and Iraq. That is absolutely wrong.

In 1998, again with the attack on the plant in Sudan: ''U.S. officials who declined to be identified told reporters that there were contacts as the Sudanese company was being developed between Al Shifa officials and Iraqis working on their country's VX program. 'Iraq is the only country we are aware of that had planned to use WMD,' the officials said. The officials also said there is evidence linking Osama bin Laden. Defense Secretary Cohen has publicly stated that bin Laden had some financial interest in contributing to this particular facility in Khartoum.''

Where is that? How do we know if Secretary of Defense William Cohen said that? ''We know that he, bin Laden, had contributed to this particular facility,'' Secretary of Defense William Cohen, New York Times, August 29, 1998.

Another quote: ''And indeed we have information that Iraq has assisted in the chemical weapons activity in Sudan.'' That is an op-ed by Samuel Berger, the national security advisor, the Washington Times, October 16, 1998.

He goes on in that activity: ''And, indeed, we have information that Iraq has assisted in the chemical weapons activity in Sudan . . . We had information linking bin Laden to the Sudanese regime and the Al Shifa plant.'' National security advisor, Samuel Berger, op-ed, October 16 in the Washington Times.

It is interesting. This link between Saddam Hussein, Iraq, terrorist organizations, and the threat that they combine to depose the United States and the rest of the world is not new. It has been outlined through the 1990s.

I yield to my colleague.

Mr. GINGREY. Mr. Speaker, if the gentleman from Michigan will allow me, I would just like to shift a little bit now and talk about the testimony and put it in the right, proper context that we are hearing from David Kay.

Mr. HOEKSTRA. Mr. Speaker, let us not go there yet, all right? Because every year there is something that is put out. It is called the Report on Global Terrorism. And if my colleague will take a look, he has got the 1999 review of Iraq. I have got the 1998.

□ 1815

Here is what it says in 1998. The global terrorism overview of state-sponsored terrorism. Iraq continues to provide safe haven to a variety of Palestinian rejectionist groups, including the Abu Nidal Organization, the Arab Liberation Front, and the former head of the now defunct 15 May Organization, Abu Ibrahim, who masterminded several bombings of U.S. aircraft.

In December, press reports indicated that Abu Nidal had relocated to Iraq and may be receiving medical treatment. Abu Nidal's move to Baghdad would increase the prospect that Saddam may call on the ANO to conduct anti-U.S. attacks.

Iraq also provides bases, weapons and protection to the MEK, a terrorist group that opposes the current Iranian regime. Back in 1998, through much of the 1990s, it was clear, at least in the global terrorism overview of state-sponsored terrorism, Iraq has consistently been identified as a state sponsor of terrorism on a global basis.

What did the report say in 1999?

I yield to my colleague from Georgia.

Mr. GINGREY. Well, Iraq continued to plan and sponsor international terrorism in 1999. Although Baghdad focused primarily on the anti-regime opposition, both at home and abroad, it continued to provide safe haven and to support various terrorist groups.

Many press reports stated that according to a defecting Iraqi intelligence agent, the Iraqi Intelligence Service had planned to bomb the offices of Radio Free Europe in Prague. Radio Free Europe offices include Radio Liberty, which began broadcasting news and information to Iraq in October of 1998. The plot was foiled when it became public in early 1999.

The Iraq opposition publicly stated its fears that the Baghdad regime was planning to assassinate those opposed to Saddam Hussein. A spokesman for the Iraqi National Accord in November said that the movement security organs had obtained information about a plan to assassinate its secretary general, Dr. Allawi, and a member of the movement's political bureau, as well as other Iraqi leaders.

Iraq continued to provide safe haven to a variety of Palestinian rejectionist groups, including the Abu Nidal Organization; the Arab Liberation Front, ALF; and the former head of the now defunct 15 May Organization, Abu Ibrahim, who masterminded several bombings of United States aircraft.

Iraq provided bases, weapons and protection to the MEK, an Iranian terrorist group that opposes the current

Iranian regime. In 1999, MEK cadre based in Iraq assassinated or attempted to assassinate several high-ranking Iranian government officials, including Brigadier General Ali Sayyad Shirazi, deputy chief of Iran's Joint Staff, who was actually killed in an assassination attack.

Mr. HOEKSTRA. If I now take a look at the report on global terrorism in 2001, what does it say?

In addition, the regime continued to provide training and political encouragement to numerous terrorist groups, although its main focus was on dissident Iraqi activity overseas. But Iraq provided bases to several terrorist groups, including the Mujahedin-e-Khalq, the MEK, the Kurdistan Worker's Party, the Palestine Liberation Front, the Abu Nidal Organization.

In 2001, the Popular Front for the Liberation of Palestine, the PFLP, raised its profile in the West Bank and Gaza Strip by carrying out successful terrorist attacks against Israeli targets. In recognition of the PFLP's growing role, an Iraqi vice president met with the former PFLP secretary, General Habbash, in Baghdad. In January 2001, there was continued Iraqi support for the intifadah. Also in mid-September, a senior delegation from the PFLP met with an Iraqi deputy prime minister. Baghdad also continued to host other Palestinian rejectionist groups, including the Arab Liberation Front and the 15 May Organization. There is no doubt that Iraq continued its connection with terrorist organizations.

What happened in 2002? I yield to my colleague from Georgia.

Mr. GINGREY. Well, Iraq planned and sponsored international terrorism in 2002, that is what they did. Throughout the year, the Iraqi Intelligence Service, IIS, laid the groundwork for possible attacks against both civilian and military targets in the United States and other Western countries. The IIS reportedly instructed its agents in early 2001 that their main mission was to obtain information about United States and Israeli targets. The IIS also threatened dissidents in the Near East and Europe and stole records and computer files detailing anti-regime activity.

In December of 2002, the press claimed Iraq intelligence killed Walid Ibrahim Abbas al-Muhah al-Mayahi, a Shi'ite Iraqi refugee who was living in Lebanon and a member of the Iraqi National Congress. Iraq was a safe haven, a transit point and an operational base for groups and individuals who direct violence against the United States, Israel and other countries.

Baghdad overtly assisted two categories of Iraqi-based terrorist organizations, Iranian dissidents devoted to toppling the Iranian Government and a variety of Palestinian groups opposed to peace with Israel. The groups include the Iranian Mujahedeen-e-Khalq and the Abu Nidal Organization, although Iraq reportedly killed its leader.

The Palestinian Liberation Front, PLF, and the Arab Liberation Front, ALF. In the past year, the PLF increased its operational activities against Israel and sent its members to Iraq for training for future terrorist attacks.

Baghdad provided material assistance to other Palestinian terrorist groups that are in the forefront of this intifadah. The Popular Front for the Liberation of Palestine General Command, Hamas, and the Palestine Islamic Jihad are the three most important groups to which Baghdad has extended outreach and support efforts. Saddam paid the families of Palestinian suicide bombers to encourage Palestinian terrorism, channeling $25,000 since March through the ALF alone to families of suicide bombers, both in Gaza and on the West Bank. Public testimonials by Palestinian civilians and officials and cancelled checks captured by Israel in the West Bank verify the transfer of a considerable amount of Iraqi money.

The presence of several hundred al Qaeda operatives fighting with the small Kurdish Islamist group Ansar al Islam in the northeastern corner of Iraqi Kurdistan where the IIS operates is well documented. Iraq has an agent in the most senior levels of Ansar al Islam as well.

In addition, small numbers of highly placed al Qaeda militants were present in Baghdad and areas of Iraq that Saddam controls. It is inconceivable that these groups were in Iraq without the knowledge and acquiescence of Saddam's regime.

In the past year, al Qaeda operatives in Northern Iraq concocted suspect chemicals under the direction of senior al Qaeda associate Abu Mussab Zarqawi; and they tried to smuggle them into Russia, Western Europe, and the United States for terrorist organizations and operations. Iraq is a party to five of the 12 international conventions and protocols relating to terrorism.

That is what Iraq has been doing in the year 2002.

Mr. HOEKSTRA. I think the record is relatively clear. In many ways, the Clinton administration in the 1990s got the message. After the World Trade Center bombing, after the U.S. barracks bombings, after our embassy bombings, after the USS *Cole* and as American civilians were attacked around the world, the rhetoric was very, very good.

The rhetoric that came out of the Clinton administration said we are at war. We are prepared to punish and hold those accountable who have attacked us. We are willing to go in and preemptively attack and be on the offense against those who may attack us in the future; and we may even go it alone, because we will not allow another country to hold veto over American national security.

They defined the war. They said we are at risk at home and abroad. Civilian, military individuals would be at risk; our allies would be at risk. Madeleine Albright identified that it would be an unconventional war. Parts of it would be conventional; parts of it would be unconventional. Some battles would be in the open; some would be in secret. We would use both conventional weapons and weapons of mass destruction. It is a violent and a dangerous world. Truck bombs, improvised explosive devices, small labs for chemical and biological weapons, weapons that could be delivered by plane, ships, missiles, or backpacks.

You go back to the one quote I think you had from, I am not sure if it was the President or Al Gore, but I got the quotes here again.

From William Cohen: ''We anticipate there will be terrorist attacks in a variety of areas of the globe and we are taking whatever precautions we can against it.''

Al Gore in 2000: ''We have made it clear that it is our policy to see Saddam Hussein gone.''

I am not sure what quote my colleague has over there, but we ought to take a look at what the Clinton administration did in the 1990s.

Mr. GINGREY. I think what the gentleman so clearly pointed out is the previous administration made the case against Saddam Hussein. They made the case based on the intelligence that they were receiving at that time. What they did is they talked the talk, and we have spent some time here this evening giving you some quotes, various members, including the President, the Vice President, the Secretary of State.

Mr. HOEKSTRA. It is a consistent message through all levels of their policy chain.

Mr. GINGREY. Absolutely. The point I was going to make is they were willing, the previous administration, to talk the talk; but what they were not willing to do was to walk the walk.

This administration has walked the walk; and because of that, this world is a safer place with the capture of Saddam Hussein.

Mr. HOEKSTRA. There is an interesting article I would like to reference that talks a little bit about what the previous administration did during the 1990s. The article is ''Show Stoppers,'' and it is out of the Weekly Standard, January 26, 2004. It is written by Richard Shultz, who is director of International Security Studies at the Fletcher school, Tufts University, and director of research at the Consortium for the Study of Intelligence in Washington, D.C.

He brings up an interesting point. America has the best trained military in the world, regular Army; but then we also have some very special folks, Special Operations folks.

Remember, the policy as he lays out here was that we were prepared to preemptively and offensively attack those individuals who we thought might be a threat to the United States. We knew

who they were. The Clinton administration identified al Qaeda; they identified bin Laden as being threats. We heard that in our quotes tonight.

But what Richard Shultz goes on to point out, he says not once during the 1990s, even though we on occasion might have known where bin Laden was, we knew where his terrorist camps were, not once did we take and use our Special Operations forces to neutralize the capability of these folks who we were relatively confident and who the Clinton administration were selling the American people on that these were a threat to the American public and to our military and to our allies around the world.

We never used our Delta Force, we never used our Seals, we never used our Rangers to kill or capture bin Laden or attack al Qaeda training bases.

Mr. GINGREY. If the gentleman will yield further, one of the most preposterous facts is that during of the previous administration in the late 1990s, Osama bin Laden was offered up to our country, and we refused to accept him saying that he was not that much of a threat. We did not need him.

Mr. HOEKSTRA. Taking back my time, Mr. Shultz goes on to talk about the Clinton administration's desire for preemptive and offensive actions. But they never took the step. Terrorism is a crime, they said. They said we will prosecute it afterwards. We will not use our forces for minimizing the capability of these people to wage war against us. It does not meet the Pentagon's definition of war. We are risk-averse.

That sent a very clear message to terrorist organizations and rogue regimes like Iran, Iraq, Syria and a number of other countries that said the United States is not going to do anything.

□ 1830

They may respond, but even if we attack their battle ships, even if we attack their embassies or their barracks, they will not respond or they will respond in a very minimal way, and they will allow us to keep moving forward and to prepare other attacks.

I yield to the gentleman from Georgia.

Mr. GINGREY. Mr. Speaker, I thank the gentleman for yielding. No question, when we keep drawing lines in the sand and making threats and dares and double dares, as was done by the previous administration, attack after attack after attack, the other side is rightly going to assume that you are just so much bluster, that you are no threat. So they continue in their terroristic ways, and that really is essentially what has happened. Thank God that this President, our 43rd President, George W. Bush, had the courage to finally say, enough is enough.

Mr. HOEKSTRA. Mr. Speaker, a couple of other things. We never used our Special Operations forces. But with all of this discussion about what capabilities do we have in intelligence, it is helpful to have a discussion as to what the Clinton administration did during the 1990s with intelligence. From 1992 to 1999, the intelligence agency, we decreased the number of agents we had in the field by 27 percent, we decreased the number of stations or locations that we had around the world by 30 percent, and we decreased the number of assets. What is an asset? An asset is a spy. We reduced the number of assets we had by 40 percent. We gutted our human intelligence capability. We have phenomenal satellites and different things that can do wonderful things in trying to help us figure out what is going on, but unless we have the human intelligence to determine intent and planning or to go inside of a building and see what is going on inside of a building and to hear and be part of the discussions, we cannot figure out exactly what is going on; and even if we have those people in certain places, it is still difficult to pull together the entire practice.

But the reason we were kind of blind in Iraq in 2000 is that Bill Clinton's administration, President Clinton's administration, gutted our human intelligence. I yield to the gentleman.

Mr. GINGREY. Well, no question. And of course it reminds me, thinking back, of I think it was the Clinton administration had decided that they wanted to have a nicer, a nicer, kinder, gentler intelligence agency; and anybody that was ever known to have jaywalked or spit on the sidewalk, they were not eligible to be an intelligence officer because they did not project that image.

I am going to tell my colleagues right now, it is clear that when the going gets tough, the tough get going; and we need tough people. And as the gentleman from Michigan was saying, we cut down on the number of personnel involved in intelligence operations and the kind of people that we need to deal with these people on an international basis. This is dangerous work, and we need tough, dangerous people to fight fire with fire. We did not have that in the previous administration.

Mr. HOEKSTRA. Mr. Speaker, reclaiming my time, what my colleague is talking about is that in 1995 and 1996 the Clinton administration implemented what was called the Deutsch Doctrine. John Deutsch was the director of the CIA. And, after some things happened in 1995, the Deutsch Doctrine becomes the official policy of the CIA.

What does the Deutsch Doctrine say? It does what my colleague said, although maybe not quite as strict as what my colleague said; but it said, we are not going to recruit as human assets those individuals who have human rights records or who have criminal records; we are not going to recruit those kinds of people to spy for the United States. As a matter of fact, we are not only going to not recruit those people in the future, we are going to go and do what is called the ''Deutsch scrub.'' We are going to go back and take a look at those people who are working for us today. They have made that choice, they have left the dark side, they are spying for the United States, they are giving us the information that we need to be safe, but the Clinton administration says, thanks, but no thanks. You have a dark record in your background, you are out of here, leaving these people in no man's land and saying, well, let me see. I was a bad guy, I came over to the good side, and now you are cutting me loose.

It was a chilling effect for the work of the CIA and the people that were doing the work in the CIA. It was a chilling effect, obviously, for those spies who were spying for us and now were cut off; and the basic message was, you are not good people to do business with. They think, one day you are going to use us, and the next day we are out in the cold.

We get to 2000. And I wonder how many people in Saddam's cabinet room, when we watch him sitting at the table, I wonder how many of them had clean human rights records. I mean, remember, they hung thousands of people in their jails. There is evidence they might have used chemical or biological testing on some of their prisoners. They killed over 300,000 of their own people. They gassed the Kurds, they gassed the Iranians. Sitting in that room, I do not think there were a lot of Eagle Scouts. I yield to my colleague.

Mr. GINGREY. Mr. Speaker, there is no question that I am sure there were no Eagle Scouts. When we are dealing with an international terrorist, a brutal, rogue dictator like Saddam Hussein and the terrorists associated with him, the only thing they understand is an eye for an eye and a tooth for a tooth. And it is like our military leaders have said many times in testifying before Congress, before committees, before the Committee on Armed Services, if the die-hards insist, they are going to die hard, and we have given it to them. I commend the President for that, and I think this world is a safer place because of it. It is not over, and we do not need to be thinking about an exit strategy until it is over. Our men and women deserve better than that. Many of them have paid the ultimate sacrifice, and they deserve a victory, and we shall have a victory.

Mr. HOEKSTRA. Mr. Speaker, candidate Governor Bush in 1999, he echoed the understanding of the threat that President Clinton, Vice President Gore, and others laid out. He called to mind an earlier time when free people were confronted with what he called rapid change and momentous choices. In was the 1930s, Nazi Germany is rearming, the British are reluctant to respond. Winston Churchill outlines to the people, the United Kingdom, what they are facing. Winston Churchill: ''The era of procrastination, of half measures, of soothing and baffling expedience, of delays is coming to a

close. In its place, we are entering a period of consequences.''

For the United States, that day of consequences, the day where we suffered the consequences of half measures, of soothing and baffling expedience, of delays through the 1990s, we suffered that day of consequence on 9–11, 2001.

We want to move on a little bit and talk a little bit about what Dr. Kay has found relative to what the National Intelligence Estimate indicated we might find, and this is the backdrop of what President Clinton outlined during the 1990s and the Clinton administration outlined during the 1990s about the dangers of Saddam Hussein and Iraq. It is in the backdrop of what happened on 9–11, 2001; and the National Intelligence Estimate indicated that since inspections ended in 1998, Iraq has maintained its chemical and biological weapons effort. What has Dr. Kay found? This is from a statement by Dr. Kay on the ''Interim Progress Report.'' He talks about discovering dozens of WMD-related program activities. Concealment efforts. So it is very, very public that Dr. Kay has recognized and found that the National Intelligence Estimate said Iraq has maintained its chemical and biological weapons effort programs. I did not say weapons; I said programs. It is exactly what Dr. Kay found when he got to Iraq.

Mr. GINGREY. Mr. Speaker, in regard to that, I just wanted to point out, and I started to mention this a little bit earlier, that Dr. Kay was a consultant to the Iraqi Survey Group. The Iraqi Survey Group is 1,300 individuals in Iraq continuing, as we speak tonight, continuing to look for weapons of mass destruction. The Iraqi Survey Group is not led by consultant Dr. David Kay; the Iraqi Survey Group is commanded by Lieutenant General Keith Dayton. Dr. Kay worked for General Dayton as a consultant, and General Dayton told a group of us when we were in Iraq over the Christmas season that Dr. Kay had been out of Iraq for over a month, and I do not think that Dr. Kay has been back in Iraq since that time.

So it is very possible that he does not actually know what the Iraqi Survey Group is doing and what they are finding right now. I will tell my colleagues one thing that they are finding. We talk about weapons of mass destruction. If we want to very narrowly define that as chemical weapons or nerve gas or biological anthrax, that is one definition of weapons of mass destruction.

But I am going to tell my colleagues, the ultimate weapon of mass destruction was found in Iraq; and he was in a little hole just south of Tikrit, and we got rid of him. And in the process of looking for these other weapons of mass destruction, what have we found? Hundreds, literally hundreds of mass graves with thousands, hundreds of thousands of people, his own people that Saddam had gassed, and also untold numbers of caches of weapons of conventional destruction. My colleagues tell me one of these road-side devices is not a weapon of mass destruction or a shoulder-mounted SA–7 rocket from Russia or a grenade launcher? Absolutely. We are finding and destroying as we continue to seek, and I truly believe that we will find those chemical and biological weapons.

Mr. HOEKSTRA. Mr. Speaker, reclaiming my time, the National Intelligence Estimate said, if left unchecked, Iraq probably will have a nuclear weapon during this decade.

Here is what Dr. Kay had to say, George Stephanopoulos, October 5, 2003: ''I think if they had, if someone had given them the enriched material or the plutonium, I think that it would have taken them a year or less to fabricate a weapon from that material. They had the capability, they had the knowledge, once given the proper material to very quickly develop a nuclear weapon.''

I yield to my colleague from Georgia.

Mr. GINGREY. Mr. Speaker, this is a comment, speaking of Dr. Kay's report, here is what Dr. Kay says, among many things that Dr. Kay is saying. There is something to link them, Saddam, to weapons of mass destruction, and that is the equipment. The equipment was on the prohibited list that had to be declared. The fact that they did not declare the equipment, not only did they not declare it, it was imported equipment. A lot of it we dated was imported from after 1998 in spite of U.N. sanctions.

He went on to say, another quote from Dr. Kay: ''We tend to, when we analyze a failure, look at our own failures and forget there is another side to the equation.''

Again, this is Dr. Kay: ''I am convinced the Iraqis tried to deceive us and, in part, they tried to deceive us and others into believing that they really did have those weapons.''

Mr. HOEKSTRA. Mr. Speaker, here we have NIE key judgments: In view of most agencies, Baghdad is reconstituting its nuclear weapons program.

Here is the interview, or here is his testimony in front of the Senate Committee on Armed Services last week or a week and a half ago. The NIE concluded that Iraq could build its first nuclear weapons when it acquires efficient weapons-grade material. Do you think that is accurate?

Kay: Yes. You have to realize that this was a country that had designed and gone through a decade-long nuclear program. They knew the secrets.

Mr. Speaker, much of the assessment that was done, the National Intelligence Estimate, was pretty accurate. Obviously, the expectation of finding stockpiles of weapons of mass destruction, I thought we would find them quicker. We have not found them. Dr. Kay believes that there is a high probability that they do not exist and we may not find them, but recognizes that he has talked about and he has seen the Iraqis' ability to gut, and they looted their information files and burned the records, destroyed the records.

□ 1845

They were great at denial and deception. They loved to bury things. Not only did Saddam Hussein go in a spider hole, but they took Mig-29s, pulled them out in the countryside, dug a hole, had the cockpit open and filled them with sand and dirt and buried them. There were things that were moved to Syria.

I think Dr. Kay with the interviews and things he has done has a very good assessment, but he will acknowledge that the search is not complete. That particular part he says is 85 percent complete, but there will always be a level of uncertainty because of how well the Iraqis did denial and deception.

Mr. GINGREY. He went on to say, and again this is part of the Dr. Kay's report, ''The surprising thing we have found in the biological program is a vast network of laboratories. It is now over two dozen labs that were not declared to the U.N. even though they had equipment and were clearly conducting activities that were declarable. Now, quite frankly, we are not sure fully what they were doing right now. They had biological and chemical production equipment in them. Most of them are relatively small by historic Iraqi standards. They are mostly in houses and residential areas. Some are in business establishments. One was in a hospital. These are facilities that at the minimum carried out research and development and kept the scientific skill level.''

When you think about the fact that it took us months and months to find Saddam in the country, a country the size of California, buried in a six-by-three-foot hole south of Tikrit, and probably would not have found him without accurate, absolutely, the most accurate human intelligence, I do not think it is surprising that we are having difficulty finding these weapons of mass destruction.

There are any number of things that he could have done with them, from shipping them out of the country, to destroying them, to burying them, to putting them in very small vials. It does not take a footlocker to store some of these weapons of mass destruction. They are easily hidden.

So we need to keep looking, absolutely. The Iraqi Survey Group under General Dayton will continue that search.

Mr. HOEKSTRA. Mr. Speaker, I thank my colleague for joining me in this Special Order this evening. I think we firmly established that the record clearly outlines that, for the last decade and more, Iraq has been identified as a terrorist regime, dangerous to its neighbors, its own people and the rest of the world.

As a matter of fact, I think in one of the quotes that the gentleman went

through, then-Senator Al Gore attacked the previous Bush administration for not doing enough to rein in Saddam Hussein and Iraq. And this was a President who took them to war once and that was not enough. This was an administration that talked about attacking unilaterally.

The Clinton administration laid the foundation for the dangers of the Iraqi regime under Saddam Hussein. They did not respond. September 11 happened. It is a whole new world. The threat was outlined. The intelligence was there. The President responded. And the Iraqi people, as the gentleman and I have found out as we have gone over there, the Iraqi people are better off and are thankful that Saddam has been removed from power and that they can move and move forward in building a free and democratic Iraq.

PROVIDING FOR AN ADJOURNMENT OR RECESS OF THE TWO HOUSES

Mr. HOEKSTRA. Mr. Speaker, I offer a privileged concurrent resolution (H. Con. Res. 361) and ask for its immediate consideration.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 361

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on the legislative day of Wednesday, February 11, 2004, it stand adjourned until 2 p.m. Tuesday, February 24, 2004, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the Senate recesses or adjourns on Thursday, February 12, 2004, Friday, February 13, 2004, or Saturday, February 14, 2004, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand recessed or adjourned until noon on Monday, February 23, 2004, or at such other time on that day as may be specified by its Majority Leader or his designee in the motion to recess or adjourn, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Speaker of the House and the Majority Leader of the Senate, or their respective designees, acting jointly after consultation with the Minority Leader of the House and the Minority Leader of the Senate, shall notify the Members of the House and the Senate, respectively, to reassemble at such place and time as they may designate whenever, in their opinion, the public interest shall warrant it.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

CONDITIONAL ADJOURNMENT OF THE HOUSE TO SATURDAY, FEBRUARY 14, 2004

Mr. HOEKSTRA. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 4 p.m. on Saturday, February 14, 2004, unless it sooner has received a message from the Senate transmitting its concurrence in House Concurrent Resolution 361, in which case the House shall stand adjourned pursuant to that concurrent resolution.

The SPEAKER pro tempore (Mr. BEAUPREZ). Is there objection to the request of the gentleman from Michigan?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY, FEBRUARY 25, 2004

Mr. HOEKSTRA. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday, February 25, 2004.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

APPOINTMENT OF HON. WAYNE T. GILCHREST TO ACT AS SPEAKER PRO TEMPORE TO SIGN ENROLLED BILLS AND JOINT RESOLUTION THROUGH FEBRUARY 24, 2004

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
February 11, 2004.

I hereby appoint the Honorable WAYNE T. GILCHREST to act as Speaker pro tempore to sign enrolled bills and joint resolutions through February 24, 2004.

DENNIS HASTERT,
Speaker of the House of Representatives.

The SPEAKER pro tempore. Without objection, the appointment is approved.

There was no objection.

WHAT ARE THEY THINKING?

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio (Ms. KAPTUR) is recognized for 5 minutes.

Ms. KAPTUR. Mr. Speaker, I come to the floor this evening to give voice to the voiceless. Millions of Americans are filling out unemployment forms and are filling our unemployment rolls. Many more are dropping off the lists because they simply see no hope and no prospects for jobs in the future.

According to recent reports, in the last 3 months, more than 40 percent of the unemployed have been out of work for more than 15 months, for over a year. We have not seen record numbers like this since 1983. Jobs are becoming scarcer.

In my own State of Ohio, we have lost 264,700 jobs since President Bush took office. And last week in our district, Dixie Cups, owned by Georgia Pacific, announced its closure; 207 more Americans will be without work. Nationwide, we have seen the disappearance of over 3 million private sector jobs. Now the Bush administration appears to be supporting outsourcing of even more of our jobs overseas.

It used to be that it was only the workers on the line who had to worry. Now, in Silicon Valley, the high-tech areas of the country have to worry, too; and in our medical community, if we are to read the President's report, even radiologists and those in medical tech are feeling the pain and will feel the pain.

We are not just talking about the manufacturers and the farmers anymore. Even the previously sacred service sector jobs are under threat. Even telephone solicitors are now being outsourced to India and to Ireland as the ranks of our unemployed continue to grow.

Earlier this week, the top Bush economic advisor, the head of the President's Council of Economic Advisors, stated, outsourcing of jobs is a form of free trade, and that is probably a plus for the economy in the long run.

It is hard to read those words and really think he believes them. What is going on in the minds of the people over there at the White House? Maybe the President needs to get out from behind his desk in the Oval Office, travel around the country and meet with real workers who are worried and the millions who are out of work.

Just last month President Bush came to my district. Unfortunately, his motorcade did not make any stops in our community where he had an opportunity to meet these people, those who are really worried and those who have been out of work for a very long time. If he had done that, he might have heard from people who used to work at Dixon-Ticonderoga, manufacturing school supplies and whose jobs have been moved to Mexico; nearly 2,000 workers from Phillips Electronics, who had the same thing happen to them; or Georgia Pacific-Dixie Cup, the workers who just lost their jobs last week; or those at Acuity Lighting in Vermillion, Ohio, whose jobs are being moved to Matamoros, Mexico; or the workers from Spangler Candy out in Williams County in Bryan, Ohio, whose jobs have been moved and more will be moved to Mexico, making candy canes and various sugar candies; or any number of workers on the line in our tool and die shops who have been moved out of those shops and on to the unemployment lines.

But, instead, for him it was just another campaign stop in Ohio. In fact, the day after his visit, the unemployment rate in Ohio ticked up again.

My constituents know what is important, a dependable job with a decent wage. They want to help their children complete their education, first high school and, if possible, college beyond that; and they want to be able to depend on a pension that will be there for them when they need it. But, instead, we are turning our students into debtors, our pensions are becoming more risky, and it is harder and harder for our kids to go on to school.

The 2003 trade deficit will set a record of nearly half a trillion dollars, more products being made, more services being done in other countries rather than here at home. Over a half a

trillion dollars. Imagine if we could invest that here at home. The Federal deficit, as a result, is also at record highs.

And what is the President's plan to secure Social Security and Medicare for our generations and beyond? More budget-busting tax breaks for the super rich, while wages for ordinary people are stalled or declining or they are thrown on to unemployment lines.

Again, I really do have to ask, what is the White House thinking? I have repeatedly called for a new Declaration of Independence for our country, a declaration of economic independence for our families, for our workers. We must ensure first the economic security of our Nation. It must be one of our Nation's number one priorities. Instead, leading Republicans think it is a great idea to send more of our jobs overseas.

It makes me wonder what kind of future is in store for our future generations. This Congress must draw the line in the sand here. I urge my colleagues on both sides of the aisle to stand up for working families immediately for the extension of unemployment benefits and no more stealing from the Social Security Trust Fund to pay off the White House's pet projects; no more tax breaks for the super rich; no more unfair trade deals like NAFTA; and no Chairman of the President's Council of Economic Advisors that had the idea of sending more of our jobs overseas is the answer to these problems.

□ 1900

TOBACCO BUYOUT LEGISLATION

(Mr. GOODE asked and was given permission to address the House for 1 minute.)

Mr. GOODE. Mr. Speaker, I rise in support of tobacco buyout legislation. The consensus measure is H.R. 3160. We need to eliminate the Federal quota program. If we do such, American tobacco will be more competitive with foreign tobacco. A buyout would end the tobacco quota system; and a number of tobacco farmers, particularly the older ones, will cease to grow tobacco.

Many quota holders and growers have invested a considerable amount of money in the current tobacco program over the years. They deserve compensation for their loss, and that compensation can come from tobacco.

If we adopt legislation for a tobacco buyout, it will greatly benefit south Virginia, southwest Virginia, much of North Carolina, South Carolina, Georgia, Florida, Tennessee, Kentucky, and several other States.

I hope we can see positive action on tobacco buyout legislation soon.

THE PRESIDENT'S BUDGET

The SPEAKER pro tempore (Mr. GINGREY). Under the Speaker's announced policy of January 7, 2003, the gentlewoman from California (Ms. LEE) is recognized for 60 minutes as the designee of the minority leader.

Ms. LEE. Mr. Speaker, I rise tonight to join my colleagues from the Congressional Black Caucus to discuss the President's reckless, very reckless budget for fiscal year 2005 and to really examine the terrible toll that it will take on our country as a whole and specifically African Americans. And, Mr. Speaker, I would now like to yield to the gentleman from Maryland (Mr. CUMMINGS), our distinguished chairman of the Congressional Black Caucus.

Mr. CUMMINGS. Mr. Speaker, I thank the gentlewoman for yielding.

Mr. Speaker, I rise this evening to raise serious concerns about the Bush administration's fiscal year 2005 budget proposal, along with my colleagues in the Congressional Black Caucus.

This budget contains misplaced priorities that leaves all Americans behind. In the first place, this budget adds $521 billion to our national debt for the next fiscal year. This is on top of $7 trillion national debt that our Nation has already incurred. That is roughly $2,000 for every woman, man, and child in America today.

This is extremely disappointing, Mr. Speaker, given that at the beginning of the Bush administration we had a $280 billion surplus, and we were expecting record surpluses for years yet to come.

Many economists say that increased deficits signal danger for our economy because increased deficits cause or result in higher interest rates, slow economic growth, lower national savings, and reduce economic productivity. Given this, I am appalled that the Bush administration's budget fails to account for spending in Iraq and Afghanistan in its proposal and also plans to implement further tax cuts.

In fact, just today, it was reported that the military chiefs are saying that the $87 billion we have just appropriated for the war will run out by September 30.

Moreover, the Congressional Budget Office has said that if the $1.7 billion tax cut were allowed to expire in 2011, the budget would be balanced by 2014. However, it is my understanding that the administration still plans to introduce its permanent tax cut proposal and press for continued defense spending while cutting or eliminating Federal programs that will also strengthen our Nation.

Again, this budget has misplaced priorities that leave all Americans behind.

Mr. Speaker, as my colleagues may be aware, the White House released its annual economic report of the President this week, which stated that 2.6 million jobs would be created by the end of 2004. It seems as though the President is promising that he will spin straw into gold, which is an impossible task. It is impossible because every year since President Bush took office this report has been completely wrong.

In 2002, the administration estimated that 800,000 new jobs would be added to the economy; but, instead, the United States economy lost a net total of 1.9 million jobs just in 2002. In 2003, the administration projected that the tax breaks would add 510,000 additional jobs by the end of 2003. Instead, 53,000 jobs were lost. All together, since President Bush took office, 3 million jobs have been lost; and the last President to have a net job loss during his administration was President Herbert Hoover.

Mr. Speaker, we cannot grow as a Nation with 9 million Americans out of work, 43 million without health insurance, and a future generation that lacks the educational resources to compete in the 21st century global economy; yet this budget proposes to cut more than 60 programs that would uplift this Nation. But tonight I would like to specifically highlight one Federal program that has made a tremendous impact in my district. Although the program is fully funded in my district, the President's current budget will keep this program from starting in new communities.

Mr. Speaker, I am specifically referring to the Empowerment Zone Program administered by the United States Department of Housing and Urban Development. Created under the Clinton administration, this Empowerment Zone Program creates economic development in the Nation's most distressed urban communities through public-private partnerships.

In my district, this program has created 12,000 jobs in neighborhoods that were previously deteriorating, abandoned, and had high crime rates. With the $100 million Federal grant, the Baltimore Empowerment Zone provided customized job training to thousands of residents and helped them obtain jobs in health care, biotechnology, manufacturing, retail, and hospitality. Many of these jobs provided higher pay, benefits, and career growth that were not previously available to these residents.

In one particular instance, a former Army veteran who could not find a civilian job received training through the Empowerment Zone. Today, he works in an operating room at the world-renowned Johns Hopkins University hospital.

The Empowerment Zone also helped thousands of families to buy their first home, as well as provide small business loans. This is a classic example of how the Bush administration should be stimulating the economy. However, instead of expanding this program to other cities, the administration has decided to completely cut all funds to this program by fiscal year 2005. This would essentially dissolve the program.

Like the Empowerment Zone, 65 other programs are being abandoned through the President's fiscal year 2005 budget. While looking at the list of 65, I notice that all Americans in some way or another would be affected by these cuts.

Programs for homeland security, the environment, women, people of color,

children, the disabled, microloans for small business, the HOPE VI housing program, and health care are all being targeted for cuts in this budget. Therefore, Mr. Speaker, this budget should be called the Leave All Americans Behind budget.

Before I conclude, Mr. Speaker, I would urge my colleagues on both sides of the aisle to think about how these cuts will have an impact on their constituents. While I strongly support giving our troops the funding and the resources they need to do their jobs and while I support increasing homeland security, I strongly urge that we maintain a balance and continue giving America all it needs to remain a superpower.

With that, Mr. Speaker, I thank the gentlewoman for her leadership and for conducting this hour for the Congressional Black Caucus.

Ms. LEE. Mr. Speaker, let me thank the chairman again for his diligence, vigilance, and really helping the Congressional Black Caucus educate the public and hopefully many of our colleagues on the other side about the most pressing issues confronting our constituents and our country. I want to thank the gentleman from Maryland (Mr. CUMMINGS) for his leadership and for, once again, I will say helping us to wake up America.

Mr. Speaker, let me just say a few things about this budget tonight. First of all, no documents are more important to the health and the welfare of American people than our Nation's budget. It can give the 44 million Americans without health insurance access to affordable health care, including the 7.4 million African Americans without health insurance. It can put the millions of unemployed people back to work, including the 1.7 million African Americans and the 1.4 million Hispanics seeking work. It can honor our commitment to veterans instead of raising their health care costs, including over 2.6 million African American veterans, and the list goes on and on.

Instead of sending us a budget for the American people, this President has sent us a budget that turns its back on people and on our future. It sacrifices our children, our senior citizens, our security, our veterans, our environment, our economy in order to advance special interests and to promote tax breaks for the wealthy.

Incredibly, the budget does all of this damage to Americans at home and does not even include the cost of our operations in Iraq and Afghanistan, a clear failure, a very clear failure to come clean with the American people about the staggering costs of the war.

I think we all know, and we heard that today, that we can expect another very large supplemental appropriations request for the war after the November election. The President, I believe, needs to really stop playing politics and to start paying attention to our needs right here at home.

To merely call this budget a reflection of misplaced priorities really does not go far enough in describing the injustices that it promotes. It represents nothing less than an assault on the American people. The Bush administration is at war with the working poor, the middle class, working families and, yes, people of color. This budget, I tell my colleagues, is proof of that.

The repercussions of this budget will be felt in cities and towns and rural communities across America. They will certainly be felt in my district in northern California where the high-tech economy has struggled and where housing costs are sky high, where seniors and veterans are struggling each and every day just to pay medical costs and grocery bills, where crime is taking the lives of our young people and threatening our communities, where infrastructure is crumbling, where our first responders and our ports are still not receiving the Federal funds that they need to keep our homeland safe and prepared, and where the State budget is being squeezed and slashed, and the repercussions of this budget will be felt for decades to come due to the record deficits that it creates.

It is truly mind-boggling to think how the administration turned a $5.6 trillion surplus, projected just 3 years ago, into record deficits as far as the eye can see. Our children and our grandchildren will be paying off the reckless tax cuts for the rich, the lavish breaks for offshore corporations, and the huge overpayments to HMOs that are in this budget. They will be paying for this for the rest of their lives. This $4 trillion deficit will haunt our children for years to come.

These outrageous and very reckless breaks for special interests and the wealthy help explain why this budget leaves so many behind. It explains why this President decimates housing programs in his 2005 budget. It represents a $350 million cut compared to last year's funding level.

The budget cuts are again focused on section 8 and public housing, the program that serves the Nation's poorest families, seniors and the disabled. The budget is $1.6 billion below the level needed to renew all section 8 vouchers; and it proposes to block grant the voucher program, dismantling low-income tenant protections.

It eliminates funding for HOPE VI programs, a program that Congress reauthorized last year on a bipartisan basis; and it cuts the McKinney-Vento homeless prevention grants by $2 million.

Mr. Speaker, instead of spending billions on missile defense and other Cold War inventions, we could put more resources into housing, which is a national emergency and a national disgrace; and instead of spending $1 trillion in tax breaks, we could put more resources into our communities by providing the tools that they desperately need to combat crime and to deter crime.

Let me just tell my colleagues for a minute a little bit about violent crime in my own district. Last year, in Oakland, 114 lives were ended in senseless killings, and 17 people have already been killed in the first 6 weeks of this year.

□ 1915

It is not unlike any other urban area where opportunities just do not exist. It is a vicious and deadly cycle, and it must end.

But to end the bloodshed and the pain, not only in Oakland but throughout our country, we must have a comprehensive approach and put the resources to address the root problem that fuel the cycle. We know many of the factors that contribute to violence among young people: drugs, the lack of job training, employment opportunities, and a lack of options. The hard truth of the matter is that young people have no hope, and homelessness breeds anger, despair and crime, so we need to offer hope.

By sending jobs offshore, outsourcing, moving manufacturing, technology and service jobs offshore, today I asked Mr. Greenspan in our Committee on Financial Services, what do we tell our young people? What do they go to school for and for what jobs? These jobs are nonexistent, so what are our options for our young people?

What does the President offer to our law enforcement agencies to help them combat and to deter crime? The administration has offered cuts, cuts and more cuts. The budget cuts juvenile justice and delinquency prevention grants by 43.9 percent, and it eliminates the Edward Byrne formula and discretionary grants, the State criminal alien assistance program, and local law enforcement block grants. The budget cuts $655 million from the COPS program which provides grants and other assistance to help communities hire and train and retain police officers and improve law enforcement technologies.

I can say that this directly harms our community where every night 9 out of the 35 beats in Oakland are not covered because they simply cannot afford the staff.

In addition to community policing, we need to make a local and a national investment in violence prevention. We need a real plan, a real plan for the reentry of ex-offenders. There are 1.4 million inmates in America's State and Federal prisons, and more than 600,000 will be released to return to their communities this year. These inmates are parents to 1.5 million children. If adults recently released from prisons and jails and those on parole are included, the number of affected children more than doubled to an estimated 3.2 million.

Clearly, the President's meager offering of a $300 million 4-year program, or $75 million a year for reentry, is a drop in the bucket. We could use that just in my congressional district. This program amounts to about $125 per inmate leaving prison this year. What in the world is that about?

Mr. Speaker, the Bush budget underfunds our communities and our country. We need a jobs program. The unemployment rate among African Americans rose to 10.5 percent last year, significantly higher than the unemployment rate at the beginning of the Bush administration. The unemployment rate for Hispanics rose from 6.6 percent to 7.3 percent in 1 month. This rate is 24 percent higher than when Bush took office. Despite these realities, the Bush budget squanders an additional $1 trillion over the next 10 years on additional tax cuts for the wealthy. The President's budget does nothing to create jobs, to create good-paying jobs here at home.

We also need job training, yet the President's budget contains $286 million in cuts for job training and employment services. These cuts come on top of $1.5 billion in cuts to job training and related services already enacted that President Bush has proposed since he took office.

We need to invest in education and after-school programs. But, instead, this President's budget underfunds Leave No Child Behind by about $9.4 billion.

It leaves 40 percent of children eligible for Head Start out in the cold, and it provides only half of the funding promised to after-school programs, meaning the 1.3 million children who were promised after-school services just will not get them.

We need to invest in basic health and mental health services, but, instead, this budget freezes funding for the Maternal and Child Health Block Grant title 10 family planning program and also the Healthy Start program. It freezes all of this funding.

It also proposes an additional $25 billion in tax breaks for health savings accounts, a proposal which benefits the healthy and the wealthy and will raise premiums for most Americans. The President's association health plans will raise premiums for about 20 million Americans and reduce benefits for millions more.

Mr. Speaker, this President is really more interested in the future of the bank accounts of the rich in this country than he is about the future of our communities. It is really about choices. We could choose to invest in the future, grow our economy, enhance our security, look out for our children and our seniors and those who are struggling economically, the poor. Or we could provide tax cuts for multi-millionaires and special interests. That is the choice the Bush budget offers; and, unfortunately, the choice is very grim in terms of this budget, which is a road map, which is a budget that speaks to, really, the values of this administration which I believe are very unAmerican values.

I urge my colleagues to continue to spread the word about this dangerous Bush budget and to let them know in November what we think about his budget priorities.

Mr. Speaker, I yield to the gentleman from North Carolina (Mr. BALLANCE).

Mr. BALLANCE. Mr. Speaker, I thank the gentlewoman from California (Ms. LEE), my leader, before I got to Washington; and I thank the gentleman from Maryland (Mr. CUMMINGS), the chairman of the Congressional Black Caucus, and the gentleman from Florida (Mr. MEEK), who will speak later on.

I am proud to stand here tonight as an American, indeed, an African American. I am proud to live in America, the land of the free and the home of the brave, the land of opportunity. But there is a problem. There are some for whom the promise of America is not being realized. They are the unemployed, the laid off, the jobless, those whose unemployment has run out, and those who have been looking for a job so long that they have given up.

America can do better. Why are we not doing better? I submit it is because we have the wrong priorities, and I submit that the budget that our President presented to us last week has the wrong priorities.

I want to talk just briefly about a section of the country, North Carolina, a section of North Carolina, rural, poor, eastern, that I represent. It is called the First Congressional District. It is largely rural, largely African Americans, Native Americans, facing devastating job losses and obviously sweeping economic concerns. I am deeply concerned about the well-being of thousands of families, thousands of unemployed, thousands of laid off who live in my district.

During the President's State of the Union address in January, I listened carefully and I heard nothing that would tend to address the needs, the hopes and desires of those of whom I speak. Yes, after reviewing the proposed budget, my concerns continue to grow. With a staggering 31,767 people unemployed in the First District as of December 1, 2003, additional plant closings and layoffs threaten to raise that number even higher and to stress and distress an already unstable economy.

In fact, just last week Rubbermaid of Greenville, North Carolina, announced plans to lay off another 315 workers this coming month. They join the ranks of other plant closings, dozens in my area, since the summer of 2003.

During his State of the Union address, the President promised more tax cuts, more permanent tax cuts. He had already promised that those would generate jobs. We have heard that pitch before. It has not materialized, and we do not believe it is going to materialize this time around, so that is why we are here tonight. We have to continue to speak out and cry out and make a plea that we will change our policies and provide opportunities for families, for jobless, for people who are hurting, people who are losing hope.

Since 2001, this Nation has lost 2.9 million jobs. Locally, in Vance County, one of the counties I represent, they suffer an unemployment rate of 12.5 percent, more than double the national unemployment rate. The President's priorities do not appear to match those of working families in eastern North Carolina. We have a few millionaires in eastern North Carolina, but they are very few.

With jobs continuing to disappear, despite 3 years of promises through tax cuts, our families want to enjoy the same quality of life afforded every other family throughout the Nation. They want to live in a sound economy, free of the fear of losing their jobs. They want to raise their families, have good health care, and to continue to express their patriotic values as Americans.

This budget relies on tax cuts which sacrifice priorities for funding at home for those items that I just mentioned. On last year's tax cuts, the poorest 20 percent of North Carolinians received a mere $69. We know about the theory, if you give it to the rich, it will trickle down, but it is not working. We are losing jobs.

I sent the President a letter last week inviting him as he travels to please come to northeastern North Carolina, please visit Roanoke Rapids, Henderson, and Rutherford, North Carolina, to see what is happening when people lose their jobs, lose their hope, are standing in the unemployment line, and finding that their unemployment has run out.

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As I said earlier, America can do better. We have the ability. We have the technology. We simply have to get our priorities straight in order to help those who are most in need. I thank the gentlewoman from California so very much for this opportunity.

Ms. LEE. I want to thank the gentleman from North Carolina for his very eloquent and very clear statement. One thing that the gentleman from North Carolina pointed out was that this unemployment and the fact that poverty is rampant now speaks to rural, as well as to urban, communities. This is something that I do not think the President has recognized in this budget. I do hope he accepts the gentleman's invitation to come to his district because maybe then we will see a revision of this budget to speak to some of those issues.

Mr. BALLANCE. I thank the gentlewoman. I look forward to that.

Ms. LEE. Mr. Speaker, I yield to my good friend from Florida (Mr. MEEK), a leader in the Committee on Armed Services, who has truly and is truly making his mark here in the House of Representatives.

Mr. MEEK of Florida. I want to thank the gentlewoman from California for her comments earlier about what this budget is doing to America versus for America. I think it is important in our democracy to be able to outline not only the pitfalls but where we can play offense, moving forward, moving this country forward.

As I speak about moving our country forward, it is important that we have a budget that is going to reflect our qualities and our values here in the United States. When I see a budget such as the President has sent here to the Hill, I cannot help but question the priorities of the administration versus the priorities of families that are living here in the United States, those that are working and those that are looking for work.

I must say that being a past creature of State government, I think it is important that we understand when the Federal commitment is cut, then the State commitment has to be cut. And when the State commitment is cut, then the local government commitment to communities and families is cut also. When I am talking about local government, I am not just talking about your counties or your parishes or just a city, I am talking about school boards. We call it devolution of taxation here in Washington, D.C. We cut it here, and they raise it there. Property taxes have gone up throughout this country, in all communities, not because local governments are saying that we like to raise revenue locally; they are doing it because the Federal Government is no longer supporting and helping and assisting local communities in vital programs that put forth the quality of life in America that we enjoy.

I just want to share a few figures. I am going to speak briefly tonight. States are currently facing their worst fiscal crisis in decades, with 41 States facing a cumulative budget gap of $48 billion for 2004 alone. States are facing budget deficits of approximately $40 billion for States in fiscal year 2005 and nearly $200 billion. How are they going to make up that gap? They are going to make up that gap by raising tuition on students and working families, individuals that are going to community colleges trying to better themselves, prepare themselves as it relates to having an educated and prepared workforce which makes this country strong; also as it relates to making sure that we do not spend billions and millions of dollars in incarcerating individuals since we cut the COPS program.

I was so glad to hear my colleague speak of the cuts that are in the COPS program. Not only am I a member of the Committee on Armed Services, as was mentioned earlier, but also the Select Committee on Homeland Security. I think it is very, very important that we protect the homeland, and I know it is important that we defend our country. But at the same time I must say that we are going to fall short in having young people who may make youthful indiscretions due to the fact that its government and its local community failed them by making sure that we have vital direction programs to be able to build the kind of integrity and the kind of culture that we would like to build here and continue to maintain here in the United States.

Let us talk just for a moment about local governments. Being a past State trooper, I have a great appreciation for what police chiefs are trying to do in this country, and sheriffs, all of them. I believe that all sheriffs and all police chiefs genuinely would like to see a community that works towards harmony and also works towards making sure that they do not have to carry out the act of having to arrest individuals in a given community. If we continue to follow the track of this budget that has been sent by this administration to the Congress, and I am speaking to my colleagues here because we have to really man up and woman up and go see the wizard not only to get courage but also to get heart and making sure that we stand up on behalf of those individuals who cannot stand for themselves. We see a rural housing and economic development program that is cut by $25 million, and we also at the same time see dropout programs that are also cut. We also have a HOPE VI revitalization for severely stressed public housing that is cut by $149 million. Someone may say, well, we have to cut spending; but, ladies and gentlemen, we are not cutting spending. We are going further into spending, away from what we may say are mom and apple-pie issues here in the United States.

As we start looking at our democracy and as we start looking at what we must do as Americans, and all of us have been elected to lead, doing common things uncommonly well in this country, of making sure that we do not hand a mandate to local governments to where they have to fulfill that mandate by raising taxes on everyday working Americans. Yes, we may receive a $400 check or a $300 check in the mail; but also on the other hand, out of our left pocket money is being pulled out, through property taxes, money is being pulled out on local referendums and bond referendums because the Federal commitment has been cut.

I just want to say, ladies and gentlemen, as we look at this deficit that has grown under this administration, as we look at our commitment as Americans of making sure that we stand up for our children's future, as we make sure that children that are born, newly born in a hospital as I speak now already owe the Federal Government $24,500, and dollars that are not in a deficit, and paying on a deficit that we are creating, that this administration is creating, then we are going to find ourselves in a very sad situation looking at the abuses of contracting and all of these things that are going on as relates to the war in Iraq.

I just want to say that it is important that we continue to share these bread-and-butter, literally, bread-and-butter issues with Americans about where this administration is falling short as it relates to providing the kind of leadership. It is just something fundamentally wrong, if you are a Democrat, Republican, independent, socialist, whatever you want to be a member of, the Green Party, you name it, for a President to speak passionately on making sure that we make tax cuts permanent on behalf of the wealthiest Americans and not speak passionately about making sure that we provide the necessary, not the funding that it deserves but the necessary funding to educate our children, to be able to provide a health care system that is going to make our country healthy and to be able to help local governments as it relates to their commitment of protecting the home front and our local communities. Because with the defensive budget that the President has sent to the Hill, it leaves very little room for us to play offense in solving and hopefully stopping some of the issues that are going to be far more expensive than it would be if we were able to prevent them.

I thank the gentlewoman so very much, and I want to commend my colleagues for coming to the floor and sharing with America about what is going on and what we are going to fight against to make sure that we maintain the America that we celebrate today.

Ms. LEE. I want to thank the gentleman from Florida for really laying it out in terms of his very clear presentation. As I was listening to him explain the relationship between the Federal budget, local budgets and State budgets, he was really talking about the dismantling of America as we know it. I think that his voice and his breaking it down like that helps the public understand that what this budget does is not what America is, is not what we stand for. I just want to thank the gentleman for coming this evening and for being a part of this.

Mr. MEEK of Florida. I am so glad once again that the Congressional Black Caucus saw fit to share with all Americans what is happening to them versus for them, because we are here to make sure that good things happen in America and that we push programs that are putting people to work and that are making sure that our children are not left with a bill, that we are willing to eat steak and have a good time right now, so that we dismantle our future in America. We want to have it better for them than it was for us.

Ms. LEE. Let me now yield to the gentlewoman from Texas (Ms. JACKSON-LEE), a member of the Committee on the Judiciary, someone who is a strong fighter in terms of protecting our Constitution, who works tirelessly not only for her constituents but for children and families throughout our country and throughout the world.

Ms. JACKSON-LEE of Texas. I want to thank the distinguished gentlewoman from California. First of all, I want to thank her for her determinedness. Some would wonder why we would spend time on the floor late into the evening trying to dissect, whether it is HIV/AIDS and the funding that she worked so hard for and we are

finding now that the funding is falling short, working on questions of war and peace, and they would simply wonder why we are here at this time of night speaking to our colleagues and debating an issue. I want to thank her for always being ready to educate not only Americans but our colleagues on these issues that are so particularly sensitive and important to many people who cannot speak for themselves. I thank her for allowing me to join in this evening with my colleagues from Florida and North Carolina and Maryland. I want to read the roll tonight, because this is, I think, the way to shock a lot of us into realizing what has happened when you begin to spend moneys that do not have priority, are not prioritized.

I know that the gentlewoman did not call me to the floor, and I did not come to the floor, to begin a debate on the question of Iraq and the expenditure of $87 billion and the mounting billions, I guess we are up to $175 billion, going up to 200 at this point because we are spending, as I understand it, I know we are spending a billion a month in Afghanistan. I know we need more troops in Afghanistan; and I think none of us, if I can just repeat the statement that I make all the time, are divided amongst our support to the troops, and we respect the young men and women that are on the front lines in Afghanistan, Bosnia, Germany and Iraq. But I think many of us made the point that we questioned the value of going to war in the first place, and now where we find ourselves as we look toward the future, one, in an unsolved resolution of the conflict in Iraq. It is unsolved, there is no resolution to it, there is no plan; and so we continue to spend money in Iraq, and we have many ills and problems with it which really has created, where I am going, the $551 billion deficit that we now face and that is because we have not made priorities, we have not had an administration that has been willing to make the hard choices.

I heard a discussion of the President and I always tell my constituents, I respect the office, I respect the person, but I heard a discussion, I think, this past Sunday where there was no reason given for going to war and there was no reason to give response to the state of this economy. It was that we will get jobs, or they are coming; and it does not really address the fact that as the Commander in Chief and the CEO of this Nation, you have to sit down and make hard decisions. Are you going to put together a domestic spending budget that addresses the needs of our people, all of our people, the hurt, the pain of the people? Or are you going to say, it is going to fix itself? And I think what I heard in the President's presentation is, it will fix itself. We'll go ahead and put $1.1 trillion in permanent tax cuts, mostly to both the richest of Americans and also to corporations. In doing that, we will then put ourselves in a position to see the $551 billion deficit continue to grow, and as well we will see it grow into 4 to $5 trillion.

The gentlewoman and I were together over the weekend in a very important meeting, and we heard the point being made that what that symbolizes, what that means is that the President and the Vice President are sitting late at night and, like me, have their glasses on, I imagine, and looking over Social Security checks that need to be going out to our constituents and literally endorsing them to pay our bills and to pay the permanent tax cuts, taking your Social Security fund, if we do not put a stop to it, and literally endorsing them for this increasing deficit and the tax cuts that are now being made permanent, or at least proposed to be permanent. That is what I say when I am talking about priorities.

We are now facing a 10-year deficit of at least $4 trillion. We have about $551 billion in deficit right now, $146 billion more than we projected in 2003. So what has happened is, let me just begin to read the roll. In the budget proposals, here is what is happening to programs that Americans have become used to depending on. I am not even listing the crisis that we have with the Medicare prescription drug question where we started out saying it was $400 billion, now it has risen to $534 billion, and we have got a lot of complaining in the United States Congress. I think we have said that when we debated on the floor of the House, we needed a precise, narrow bill that dealt with giving a guaranteed prescription drug benefit to seniors.

□ 1945

We did not need an investment in our good friends in the pharmaceutical industry. We did not need an investment in the HMOs. We did not need to tell this government that it could not even negotiate a cheaper price, but that is a whole other story.

But listen to this: No moneys for the advanced technology program. That is a program that typically, $171 billion, used to help, if one will, put together programs and technology programs for the benefit of small companies. That is gone.

Technology opportunities programs. We have talked a long time about digital divide. That is now gone. We will not get that.

Programs dealing with alcohol abuse reduction. We used to have a program that would help deal with alcohol abuse in our systems. Let me tell my colleagues that is important. More teenagers are drinking now. That is gone.

Arts in Education. That helps to, if one will, expose our children to art of many kinds. That is gone.

Community Technology Centers. Gone, no money for it.

Dropout prevention programs. Texas has one of the highest dropout rates among Hispanics and African Americans. I was just at a school this past week, and they said one of their major issues was dropout among middle school students. That is gone.

Elementary and secondary school counseling. I recall when we were all concerned about the number of shootings in our schools, and what did we do? Pass a lot of bills dealing with enhancing school counseling opportunities so we would have more school counselors. Gone.

Literacy programs for prisoners. Many of our incarcerated persons from our neighborhoods are illiterate. That is gone.

State grants for incarcerated youth offenders. Gone.

Women's educational equity. Gone.

National youth sports. Gone.

Empowerment zones. Funding not needed.

As I recall, I think I heard even the chairman of the Congressional Black Caucus get up and speak about the value of empowerment zones and what lives have been changed, how lives have been changed and how neighbors have been changed and how valuable they were.

Brownfields redevelopment. In my community alone we are still fighting to clean up brownfields, and I see that we have zeroed that out with an explanation, accomplishments not reported. What do they mean, ''not reported?'' We are still working to clean up brownfields, and I can assure the Members what that means to inner-city communities.

Let me cite Acres Home in my congressional district that has been working and working, the community has been working to get their brownfields cleaned up, and we are still going back in there with the EPA to see what has been done. That is gone.

COPS hiring grants, $119 million, gone. They say that it has merged with other programs. I do not know how one can do that. If it is merged, it is gone, and it means there is no money.

For those who come from areas where there are migrant and seasonal workers, there were moneys in order to enhance their quality of life. This is our farming industry that needs migrant and seasonal workers. We have eliminated resources that can help them with their better quality of life.

Let me conclude with the Microloan program from the Small Business Administration. Gone. Microloan program. Gone.

As I show this picture to our friends and colleagues, it seems to me that we have got a Swiss cheese here, a budget with a lot of holes. It seems to me, Mr. Speaker, that what happened is that the priorities were disproportionately weighted toward those who already have, and if they can come up with a budget to the floor of the House or to the Congress and tell us that they have cut arts education and so many other things that impact people's lives, then I think that it is now time for us to rally and to be able to address needs of the American people.

I thank the gentlewoman for allowing me to come. I am going to keep this somewhere visible in my office to know how many people have been hurt by this budget and to suggest that this Congress is obligated to fix the problem on behalf of the American people.

I thank the gentlewoman for allowing me to share this list of the have-nots, because I think the only way the have-nots will gain their rightful place is for us to begin the fight and to be able to write a budget that makes sense on behalf of the American people.

I rise today once again begin disappointed with this Administration's efforts to truly represent the values of average Americans and of the African American community. President Bush's latest efforts in the form of his 2005 national budget continues his irresponsible economic policies that have resulted in so many Americans suffering. This Administration has a credibility crisis. President Bush has said his tax cuts would act as a stimulus for our flagging economy and create jobs, this clearly has not happened. Instead of adopting more inclusive policies this President has decided to give even more tax cuts to benefit the wealthy. This Administration has misplaced priorities that are leaving average working Americans and our community in a bind.

EDUCATION

We all know that education is one of the most important priorities for our African American community. Our children's success or failure will be the true indicator of our effectiveness in this body. The generation of African American leaders who preceded us spent their lives making sure that we were able to get educated and have the ability to succeed that every American was entitled to. This President's budget threatens that very core principle. This is more than rhetoric; this idea is based on staggering facts. Of the 65 programs cut completely from the Bush budget, 39 of them were education programs. This President believes America will be better off if the richest Americans get $66,000 tax cuts, but he doesn't believe our children will be better with programs like Dropout Prevention, Even Start and School Leadership, all of which are now obsolete. This President has a different set of priorities when he believes that hundreds of millions of dollars in cuts for our children's education will be better for America. We as a united community and an integral part of this Nation can not allow this flawed budget proposal to stand. Our children's future and in turn the future of the African American community is at stake.

DEFICIT

The most disturbing aspect of President Bush's flawed budget proposal is the soaring deficits that will result from his policies. This administration has tried to say that deficits don't matter; we know that this is simply not true. History has proven that chronic deficits threat our economic strength by crowding out private investment, driving up interest rates, and slowing economic growth. Indeed foreign investment in the United States has dried up because foreign investors have no confidence in the Bush economic agenda. This Administration's irresponsible budget policies have turned a surplus into a large deficit that is choking off growth in the American economy.

President Bush likes to say his budget is geared towards tax cuts for all Americans. When in fact the average American won't receive a substantial tax cut, but will instead be hit with a tax hike in the form of an ever-growing deficit. A large deficit means taxpayers have to shoulder the costs of paying the interest on this new national debt. The end result will be a debt tax on the great majority of Americans. This will be a tax on lower and middle class Americans; it will be a tax on our heroic war veterans; it will be a tax on the elderly and most unfortunately it will be a tax on our children. The truly sad part of the President's budget is that while it is bad for America today it is even worse for future generations of American taxpayers.

TAX CUTS

I want to highlight some of the most egregious examples of this Administration's misplaced priorities. President Bush believes we can spend tens of billions of dollars a year to provide $66,000 tax cuts to the top 1% of tax payers, but he does not feel we can afford many vital programs many of which are tied to our national security.

Perhaps the most blatant example of this Administration's irresponsibility is the fact that the FAA budget was actually cut. At a time when our national security is under such great scrutiny I can not think of too many agencies that face greater pressure than the FAA to keep our nation safe. How can this President spend so much time and effort stressing the importance of homeland security and then cut the budget of the agency on the front line of stopping terrorists from attacking our nation? The irresponsibility does not stop there; the President's budget fails to provided the U.S. Postal Office with $779 million needed for bio-detection technology that guards against anthrax-like attacks. After the Ricin incident in the Senate Office Buildings a few days ago, how can anyone in this body in good conscious approve a budget that does not address our vulnerability for bioterrorism attacks through the mail? This is where President Bush lacks credibility, he has taken drastic and some would say unconstitutional measures in the name of national security, but now when it comes to fully funding our most sensitive security concerns he decides it is more important to appease the richest 1% of Americans with irresponsible tax cuts.

Unfortunately the misplaced priorities do not stop with our national security. The ''No Child Left Behind'' initiative is left under funded by $9.4 billion a full 27% less than Congress authorized. Funding for America's veterans will be cut by $13.5 billion over the next five years. Its truly sad how this President not only doesn't fully fund sensitive security issues, but he is also cutting funding to two of our most sensitive constituencies; our children who are our future and our veterans who in the past have sacrificed so much so that we may live freely. Instead of supporting those constituencies this President believes that the richest 1% of Americans deserve yet another tax cut. These misplaced priorities are evident throughout the President's budget and demonstrate a fundamental lack of understanding about the needs of the average American.

JOB LOSS

President Bush has been one of the worst Presidents ever to take office when it comes to job creation. Simply put, our economy can never truly be considered successful until Americans who want jobs can find jobs. This is simply not the situation that the average American faces today. Under the Clinton Administration job growth continually improved. In contrast, under the Bush Administration the rate of unemployment has soared. In his State of the Union Address the President stated that jobs are on the rise, unfortunately the rise in employment he spoke of amounted to 1,000 jobs created over the last month. At that rate of job growth, it will take 192 years and eight months for the economy to return to the number of jobs at the beginning of President Bush's term of office. We are 8.4 million jobs behind where we are supposed to be at this point. That is a staggering number and it should be unacceptable to every member of this body. The Bush Administration assured the American people that tax cuts would result in job growth. The American people are still waiting to see this growth, too many of them are waiting unemployed and fearing for their prosperity. This Administration has argued that deficits do not matter and that job growth is not an economic priority. I can't think of too many Americans who would agree with that assessment. This President is not in touch with the needs and aspirations of the American people. This budget continues to reflect his irresponsible agenda based on a few special interests.

IRAQ AND AFGHANISTAN

It's unfortunate that this Administration does not understand the necessity of proper planning and vision. It has become painfully obvious to many of us in this body that this President did not have a plan to deal with post-war Iraq and Afghanistan. That point is once again made obvious by the fact that in this entire budget there is no funding included for the 2005 costs of ongoing military operations in Iraq and Afghanistan. This is truly irresponsible, our brave fighting men and women are risking their lives in Iraq and Afghanistan and this President can not even provide figures for the costs that these military operations will incur. Does this President want us to believe that the costs for this War on Terror have disappeared? Or is he telling us that he plans to pull our troops out of Iraq and Afghanistan? Once again, this President's irresponsible agenda is being exposed; he does not have the credibility to allow yet another flawed budget to pass this body.

NASA

I was there a few weeks ago at the White House when President Bush announced his new NASA initiative to return America to the moon and eventually man missions to Mars. The funding for NASA has been increased in this budget, but it only begins to pay for future exploration efforts, a detailed plan on how the President plans to achieve his NASA initiatives is still needed. I believe the President when he says he has the aspiration to get America back to the moon, its just unfortunate that he does not have the proper planning to do so. His actions in Iraq and Afghanistan leave him no credibility in this body to believe that he can achieve his ambitious agenda. This entire budget in fact is riddled with false promises and under funded ambitions.

CONCLUSION

This President has spent a great deal of time while in office talking about patriotism. He has stood in full gear on board an aircraft carrier in an effort to show the American people how patriotic he is. However, in my mind a patriot is a person who stands with their nation.

In submitting this flawed budget this President has shown that he does not stand with real average Americans. It is not patriotic when you bring your nation from a point of success to the point of failure in the form of an enormous federal deficit. It is not patriotic when you side with the interests of the richest one percent of Americans and then cut or eliminate the programs that serve the great majority of Americans. It is not patriotic when our children are left behind without the proper resources to truly succeed. It is not patriotic when you ignore the wishes of an entire community in order to push through your own ideological agenda. This President talks about patriotism but when it comes to standing with average Americans and standing with the African American community to serve the interests of the entire nation this President has consistently failed.

This President has time and again asked for patience from this body and from the American people to allow time for his policies to start showing progress, unfortunately time has run out. Too many Americans are suffering and it is clear that President Bush's vision for America is not one that coincides with that of the average American or with the African American community. I hope we will continue to stress the danger of this budget, together we will be the ones to push the true interests of our constituents, to push for a real vision of America.

Ms. LEE. Mr. Speaker, I thank the gentlewoman from Texas for really calling the roll and for putting it out there and for reminding the country that, yes, the President did indicate that, for the most part, that the economy and our job crisis would just about fix itself. How do we tell young people that as we encourage them to go to school to develop skills and knowledge to get a job when, in fact, the economy does not allow for that?

Again, I must repeat that today we talked with Chairman Greenspan, and his response in essence was the same thing. It will just have to fix itself.

How do we allow a government as great as ours to just give those kinds of responses when we know that tax cuts for the wealthy are there, we know that the war, as the gentlewoman indicated earlier, is being funded to the tune of billions and billions and billions of dollars?

I think that what the gentlewoman from Texas (Ms. JACKSON-LEE) talked about tonight shows us that it cannot just fix itself. It is a matter of misplaced priorities, and we have got to demand that our priorities be reordered.

Ms. JACKSON-LEE of Texas. Mr. Speaker, if the gentlewoman would yield, I see the gentlewoman from Florida (Ms. CORRINE BROWN), and I know she is going to pick up on this because I know anything that helps her district she has already gotten. So I know she is an empowerment lady, she is a Hope VI lady, and I just want her to know that we are struggling.

I see this, and I did not mention it because I am a little bit confused. I was trying to be factual before I said it, but I am going to read this. Hope VI revitalization of severely distressed public housing, I know, in fact, my community is saying they are getting ready to send an application for Hope VI moneys, and I see that that has been deleted $149 million, and it says ''goals achieved.'' I did not want to call it because I thought maybe I had missed something, but it just came to me that my community was doing that.

I guess one other point I want to bring in about what the gentlewoman said about Mr. Greenspan is that there are some people who have been unemployed so long that they are not even in the system. They are not even getting unemployment. They are not even in line to get it. So we are looking at a budget that has to address those needs and to address this big whopper of a number, and it tells me that goals are achieved when I just left home and I have a community that is applying for a Hope VI grant.

Ms. LEE. Yes, Mr. Speaker, and Hope VI is being dismantled based on the President's budget.

I yield to the gentlewoman from Florida (Ms. CORRINE BROWN), member of the Committee on Transportation and Infrastructure, a member of the Committee on Veterans' Affairs, who fights each and every day for the protection of our democracy, for our veterans, for jobs, for the economy, for children and families throughout, again, our country and throughout the world.

Ms. CORRINE BROWN of Florida. Mr. Speaker, first of all, let me commend both the gentlewoman from Texas (Ms. JACKSON-LEE) and, of course, the gentlewoman from California (Ms. LEE) and the chairman of the Congressional Black Caucus and other Members for forging these kinds of debates and discussions on the floor of the House of Representatives, the people's House.

I have got to just take a moment to remind everyone that I am the congresswoman from Florida, the Third Congressional District of Florida. I, along with the gentleman from Florida (Mr. HASTINGS) and Carrie Meek, was the first Member of African American descent that was elected to Congress in 129 years. So we have a tremendous amount of responsibility.

I have to mention just for a moment the 2000 election. I do not think I can ever come to this floor and not mention the 2000 election, because I want the American people to know that it matters who is in charge. I want everyone to know that not just 500,000 people nationally voted for Gore, over 50,000 people in Florida voted for Gore. And if we are not careful, and if we look at the reports, the same thing will happen again. We can have another election stolen from the people, and the people will not have a voice in this House.

We have three separate branches of government. We have the administrative branch. We have the House and the Senate. It is a real honor to serve in the people's House, but the people do not have a voice in the people's House. The House voted against privatizing FAA. The House voted, the Senate voted, and it came back in the appropriations bill. The House voted against doing away with overtime pay. The Senate voted against it. It came back in the appropriations bill. We can only vote up or down.

So we do not have a dictatorship in this country, but we have a void, and that void needs to be taken care of in November.

One can tell something about a country, something about an organization, something about a church by their budget, the priorities of that budget. Just think about it. If one is in a church and they are concentrating on building and if they are in an organization that is just building and building, that tells one something about the organization. But if the organization is interested in the children, the senior citizens, the elderly, that tells one something about that group.

I can tell the Members that this budget is what I call ''reverse Robin Hood,'' robbing from the poor and working people to give tax breaks to the rich.

I want to extend that a little further because it is more than tax breaks to the rich. It is the rich that contributes to the Bush campaign re-election fund. All one has to do is follow the money. I say follow the money.

If we look at the budget, what has been cut? Veterans' programs, homeless, public education. And that is the real joke. They stole this, just like the election, ''Leave No Child Behind,'' but this administration are not only leaving the children behind, they are leaving their grandmothers and everybody else.

Public transportation, seven out of the 15 Cabinet-level agencies cut; EPA cut; HUD cut; Department of Agriculture cut; Commerce cut; Health and Human Services cut; Justice, Transportation, and Treasury, to give huge tax breaks to those who have contributed to the President's reelection campaign. And I stand by that. All one has to do is follow the money.

What is most disturbing to me, and there are many things that are disturbing, but how the veterans' budget is being cut. When the President made this great discovery that he wanted to go to Mars, and I guess he is going, it comes out of the VA HUD budget. They are already cutting up HUD, and now they are going to squeeze the veterans' budget even more. So that additional money for NASA is going to be taken right out of the hides of the veterans in this country. Misplaced priorities.

There is one area that I want to ask questions in before we end, and I will turn my statement in. Under the area of homeland security, in Florida I guess we have got some kind a scheme. I have talked to mayors on both sides of the aisle, first responders. They have not received a dime under homeland security. I have talked to other Members

of Congress. They have received the moneys in the area, but they have taken off a portion for administrative. But in Florida they come up with this list and in Tallahassee they can decide whether or not to send any of that money to the community. They are not sending them money, but they may send them flight suits or something. But the community is using COPS programs and they are using additional police or fire as first responders because that is where the money is needed.

We are not checking the ports. We are not checking the containers that are coming in. So homeland security is a failure under this administration, just like so many other areas.

But would the gentlewoman respond to what is happening in her area under homeland security?

This budget is another clear example of reverse robin hood: robbing from the veterans, the homeless, public education, public transportation, and 7 of the 15 Cabinet level agencies (the EPA, HUD, The Departments of: Agriculture, Commerce, Health and Human Services, Justice, Transportation, and the Treasury), to give away huge tax breaks to those who contribute to President Bush's re-election campaign.

Once again President Bush came out with a budget that is too little, too late. It is a budget that short changes the middle class, a budget that does nothing for minorities. And it is mind blowing that the Administration is going ahead to make the trillion dollar deficit they created even worse by building another budget around more tax cuts, and making them permanent! As is obvious from the budget introduced today, President Bush is the president of special interest groups.

Time and time again our veterans get the shaft. The fiscal year 2005 budget is a perfect example of how the Bush administration is failing to treat our veterans with the respect that they have earned. We show potential and current members of the armed forces how America honors their sacrifice by how well we treat our veterans. We owe it to the soldiers, airmen, sailors and marines, who have served as a source of pride in our Nation, to begin enrolling Priority 8 veterans into the VA healthcare system; increase the VA home loan guaranty to 90 percent of Fannie Mae-Freddie Mac's conforming limit so that the guaranty keeps pace with the rising cost of housing; maintain VA staff at an adequate level so that already backlogged claims can be processed; and fully fund concurrent receipt for every eligible veteran. This budget is not adequate to meet the needs of 25 million of our nation's finest individuals.

Ironically, the President's budget plan, which rhetorically proposes to strengthen our economy and our national defense, will only weaken them. Economically, the huge budget deficits are more than just an accounting problem, they will be injurious to our children, and our children's children, who will be forced to repay the record amounts of debt we are borrowing today. And it is not necessary to be an economist to know that chronic deficits threaten our economic strength because they crowd out private investment, drive up interest rates, and slow economic growth.

The budget proposed today makes it quite evident that the Bush Administration does not have any plan to eliminate the budget deficits, and in fact, is pushing headlong toward expanding the size of the deficits. The $5.6 trillion ten-year surplus projected when the President took office has been replaced by deficits year after year. For 2004, the budget proposes a record deficit of $21 billion—$146 billion more than the 2003 deficit, which was also a historic record. Deficits for every year are worse than projected a year ago.

Moreover, it is mind blowing that the Administration, in the face of these deficits is only making them worse by building its budget around yet another set of tax cuts! These tax cuts will reduce revenues by $1 trillion, and driving the budget further into the red. And what's more, the President is doing everything he can to make them permanent!

This budget is completely unrealistic because it leaves out countless items. Once Administration initiatives like additional costs for military operations in Iraq and Afghanistan, Medicaid giveaway and space travel to Mars are included, the Nation's deficit will spiral even higher. This is an administration that is not only without a plan to erase the deficit, but by proposing to make their tax cuts permanent, they will push the current deficit to sky high levels.''

Ms. LEE. Mr. Speaker, I thank the gentlewoman, first of all, for a very powerful statement.

Secondly, just to paint a picture very quickly, my area is an area that is a very vulnerable area. We have a great port. We have a major transit system. We have laboratories, universities, a very high-risk area.

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We are severely underfunded. Our first responders do not have the resources, our schools do not have the resources, our ports still do not have the resources. We need to be able to check containers before they are put on the ships and brought over to our country. Our police officers are getting cut. We do not have the funding for police officers. Our county submitted an excellent application 2 years ago. It is still not fully funded. I believe for the most part the majority of California has not been funded in terms of homeland security.

This budget I do not think steps up to the plate. Domestic security should be our first priority in terms of the fight against terrorism. Again, I do not believe that our budget and this budget reflects that.

So I say to the gentlewoman from Florida (Ms. CORRINE BROWN), we are going to have an uphill battle this year. But I think the American people are waking up and understanding that we do have some issues with regard to national security. But those issues should be prioritized in terms of our domestic security, and this budget and last year's budget did not fund our first responders, our firefighters, police officers and homeland security efforts in my arena.

Ms. CORRINE BROWN of Florida. As the gentlewoman said, as far as HUD is concerned, with the cutting out of the programs, prevention programs that were supported, and in addition we are cutting the COPS program that helped the community.

Ms. LEE. That means that crime will increase.

I thank my colleagues for joining me tonight.

Mr. HOYER. Mr. Speaker, as we honor Black History Month fifty years after the landmark Brown v. Board of Education decision, one would think that we would be able to celebrate the end of the ''separate but equal'' doctrine and laud the accomplishments of America's black community.

There is no doubt that we have come a long way from the days of Jim Crow and segregated schools, but the ''separate but equal'' doctrine did not disappear with the waving of a magic wand by the courts fifty years ago.

Today, in some instances, it seems to be one accepted by the current White House. The President's Fiscal Year 2005 Budget released earlier this month is a potent example of this Administration's willingness to tolerate two Americas. But now, like then, the doctrine is better characterized as ''separate and not equal.''

Instead of celebrating the achievements of black entrepreneurs like Madame C.J. Walker, Earl Graves and Bob Johnson, I am obligated by the economic plight of many black Americans to discuss how the President's economic policies are failing minority communities.

Under the President's budget the White House seems to believe that ''separate but equal'' is acceptable in our nation's economy.

The President did not make job creation a priority in his budget. While he increased funding for some job programs as a campaign ploy, he cut funding for other programs. Meanwhile, the unemployment rate among African Americans increased last month to 10.5 percent, more than double that of white Americans. When the President assures Americans that the economy is getting better and that jobs are being created, he certainly can't be addressing black America.

In addition, the Bush budget cuts nearly $80 million in funding for the Small Business Administration, which plays a key role in helping minority owned small businesses grow.

Finally, the SBA programs targeted at low-income and minority communities—the Microloan Program, the New Markets Venture Capital Program, the Business Information Centers, and others—received no funding.

This month should also be a time for celebrating the black Americans who have contributed to education. Carter G. Woodson was a visionary who established Black History Month. Woodson realized that white and black America knew little of African Americans' accomplishments and he was determined to educate America on those achievements.

Instead, I am forced to talk today about the fight against a budget that will shortchange America's children, including African American children who disproportionately attend poorly performing schools. The President's budget would fail to provide $9.4 million in promised education funding, eliminate the Even Start program and freeze funding for Pell grants and cut the funding of Perkins loans by nearly $100 million, shutting the door on college for many minority students.

We should also laud this month the pioneering efforts of Dr. Charles Drew, whose groundbreaking medical work with blood and

transfusions have saved lives around the world. Instead, we must focus our hearts and minds on the 7.4 million African Americans without healthcare insurance and the millions more who can barely afford to pay their premiums. The President makes no serious attempt to address these issues in his budget.

In addition, the President's budget cuts by 15 percent funding for the Office of Minority Health. This office supports disease prevention, health promotion, and educational efforts in minority communities. Black Americans suffer proportionally higher rates of heart disease, obesity and diabetes and are in need of such services.

The disparities between the lives of many African Americans and the rest of our country are unconscionable. Whether one looks to jobs, education and healthcare the President's budget fails to address problems facing the African American community at virtually every turn.

Mr. Speaker, I would like to be here today speaking of African American contributions and achievements. Instead, I am compelled to talk about the persistence of ''separate but equal'' in our society, and the sad fact that the President's budget does little to confront this entrenched separation in our country.

A WISE CONSISTENCY

The SPEAKER pro tempore (Mr. BEAUPREZ). Under the Speaker's announced policy of January 7, 2003, the gentleman from Texas (Mr. PAUL) is recognized for 60 minutes.

Mr. PAUL. Mr. Speaker, a wise consistency is the foundation of a free society, yet everyone knows or thinks they know that consistency is the hobgoblin of little minds.

How many times has Ralph Waldo Emerson been quoted to belittle a consistent philosophy defending freedom? Even on this floor I have been rebuked by a colleague with this quote for pointing out the shortcomings of Congress in not consistently and precisely following the oath to uphold the Constitution.

The need to discredit consistency is endemic. It is considered beneficial to be flexible and pragmatic while rejecting consistency. Otherwise, the self-criticism would be more than most Members could take.

The comfort level of most politicians in D.C. requires an attitude that consistency not only is unnecessary, but detrimental. For this reason, Emerson's views are conveniently cited to justify pragmatism and arbitrary intervention in all our legislative endeavors.

Communism was dependent on firm, consistent, and evil beliefs. Authoritarian rule was required to enforce these rules, however. Allowing alternative views to exist, as they always do, guarantees philosophic competition.

For instance, the views in Hong Kong eventually won out over the old communism of the Chinese mainland, but it can work in the other direction. If the ideas of socialism within the context of our free society are permitted to raise their ugly head, it may well replace what we have if we do not consistently and forcefully defend the free market and personal liberty.

It is quite a distortion of Emerson's views to use them as justification for the incoherent and nonsensical policies coming out of Washington today. But the political benefits of not needing to be consistent are so overwhelming that there is no interest in being philosophically consistent in one's votes.

It is a welcome convenience to be able to support whatever seems best for the moment, the congressional district or one's political party. Therefore, it is quite advantageous to cling to the notion that consistency is a hobgoblin. For this reason, statesmanship in D.C. has come to mean one's willingness to give up one's own personal beliefs in order to serve ''the greater good,'' whatever that is.

But it is not possible to preserve the rule of law or individual liberty if our convictions are no stronger than this. Otherwise, something will replace our Republic that was so carefully designed by the founders. That something is not known, but we can be certain it will be less desirable than what we have.

As for Emerson, he was not even talking about consistency in defending political views that were deemed worthy and correct. Emerson clearly explained the consistency he was criticizing. He was most annoyed by a foolish consistency. He attacked bullheadedness, believing that intellectuals should be more open-minded and tolerant of new ideas and discoveries.

His attack targeted the Flat Earth Society types in the world of ideas. New information, he claimed, should always lead to reassessment of our previous conclusions. To Emerson, being unwilling to admit an error and consistently defending a mistaken idea, regardless of facts, was indeed a foolish consistency. His reference was to a character trait, not sound, logical thinking.

Since it is proven that centralized control over education and medicine has done nothing to improve them, and instead of reassessing these programs, more money is thrown into the same centralized planning, this is much closer to Emerson's foolish consistency than defending liberty and private property in a consistent and forceful manner while strictly obeying the Constitution.

Emerson's greatest concern was the consistency of conformity. Nonconformity and tolerance of others obviously are much more respected in a free society than in a rigidly planned authoritarian society. The truth is that Emerson must be misquoted in order to use him against those who rigidly and consistently defend a free society, cherish and promote diverse opinions, and encourage nonconformity.

A wise and consistent defense of liberty is more desperately needed today than at any time in our history. Our foolish and inconsistent policies of the last 100 years have brought us to a critical juncture, with the American way of life at stake. It is the foolish inconsistencies that we must condemn and abandon. Let me mention a few.

One: conservatives who spend. Conservatives for years have preached fiscal restraint and balanced budgets. Once in charge, they have rationalized huge spending increases and gigantic growth in the size of government, while supporting a new-found religion that preaches deficits do not matter. According to Paul O'Neill, the Vice President lectured him that Reagan proved deficits do not matter.

Conservatives who no longer support balanced budgets and less government should not be called conservatives. Some now are called neo-conservatives. The conservative label merely deceives the many Americans who continuously hope the day of fiscal restraint will come. Yet if this deception is not pointed out, success in curtailing government growth is impossible.

Is it any wonder the national debt is $7 trillion and growing by over $600 billion per year? Even today, the only expression of concern for the deficit seems to come from liberals. That ought to tell us something about how far astray we have gone.

Number two: free trade fraud, neomercantilism. Virtually all economists are for free trade. Even politicians express such support. However, many quickly add, yes, but it should be fair. That is, free trade is fine unless it appears to hurt someone. Then a little protectionism is warranted, for fairness' sake. Others who claim allegiance to free trade are only too eager to devalue their own currencies, which harms a different group of citizens, like importers and savers in competitive devaluations in hopes of gaining a competitive edge.

Many so-called free trade proponents are champions of international agreements that undermine national sovereignty and do little more than create an international bureaucracy to manage tariffs and sanctions. Organizations like NAFTA and WTO and the coming FTAA are more likely to benefit the powerful special interests than to enhance true free trade.

Nothing is said, however, about how a universal commodity monetary standard would facilitate trade, nor is it mentioned how unilaterally lowering tariffs can benefit a nation. Even bilateral agreements are ignored when our trade problems are used as an excuse to promote dangerous internationalism.

Trade as an issue of personal liberty is totally ignored; but simply put, one ought to have the right to spend one's own money any way one wants. Buying cheap foreign products can have a great economic benefit for our citizens and serve as an incentive to improve production here at home. It also puts pressure on us to reassess the onerous regulations and tax burdens placed on our business community.

Monopoly wages that force wage rates above the market also are challenged when true free trade is permitted; and this, of course, is the reason free trade is rejected. Labor likes higher-than-market wages, and business likes less competition.

In the end, consumers, all of us, suffer. Ironically, the free traders in Congress were the most outspoken opponents of drug reimportation, with the convoluted argument claiming that the free trade position should prohibit the reimportation of pharmaceuticals. So much for a wise consistency.

Number three: following the Constitution, arbitrarily, of course. Following the Constitution is a convenience shared by both liberals and conservatives, at times. Everyone takes the same oath of office, and most Members of Congress invoke the Constitution at one time or another to make some legislative point. The fact that the Constitution is used periodically to embarrass one's opponents when convenient requires that no one feel embarrassed by an inconsistent voting record.

Believing that any consistency, not just a foolish one, is a philosophic hobgoblin, gives many Members welcome reassurance. This allows limited-government conservatives to massively increase the size and scope of government while ignoring the deficit. Liberals who also preach their own form of limited government in the areas of civil liberties and militarism have no problems with a flexible, pragmatic approach to all government expenditures and intrusions. The net result is that the oath of office to abide by all constitutional restraints on government power is rarely followed.

Number four: paper money, inflation and economic pain. Paper money and inflation have never provided long-term economic growth, nor have they enhanced freedom. Yet the world, led by the United States, lives with a financial system awash with fiat currencies and historic debt as a consequence.

No matter how serious the problems that come from central bank monetary inflations, the depressions and inflations, unemployment, social chaos and war, the only answer has been to inflate even more. Except for the Austrians, free market economists, the consensus is that the Great Depression was prolonged and exacerbated by the lack of monetary inflation. This view is held by Alan Greenspan and is reflected in his January 2001 response to the stock market slump and slower economy, namely, a record monetary stimulus and historically low interest rates.

The unwillingness to blame the slumps on the Federal Reserve's previous errors, though the evidence is clear, guarantees that greater problems for the United States and the world economy lie ahead. Though there is adequate information to understand the real cause of the business cycle, the truth and proper policy are not available.

Closing down the engine of inflation at any point does cause short-term problems that are politically unacceptable, but the alternative is worse in the long run.

It is not unlike a drug addict demanding and getting a fix in order to avoid the withdrawal symptoms. Not getting rid of the addiction is a deadly mistake. While resorting to continued monetary stimulus through credit creation delays the pain and suffering, it inevitably makes the problems much worse. Debt continues to build in all areas, personal, business and government; inflated stock prices are propped up, waiting for another collapse; malinvestment and overcapacity fail to correct; insolvency proliferates without liquidation.

These same errors have been prolonging the correction in Japan for 14 years, with billions of dollars of nonperforming loans still on the books. Failure to admit and recognize that fiat money, paper money, mismanaged by central banks gives us most of our economic problems, along with a greater likelihood for war, means we never learn from our mistakes.

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Our consistent response is to inflate faster and borrow more, which each downturn requires to keep the economy afloat. Talk about a foolish consistency. It is time for our leaders to admit the error of their ways, consider the wise consistency of following the advice of our founders, and reject paper money and central bank inflationary policies.

Number five: Alcohol prohibition. For Our Own Protection.

Alcohol prohibition was a foolish consistency engaged in for over a decade, but we finally woke up to the harm done. In spite of prohibition, drinking continued. The alcohol being produced in the underground was much more deadly, and related crimes ran rampant. The facts stared us in the face and, with time, we had the intelligence to repeal the whole experiment.

No matter how logical this reversal of policy was, it did not prevent us from moving into the area of drug prohibition, now in the more radical stages for the past 30 years.

No matter the amount of harm and cost involved, very few in public life are willing to advise a new approach to drug addiction. Alcoholism is viewed as a medical problem, but illicit drug addiction is seen as a heinous crime. Our prisons overflow with the cost of enforcement, now into the hundreds of billions of dollars, yet drug use is not reduced.

Nevertheless, the politicians are consistent. They are convinced that a tough stand against usage, with very strict laws and mandatory sentences, sometimes life sentences for nonviolent offenses, is a popular political stand. Facts do not count, and we cannot bend on consistently throwing the book at any drug offender. Our prisons are flooded with nonviolent drug users.

Mr. Speaker, 84 percent of all Federal prisoners are now nonviolent drug users, but no serious reassessment is considered.

Sadly, the current war on drugs has done tremendous harm to many patients' needs for legitimate prescribed pain control. Doctors are very often compromised in their ability to care for the seriously and terminally ill by overzealous law enforcement.

Throughout most of our history, drugs were legal and, at times, were abused but, during that time, there was no history of the social and legal chaos associated with drug use that we suffer today. One hundred years ago a pharmacist openly advertised, ''Heroin clears the complexion, gives buoyancy to the mind, regulates the stomach and the bowels and is, in fact, a perfect guardian of health.'' Obviously, this is overstated as a medical panacea, but it describes what it was like not to have hysterical busybodies undermine our Constitution and waste billions of dollars on a drug war serving no useful purpose.

This country needs to wake up. We should have more confidence in citizens making their own decisions and decide, once again, to repeal Federal prohibition, while permitting regulations by the States alone.

Six: The FDA and legal drugs. For Our Own Protection.

Our laws and attitudes regarding legal drugs are almost as harmful. The FDA supposedly exists to protect the consumer and patients. This conclusion is based on the assumption that consumers are idiots and all physicians and drug manufacturers are unethical or criminals. It also assumes that bureaucrats and politicians, motivated by good intentions, can efficiently bring drugs onto the market in a timely manner and at a reasonable cost. These same naive dreamers are the ones who say that in order to protect the people from themselves we must prohibit them from being allowed to reimport drugs from Canada or Mexico at great savings.

The FDA virtually guarantees that new drugs come on line slower and cost more money. Small companies are unable to pay the legal expenses and do not get the friendly treatment that politically connected big drug companies receive. If a drug seems to offer promise, especially for a life-threatening disease, why is it not available with full disclosure to anyone who wants to try it? No, our protectors say that no one gets to use it or make their own decisions until the FDA guarantees that each drug has been proven safe and effective. And, believe me, the FDA is quite capable of making mistakes, even after years of testing.

It seems criminal when cancer patients come to our congressional offices begging and pleading for a waiver to try some new drug. We call this a

free society. For those who cannot get a potentially helpful drug, but might receive a little comfort from some marijuana raised in their own backyard legally in their home State, the heavy hand of the DEA comes down hard, actually arresting and imprisoning ill patients. Federal drug laws blatantly preempt State laws, adding insult to injury.

Few remember that the first Federal laws regulating marijuana were written as recently as 1938, which means just a few decades ago our country had much greater respect for individual choices and State regulations in all health manners.

The nanny state is relatively new but well entrenched. Sadly, we foolishly and consistently follow the dictates of prohibition and government control of new medications, never questioning the wisdom of these laws.

The silliness regarding illegal drugs and prescription drugs was recently demonstrated. It was determined that a drug used to cause an abortion can be made available over the counter. However, Ephedra, used by millions for various reasons and found in nature, was made illegal as a result of one death after being misused. Individuals no longer can make their own decisions at an affordable price to use Ephedra. Now it will probably require a prescription and cost many times more. It can never be known, but weight loss by thousands using Ephedra may well have saved many lives, but the real issue is personal choice and responsibility, not the medicinal effects of these drugs. This reflects our moral standards, not an example of individual freedom and responsibility.

Number seven: Foreign Policy of Interventionism.

Our foreign policy of interventionism offers the best example of Emerson's foolish inconsistency. No matter how unsuccessful our entanglements become, our leaders rarely question the wisdom of trying to police the world. Most of the time, our failures prompt even greater intervention, rather than less. Never yielding to the hard, cold facts of our failures, our drive to meddle in nation-building around the world continues. Complete denial of the recurrent blow-back from our meddling, a term used by our own CIA, prompts us to spend endlessly, while jeopardizing the lives of hundreds of thousands of people.

Refusing to even consider the failure of our own policies is outrageous. Only in the context of commercial benefits to the special interests and the military industrial complex, molded with patriotic jingoism, can one understand why we pursue such a foolish policy. Some of these ulterior motives are understandable, but the fact that average Americans rarely question our commitment to these dangerous and expensive military operations is disturbing. The whipped-up war propaganda too often overrules the logic that should prevail. Certainly, the wise consistency of following the Constitution has little appeal.

One would think the painful consequences of our militarism over the last 100 years would have made us more reluctant to assume the role of world policeman in a world that hates us more each day.

A strong case can be made that all the conflicts, starting with the Spanish-American war up to our current conflict in the Middle East, could have been avoided. For instance, the foolish entrance into World War I to satisfy Wilson's ego led to disastrous peace at Versailles, practically guaranteeing World War II. Likewise, our ill-advised role in the Persian Gulf War I placed us in an ongoing guerilla war in Iraq and Afghanistan, which may become a worldwide conflict before it ends.

Our foolish antics over the years have prompted our support for many thugs throughout the 20th century, Stalin, Somoza, Batista, the Shah of Iran, Noriega, Osama bin Laden, Saddam Hussein and many others, only to regret it once the unintended consequences became known. Many of those we supported turned on us or our interference generated a much worse replacement, such as the Ayatollah in Iran.

If we had consistently followed the wise advice of our early presidents, we could have avoided the foreign policy problems we face today and, if we had, we literally would have prevented hundreds of thousands of needless deaths over the last century. The odds are slim to none that our current failure in Afghanistan and Iraq will prompt our administration to change its policies of intervention.

Ignoring the facts and rigidly sticking to a failed policy, a foolish consistency as our leaders have repeatedly done over the past 100 years unfortunately will prevail, despite its failure and huge costs.

This hostility toward principled consistency and common sense allows for gross errors in policymaking. Most Americans believed, and still do, that we went to war against Saddam Hussein because he threatened us with weapons of mass destruction and his regime was connected to the al Qaeda. The fact that Saddam Hussein not only did not have weapons of mass destruction but essentially had no military force at all seems to be of little concern to those who took us to war.

It was argued, after our allies refused to join in our efforts, that a unilateral approach without the United Nations was proper under our notion of national sovereignty. Yet resolutions giving the President authority to go to war cited the United Nations 21 times, forgetting the U.S. Constitution that allows only Congress to declare war. A correct declaration of war was rejected out of hand.

Now, with events going badly, the administration is practically begging the U.N. to take over the transition, except, of course, for the Iraqi Development Fund that controls the oil and all of the seized financial assets. The contradictions and distortions surrounding the Iraqi conflict are too numerous to count. Those who wanted to institutionalize the doctrine of preemptive war were not concerned about the Constitution or consistency in our foreign policy and, for this, the American people and world peace will suffer.

Number eight: Promoting Democracy. An Obsession Whose Time Has Passed.

Promoting democracy is now our Nation's highest ideal. Wilson started it with his ill-advised drive to foolishly involve us in World War I. His Utopian dream was to make the world safe for democracy. Instead, his naivete and arrogance promoted our involvement in the back-to-back tragedies of World War I and World War II. It is hard to imagine the rise of Hitler in World War II without the Treaty of Versailles, but this has not prevented every President since Wilson from promoting U.S.-style democracy to the rest of the world.

Since no weapons of mass destruction or al Qaeda have been found in Iraq, the explanation given now for having gone there was to bring democracy to the Iraqi people. Yet we hear now that the Iraqis are demanding immediate free elections not controlled by the United States, but our administration says the Iraqi people are not yet ready for free elections. The truth is that a national election in Iraq would bring individuals to power that the administration does not want. Democratic elections will have to wait.

This makes the point that our persistence in imposing our will on others through military force ignores sound thinking, but we never hear serious discussions about changing our policy of meddling and empire-building, no matter how bad the results. Regardless of the human and financial costs for all of the wars fought over the past 100 years, few question the principle and legitimacy of interventionism.

Bad results, while only sowing the seeds of our next conflict, concern few here in Congress. Jingoism, the dream of empire, and the interests of the military industrial complex generates the false patriotism that energizes supporters of our foreign entanglements.

Direct media coverage of the more than 500 body bags coming back from Iraq is now prohibited by the administration. Seeing the mangled lives and damaged health of thousands of our other casualties of this war would help the American people to put this war in proper perspective.

□ 2030

Almost all war is unnecessary and rarely worth the cost. Seldom does a good peace result.

Since World War II, we have intervened 35 times in developing countries, according to the L.A. Times, without a single successful example of a stable democracy. Their conclusion, ''American engagement abroad has not led to

more freedom or more democracy in countries where we have become involved.''

So far the peace in Iraq, that is, the period following the declared end of hostilities, has set the stage for a civil war in this forlorn, Western-created, artificial state. A U.S.-imposed national government unifying the Kurds, the Sunnis, and the Shiites will never work. Our allies deserted us in this misadventure, dumping the responsibility on the U.N., while retaining control of the spoils of war as a policy of folly that can result only in more Americans being killed. This will only fuel the festering wounds of Middle East hatred toward all Western occupiers.

The Halliburton scandals and other military industrial connections to the occupation of Iraq will continue to annoy our allies and, hopefully, a growing number of American taxpayers.

I have a few suggestions on how to alter our consistently foolish policy in Iraq. Instead of hiding behind Wilson's utopianism of making the world safe for democracy, let us try a new approach.

First, the internal affairs and the needs for nation-building in Iraq are none of our business. Our goal in international affairs ought to be to promote liberty and private property, free market order through persuasion and example and never by force of arms, clandestine changes or preemptive war.

We should give up our obsession with democracy, both for ourselves and others, since the dictatorship of the majority is just as destructive to a minority, especially individual liberty, as a single Saddam Hussein-like tyrant.

Does anyone really believe that the Shiite majority can possibly rule fairly over the Sunnis and the Kurds?

A representative republic loosely held together with autonomy for each state or province is the only hope in a situation like this. But since we have systematically destroyed that form of government here in the United States, we cannot possibly be the ones who will impose the system on a foreign and very different land 6,000 miles away, no matter how many bombs we drop or people we kill.

This type of change can only come with a change in philosophy and an understanding of the true nature of liberty. It must be an intellectual adventure, not a military crusade.

If for no other reason, Congress must soon realize that we can no longer can afford to maintain an empire circling the globe. It is a Sisyphean task to rebuild the Iraq we helped to destroy while our financial problems mount here at home. The American people eventually will rebel and demand that all job and social programs begin here at home before we waste billions more in Iraq and Afghanistan and many other forlorn lands around the world.

The Constitution places restraints on Congress and the executive branch so as not to wage war casually and without proper declaration. It provides no authority to spend money or lives to spread our political message around the world. A strict adherence to the rule of law and the Constitution would bring an immediate halt to our ill-advised experiment in assuming the role of world policeman.

We have been told that our efforts in Iraq has been worth the 500-plus lives lost and the thousands wounded. I disagree. With great sadness for the families who have lost so much and with so little hope for a good peace, I can only say I disagree and I hope I am wrong.

Number nine: Fighting terrorism with big government, a convenience or necessity?

Fighting terrorism is a top concern for most Americans. It is understandable, knowing how vulnerable we now are to an attack by our enemies, but striking out against the liberties of all Americans with the Patriot Act, the FBI, or the Guantanamo-type justice will hardly address the problem.

Liberty cannot be enhanced by undermining liberty. It is never necessary to sacrifice liberty to preserve it. It is tempting to sacrifice liberty for safety, and that is the argument used all too often by the politicians seeking more power. But even that is not true.

History shows that a strong desire for safety over liberty usually results in less of both. But that does not mean that we should ignore the past attacks or the threat of future attacks that our enemies might unleash.

First, fighting terrorism is a cliche. Terrorism is a technique or process, and if not properly defined the solutions will be hard to find. Terrorism is more properly defined as an attack by a guerilla warrior who picks the time and place of the attack because he cannot match the enemy with conventional weapons. With too broad a definition of terrorism, the temptation will be to relinquish too much liberty, being fearful that behind every door and in every suitcase lurks a terrorist-planted bomb. Narrowing the definition of terrorism and recognizing why some become enemies is crucial.

Understanding how maximum security is achieved in a free society is vital.

We have been told that the terrorists hate us for our wealth, our freedom and our goodness. This war cannot be won if that belief prevails. When the definition of terrorism is vague and the enemy pervasive throughout the world, the neo-conservatives who want to bring about various regime changes for other reasons conveniently latch onto these threats and use them as the excuse and justification for our expanding military presence throughout the Middle East and the Caspian Sea region.

This is something they have been anxious to do all along. Already plans are being laid by neo-conservative leaders to further expand our occupations to many other countries, from Central America and Africa to Korea. Whether it is invading Iraq, threatening North Korea or bullying Venezuela or even Russia, it is now popular to play the terrorist card. Just mention terrorism and the American people are expected to grovel and allow the war hawks to do whatever they want. This is a very dangerous attitude.

One would think that with the shortcomings of the Iraqi occupation becoming more obvious every day more Americans would question our flagrant and aggressive policy of empire building.

The American people were frightened into supporting this war because they were told that Iraq had 25,000 liters of anthrax; 38,000 liters of botulinum toxin; 500 tons of sarin, mustard, and VX nerve gas; significant quantities of refined uranium and special aluminum tubes used in developing nuclear weapons.

The fact that none of this huge amount of material was found and the fact that David Kay resigned from heading up the inspection team saying none will be found does not pacify the instigators of this policy of folly. They merely look forward to the next regime change as they eye their list of potential targets, and they argue with conviction that the 500-plus lives lost were worth it.

Attacking a perceived enemy who had few weapons, who did not aggress against it and who never posed a threat to us does nothing to help eliminate the threat of terrorist attacks. If anything, deposing an Arab Muslim leader, even a bad one, incites more hatred towards us, certainly not less. This is made worse if our justification for the invasion was in error.

It is safe to say that in time we will come to realize that our invasion has made us less safe and has served as a grand recruiting tool for the many militant Muslim groups that want us out of their countries, including the majority of those Muslims in Saudi Arabia, Pakistan, Afghanistan and the entire Middle East.

Because of the nature of the war in which we find ourselves, catching Saddam Hussein or even killing Osama bin Laden are almost irrelevant. They may well simply become martyrs to their cause and incite even greater hatred toward us.

There are a few things we must understand if we ever expect this war to end. The large majority, especially all the militant Muslims see us as invaders, occupiers, and crusaders. We have gone a long way from home and killed a lot of people, and none of them believe it is to spread our goodness.

Whether or not some supporters of this policy of intervention are sincere in bringing democracy and justice to the region, it just does not matter. No one over there believes us.

This war started a long time before 9/11. That attack was just the most dramatic event of the war so far. The Arabs have fought Western crusaders

for centuries, and they have not yet forgotten the European Crusades centuries ago. Our involvement has been going on to some degree since World War II but was dramatically accelerated in 1991 with the Persian Gulf War invasion and with the collapse of the Soviet system.

Placing U.S. troops on what is considered Muslim holy land in Saudi Arabia was pouring salt in the wounds of this already existing hatred. We belatedly realized this and have removed these troops.

If these facts are ignored, there is no chance that the United States-led Western occupation of the oil-rich Middle East can succeed. Seventy percent of the world's oil is in the Persian Gulf and Caspian Sea regions. Without a better understanding of the history of the region, it is not even possible to define the enemy, know why they fight or understand the difference between guerilla warrior attacks and vague sinister forces of terrorism.

The pain of recognizing that the ongoing war is an example of what the CIA calls blowback and an unintended consequence of our foreign policy is a great roadblock to ever ending the war.

Number ten: Judicial review.

Respect for the original intent of the Constitution is low in Washington. It is so low it is virtually non-existent. This causes much foolish inconsistency in our Federal courts. The Constitution, we have been told, is a living, evolving document; and it is no longer necessary to change it in the proper manner. That method is too slow and cumbersome, it is claimed.

While we amended it to institute alcohol prohibition, the Federal drug prohibition is accomplished by majority vote by the U.S. Congress. Wars are not declared by Congress but pursued by executive orders to enforce U.N. resolution.

The debate of the pros and cons of the war come afterwards, usually following the war's failure, in the political arena rather than before with the proper debate on a declaration of war resolution. Laws are routinely written by unelected bureaucrats with themselves becoming the judicial enforcement authority.

Little desire is expressed in Congress to alter this monster that creates thousands of pages each year in the Federal Register. Even the nearly 100,000 bureaucrats who now carry guns stir little controversy. For decades executive orders have been arrogantly used to write laws to circumvent a plodding or disagreeable Congress. This attitude was best described by a Clinton presidential aide who bragged, ''Stroke of the pen, law of the land, kinda cool.''

This is quite a testimonial to the rule of law and constitutional restraint on government power.

The courts are no better than the executive or legislative branches in limiting the unconstitutional expansion of the Federal monolith. Members of Congress, including committee chairmen, downplay my concern that proposed legislation is unconstitutional by insisting that the courts are the ones to make such weighty decisions, not mere Members of Congress.

This was an informal argument made by House leadership on the floor during the debate on campaign finance reform. In essence, they said, we know it is bad, but we will let the courts clean it up. And look what happened. The courts did not save us from ourselves.

Something must be done, however, if we expect to rein in our ever-growing and intrusive government. Instead of depending on the courts to rule favorably when Congress and the executive branch go astray, we must curtail the courts when they overstep their authority by writing laws rubber-stamping bad legislation or overruling State laws.

Hopefully, in the future we will have a Congress more cognizant of its responsibility to legislate within the confines of the Constitution.

There is something Congress by majority vote can do to empower the States to deal with their first amendment issues. It is clear that Congress has been instructed to write no laws regarding freedom of speech, religion or assembly. This obviously means that Federal courts have no authority to do so either. Therefore, the remaining option is for Congress to specifically remove jurisdiction of all first amendment controversies from all Federal courts, including the Supreme Court.

Issues dealing with prayer, the Ten Commandments, religious symbols or clothing or songs, even the issue of abortion are properly left as a prerogative of the States. A giant step in this direction could be achieved with the passage of my proposed legislation, We The People Act.

In conclusion, Mr. Speaker, Emerson's real attack was on intellectual conformity without a willingness to entertain new ideas based on newly acquired facts. This is what he referred to as a ''foolish inconsistency.''

The greatest open-minded idea I am aware of is to know that one does not know what is best for others, whether it is in the economic, social or moral policy or in the affairs of other nations. Believing one knows what is best for others represents the greatest example of a closed mind. Friedrich Hayek referred to this as a pretense of knowledge. Governments are no more capable of running the economy made fair for everyone than they are of telling the individual what is best for their spiritual salvation.

□ 2045

There are a thousand things in between that the busybody politicians, bureaucrats, and judges believe they know and yet do not. Sadly, our citizens have become dependent on government for nearly everything from cradle to grave and look to government for all guidance and security.

Continuously ignoring Emerson's advice on self-reliance is indeed a foolish consistency which most of the politicians now in charge of the militant nanny state follow, and it is an armed state, domestic as well as foreign. Our armies tell the Arab world what is best for them, while the armed bureaucrats at home harass our own people into submission and obedience to every law and regulation, most of which are incomprehensible to the average citizen.

Ask three IRS agents for an interpretation of the Tax Code and you will get three different answers. Ask three experts in the Justice Department to interpret the anti-trust laws and you will get three different answers. First, they will tell you it is illegal to sell too low. Then they will tell you it is illegal to sell too high, and it is certainly illegal if everybody sold products at the same price. All three positions can get you into plenty of trouble and blamed for, first, undermining competition; second, for having too much control and gouging the public; and, third, for engaging in collusion. The people cannot win.

Real knowledge is to know what one does not know. The only society that recognizes this fact and understands how productive enterprise is generated is a free society, unencumbered with false notions of grandeur. It is this society that generates true tolerance and respect for others.

Self-reliance and creativity blossom in a free society. This does not mean anarchy, chaos or libertine behavior. Truly, only a moral society can adapt to personal liberty. Some basic rules must be followed and can be enforced by government, most suitably by local and small government entities. Honoring all voluntary contractual arrangements, social and economic, protection of all life, and established standards for private property ownership are the three principles required for a free society to remain civilized. Depending on the culture, the government could be the family, the tribe, or some regional or State entity.

The freedom philosophy is based on the humility that we are not omnipotent but also the confidence that true liberty generates the most practical solution to all our problems, whether they are economic, domestic security, or national defense. Short of this, any other system generates authoritarianism that grows with each policy failure and eventually leads to a national bankruptcy. It was this end, not our military budget, which brought the Soviets to their knees.

A system of liberty allows for the individual to be creative, productive, or spiritual on one's own terms, and encourages excellence and virtue. All forms of authoritarianism only exist at the expense of liberty. Yet the humanitarian do-gooders claim to strive for these very same goals. To understand the difference is crucial to the survival of a free society.

GENERAL LEAVE

Mr. DELAHUNT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the gentlewoman from California's (Ms. LEE) Special Order.

The SPEAKER pro tempore (Mr. BEAUPREZ). Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

IRAQ WATCH

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentleman from Massachusetts (Mr. DELAHUNT) is recognized for 60 minutes.

Mr. DELAHUNT. Mr. Speaker, we are here again this evening. As I am sure many of our colleagues are aware, during the course of the past 8 months, several of us have taken to the floor to discuss issues surrounding Iraq, Afghanistan, and other issues of concern related to the war on terror, particularly as it is focused in the Middle East.

I am joined tonight by two members of that group. We call ourselves the Iraq Watch, my colleague who is sitting to my right, the gentleman from Washington (Mr. INSLEE); and I know that the gentleman from Ohio (Mr. STRICKLAND) will soon join us.

Earlier today before the House Committee on International Relations, Secretary of State Colin Powell appeared and testified concerning the budget proposal put forth by the Department and by the administration for the coming year. The Secretary had to leave earlier than some of us would have hoped, but I commend him for bearing up, if you will, for some 3 hours before the House Committee on International Relations.

During the course of his testimony, he mentioned the tragedy that occurred in the town of Halabjah, a town he well knows because during the course of President Reagan's last 4 years he served in the capacity as the national security adviser and during the administration of George Herbert Walker Bush he served in the capacity of chief of staff of the Joint Chiefs. So he was very familiar, obviously; and many of us remember his service to the country during the Gulf War and prior to that what was occurring in the region.

If I had had an opportunity to question him, I was going to indicate to him that I have a profound concern about what we are currently doing in terms of establishing alliances and relationships with some extremely unsavory regimes that very well might come back to haunt us. Some can only be described as extremely harsh dictatorships with abysmal human rights records. Uzbekistan and Turkmenistan come to mind immediately.

Now we have a base in Uzbekistan where last year the Department of State used the following language in describing the abuse of human rights in that particular Nation. Let me quote, ''The security services routinely torture, beat and otherwise mistreat detainees. They allegedly use suffocation, electric shock, rape and other sexual abuse.'' The list goes on and on and on.

Of course, the budget proposal put forth by the Department of State, under the leadership of Colin Powell, directs millions of dollars to Turkmenistan, whose leader has created a Stalinist personality cult that rivals anything we saw with Saddam Hussein. He even went so far as to rename the month of January after himself and the month of April after his mother.

I remember observing the interview between Mr. Russert and President Bush this past Sunday; and the President described, appropriately so, Saddam Hussein as a madman. I might have used a different word. He might be crazy but he is not stupid, I guess is what I would say; but the new President, if you will, of Turkmenistan, who has changed his name to Turkmenibashi certainly seems to fit that particular description, and Karimov in Uzbekistan is nothing more than a thug with ambitions for regional power, again, very similar to Saddam Hussein.

When the Secretary of State alluded to Halabjah, it provoked me to think that, are we repeating the same mistakes that we made in the 1980s when the United States Government supported Saddam Hussein? Let us remember, it was the United States Government that removed Saddam Hussein from the terrorist list. We now hear that he supported terrorist groups. He was doing that in the 1980s, but the Reagan-Bush administrations removed him from the terrorist list, but they did not stop there. They went further. They restored full diplomatic relations with Saddam Hussein. In fact, they provided him credits and loan guarantees and, in fact, provided him intelligence during the course of his war with Iran.

What I found particularly disturbing, and later when one of my colleagues speaks, I have a chart that shows just a minuscule number of transfers of dual-use technologies that were approved by the Reagan-Bush administration, the Reagan-Bush White Houses, if you will, that no doubt became the building blocks of the tools for Saddam Hussein to develop that nuclear program that was discovered in the aftermath of the Gulf War. I mean, it was those White Houses, those administrations, that allowed the transfer of those dual-use technologies.

Let me tell my colleagues where I received that information: not from a newspaper report, not from a think tank with a particular bias, but with an institution that everyone in this Chamber would acknowledge is free of bias, is what we all rely on to do our research, the Congressional Research Service.

□ 2100

That particular report was authored and produced in June of 1992. But I guess what is particularly disturbing is when I hear the Secretary of State refer to Halabjah and say that we know he used chemical weapons against his own people. In this case, it was the Iraqi Kurds in the north who had aligned themselves with the Iranian forces with which Iraq was at war at the time.

The only action that I can discover in terms of my research was mild, off-the-record condemnations by the United States Government. And when this Congress back in 1988, 1989 and 1990 passed legislation, both branches independent of each other, that would have imposed sanctions on Saddam Hussein, it was the administration of George Herbert Walker Bush that blocked it. I agree obviously with the Secretary of State, he did use these weapons against his own people.

Mr. Speaker, I yield to the gentleman from Ohio (Mr. STRICKLAND).

Mr. STRICKLAND. Mr. Speaker, the fact is, at the time he used those weapons we were cooperating with him. The first Bush administration was cooperating with him. He was a part of our team, so to speak, because we felt it was best if Iraq would be able to prevail over Iran at the time. And then to think that, 10 or 12 years later, there is no evidence that I know of or that the administration has brought forth to show that Saddam Hussein used chemical weapons following that incident some 12 or so years ago. And then to come back after a decade and use that as an excuse to launch a preemptive war simply does not make sense.

When Saddam Hussein used these chemical weapons against his own people, our government was silent. We knew it was happening, and we were silent. And then for these self-righteous statements to be made a decade later does not make sense.

Mr. DELAHUNT. Mr. Speaker, not only were we silent, and it is very important that the historical record be revealed to the American people, and that is why we are tonight. If any viewer has any questions about the accuracy of what we state, I am sure that the gentleman from Ohio (Mr. STRICKLAND) and the gentleman from Washington (Mr. INSLEE) and any other member of Iraq Watch, we would be happy to respond and see that the reports, unbiased, that were authored back in 1992, would be provided to anyone who has an interest. They can contact our office.

But it was not just silence. It was absolutely, according to this report, action to block the imposition of sanctions at that point in time. I dare say what would have happened if in 1988 and 1989 and 1990 there were sanctions on Iraq, that would have been a message to Saddam Hussein. We can speculate that maybe we would have avoided the first Gulf War if we had taken on that thug then. But, no, we were not

sending that message. We continued after the conclusion of the war. I have heard the argument while we tilted towards Iraq, that was the language that was used, we tilted towards Iraq because of our concern with Iran and the Ayatollah Khomeini.

As I said earlier, what are we doing now? We are allying ourselves with two more despots, two more thugs who I dare say years from now could very well be the new Saddam Husseins.

Mr. STRICKLAND. Mr. Speaker, if I may just respond, I think many of us watched the President's interview last Sunday morning with Tim Russert, and the President continuously called Saddam Hussein a madman. I have no problem with that. He is a despicable human being. The President talked about the chemical and biological threat, and he talked about the fact that he used chemicals on his own people.

What the President failed to say was that he did that in the late 1980s when the President's father was in the Oval Office, when Colin Powell was a part of the administration, and we did nothing except block the efforts of Congress to impose sanctions.

My point is all of these years later to come forth and try to use that argument to convince the American people that we should launch a preemptive war that to this point has cost over 530 precious American lives, has resulted in the injury of thousands of our troops, has consumed about $150 billion of resources, the word ''hypocrisy'' comes to mind here.

The American people, when we hear that Saddam Hussein used chemical weapons against his own people, assume that we are talking about something that happened within the last few months or last few years, not over 10 years ago. When you tell a half truth or a partial truth, it gets pretty close to being a lie. I think the American people really have been manipulated, misled and purposely deceived in the kind of information that they have been given about why we needed to enter into this preemptive war.

Mr. DELAHUNT. Mr. Speaker, to point out two other facts, the initial approach to Saddam Hussein in 1983 at the direction of President Reagan was done by a special envoy.

Mr. STRICKLAND. I think that special envoy is our current Secretary of Defense.

Mr. DELAHUNT. Mr. Speaker, that is correct.

Mr. STRICKLAND. That is Mr. Donald Rumsfeld, and we have pictures of Mr. Rumsfeld shaking hands with Saddam Hussein. Back in those days, the fact that he was a dictator and cruel and vicious to his own people and used chemical weapons against the Kurds, back in those days it did not seem to mean a lot, apparently, because we took no action. In fact, the administration at that time actually blocked, proactively blocked, the imposition of sanctions.

Mr. DELAHUNT. In 1988, 1989, and 1990 the United States Congress took action.

Mr. STRICKLAND. Tried to, certainly.

Mr. DELAHUNT. Both the House and the Senate passed legislation that would have imposed sanctions, and it was the White House of George Herbert Walker Bush that blocked it.

Pausing again, going back in memory, who was the Secretary of Defense?

The Secretary of Defense was Mr. CHENEY, the current Vice President. His Under Secretary of Defense was Paul Wolfowitz.

So, again, the dots here have to be connected. It is important, I believe, to present that historical record to the American people to give them the information that they need to conduct their own analysis.

I challenge anyone from the administration or a Member of Congress to come to the floor and debate that particular unfortunate reality. If congressional action had been approved and the President, this President's father, had signed a bill that would have imposed sanctions, we can only speculate what would have happened.

What I would have suggested, if we knew it and we speak again of human rights and how bad and claim a certain moral authority, what should have occurred is the President of the United States should have stepped up and requested an international tribunal and brought that thug, Saddam Hussein, before it for a trial, for a prosecution, and let justice happen.

Mr. STRICKLAND. Absolutely. If I can just point out something that I think the observer of this Iraq Watch may be asking, why are these Members going so far back in history? Why are they regurgitating facts that happened more than 10 years ago?

I think it is important to point out that the same people that were responsible then are making decisions now, and the same people who I think neglected to do the right thing more than 10 years ago are the people who have advised this President and urged this President to engage in preemptive war. They are the same individuals who want to remain in power. We can only guess what their next adventure may be if, in fact, they are allowed to remain in power. They continue to advise the President. They continue to justify this preemptive war.

Mr. Speaker, I would like to take a moment to share something else which I think many Americans do not fully understand, and I think they will find it interesting.

There is a story in The Hill newspaper here, which is one of the Capitol Hill newspapers, about an effort by the gentleman from California (Mr. WAXMAN) to get some answers regarding something that happened in this country following the attack on September 11.

As it turns out, when our country was attacked, there were a number of Saudi citizens, some of them relatives of Osama bin Laden, in this country. They were here in this country. As we know, most of those who flew those airplanes into the Towers and into the Pentagon and those that were responsible for the plane crash in Pennsylvania were Saudi citizens. They were not from Iraq or Iran or Syria. They were from Saudi Arabia. Now this is what gets interesting.

A few days after 9/11, a significant number of those Saudi citizens, including relatives of Osama bin Laden, were allowed to leave this country. Apparently, they were allowed to leave this country before they were ever questioned. Did they know anything about the al Qaeda terrorism network? Did Osama bin Laden's relatives who were in this country at the time perhaps know of his whereabouts?

□ 2115

We do not know. The FBI does not know because apparently they did not bother to ask the question. We are trying to find out from Attorney General John Ashcroft who made the request that these Saudi citizens be allowed to leave our country. Who made the decision to allow them to leave without being questioned? Can you imagine a few days after the attack upon our country when these pilots were Saudi citizens and we knew almost certainly that Osama bin Laden was responsible for those attacks, that members of his family, two members especially, Abdullah bin laden and Omar bin laden, were allowed to get on an airplane and be taken out of this country.

Mr. DELAHUNT. Has the Attorney General responded? Has he identified those officials that were responsible?

Mr. STRICKLAND. He has not responded. If I can just share this with the gentleman, at a Senate Banking, Housing and Urban Affairs Committee hearing just last year, Richard Clarke, who has headed the National Security Council's counterterrorism security group said, and this is a quote: ''What happened was that shortly after 9/11 when it became clear that most of the terrorists of 9/11 were Saudis, the Saudi government feared that there would be retribution and vigilantism in the United States against the Saudis. That seemed to be a reasonable fear.''

If our government felt that vigilantism and retribution was going to endanger the lives of these Saudi citizens and Osama's relatives who were here in this country at the time, why did they not just simply take them into protective custody, at least until the FBI had an opportunity to question them? Is it possible that the Saudi citizens and Osama bin Laden's relatives could have known about the attacks? Might they have known where Osama bin Laden was located? We will never know because our government let them leave without first of all subjecting them to questioning.

Mr. INSLEE. If the gentleman will yield, there is some additional information he may be interested in that I

have read in press accounts. Again, these are press accounts because our government to date has not shared this information with the public; but not only did this administration allow these people to leave without being fully interrogated by the FBI but the press accounts that we have read stated that while everybody else was grounded from traveling, and we know how many people had to drive across America to get home for a week or so after September 11, that this administration actually cleared a special jet that flew around the country as one of the only few planes flying in America at that time to pick up members of the bin Laden family to shepherd them out of this country as soon as possible. So not only did we not fully question these folks, we actually accommodated them flying around while John Q. Citizen could not fly himself to get from Dubuque back to Seattle.

Let me also indicate that to my knowledge, and again we do not have full information from our administration to date, but to our knowledge these people have never been interrogated by the FBI, even today, about what happened. And now we have a war in Iraq, rather than adequate research and interrogation of Saudi citizens today as to what happened on September 11.

Mr. STRICKLAND. I think it is legitimate to ask this question: Were these Saudis, were these members of Osama bin Laden's family given special treatment? Why would they have been given special treatment? Can you imagine how we would have felt, how we would have reacted if those who piloted those planes into our trade towers had been Iraqi citizens? Or Syrian citizens? Can you imagine how we would have reacted if there had been relatives of Iraqis or of Saddam Hussein in this country after such an attack? Why were the Saudis given such special treatment? Could it be because of the oil and because of the close connection between the oil industry and the Saudi government and the Bush family and the Saudi royal family? I think these are questions that deserve to be answered.

I think Attorney General Ashcroft should answer questions regarding who made the request that these citizens be allowed to leave the country without questioning. I think we should find out for certain that the FBI had said they had no interest in questioning them. I cannot imagine the FBI within days of the towers being struck saying we have no interest in questioning relatives of Osama bin Laden. I just cannot imagine that that is the case.

Mr. INSLEE. I feel very strongly that these are just some of the questions that our government has a duty to answer. One of the reasons I feel so strongly about that is that this afternoon, I had a very painful discussion with a family in Bremerton, Washington, with whom I have been working for about a week or two now whose son and husband has been missing in Iraq, a soldier in Iraq. I have been working with this family to try to do what we could to assuage their concerns and make sure that we were doing everything we could to bring him home. Today I had to talk with that family, and they found out this morning that their son and husband would never be returning to them.

Mr. STRICKLAND. I think it is appropriate that we bring this back to the human price that is being paid for our policies, because Sunday evening back in my district in southeastern Ohio, I visited a funeral home, attended the wake of a young soldier who had just returned, a man leaving a 14-year-old son, a 5-year-old daughter, three sisters, a mother, and wife. Saturday morning I went to the air base in Youngstown, Ohio. I met with about 30 soldiers and their families and their children; and in that early morning hours as the snow was falling, I saw those soldiers get on that plane, and I saw that plane take off down that snowy runway and disappear into the heavens. Tonight those soldiers are in the desert. The fact is that as we talk about the policies of our Nation, I do think it is appropriate, and I thank the gentleman from Washington for bringing our attention to the fact that we talk about policies, we talk about decisions in an almost theoretical sense sometimes here, but the fact is that there are real families, real soldiers, real deaths, real injuries.

I also, and I will end my remarks with this, over this past weekend was able to attend a happy occasion because I went to the homecoming party of a young soldier who had just returned from Iraq. He was there with his grandfather, his father and his 4-year-old son, four generations. The mother of this 4-year-old son, the wife of this young soldier who had just returned, told me that during this soldier's absence, their 4-year-old son was so disturbed that the pediatrician suggested that he may need to go see a child psychiatrist, and she said his daddy is home and he is back to normal. Everything that we do here in this Chamber, but especially the decisions that we make regarding war and peace, affect real people, real families. I think we should never, ever forget that.

I thank the gentleman for bringing up that situation that occurred in his district as well as giving me a chance to talk about the situation in my district.

Mr. INSLEE. Unfortunately, all of us probably in every district have had these tough times with families.

Mr. DELAHUNT. I can tell of a very sad moment when I attended a funeral in my hometown of a young man, 36 years old. His widow was there; his parents were there. His dad, Charlie Caldwell, taught my daughter in the local public school. He was killed. He was killed in a humvee. When we pause and think of it, the pain that this has caused. We have had this discussion before. Not only is it causing pain today; but in very real terms with the cost of this effort, if you will, we have already spent $187 billion. And while it is not in the President's budget, because clearly he has an interest in not increasing the deficit any more than it is and it is absolutely out of control, we know that and I think the American people know that, but we hear, and it has been reported that there is an additional $50 billion that will be in a supplemental. Of course, it will not happen before the election. But if I can just for one minute, because I want to go back, I want to let those who are watching, and maybe it is impossible, they cannot see this list; but this is just a small piece of exports to Iraq by U.S. companies from the year 1985 to 1990.

Mr. STRICKLAND. Can I ask a question about that, because the heading across the gentleman's chart says ''Licensed Dual Use Exports to Iraq by U.S. Companies, 1985 to 1990.'' When we use the phrase ''dual use,'' does that mean that what has been exported can be used perhaps for legitimate purposes but also could be used for illegitimate military purposes or offensive purposes if that government chose to use them in that way?

Mr. DELAHUNT. That is absolutely the correct definition. I think sometimes when we speak among ourselves because we know the terms, we seem to forget that oftentimes viewers and constituents and others, really, I am sure they are wondering, what are we talking about. I really thank the gentleman for making that clear. Yes, dual use means they can be used for peaceful purposes, or they can be used for the development of programs such as the nuclear program that Saddam Hussein began, started. It was well along the way in terms of its development when in 1990 during the Gulf War he was defeated, and under the agreement, the U.N. inspectors went in and found that, yes, he did have a nuclear program at that point in time. Actually, the United Nations inspection team did a superb job. But where did the technologies come from for the development of Saddam Hussein's nuclear weapon program? It is right here.

Let me just read several. There are computers for possible use in nuclear weapons development. Computers useful for missile development. Computers that U.N. inspectors believed monitored uranium enrichment for atomic bomb fuel. Computers useful for graphic design of atomic bombs and missiles. Computers for manufacturing tool design and graphics. Computers for possible use in atomic bomb or missile development. This is the moneys that were paid to American firms under a license approved in the first Bush administration.

Mr. STRICKLAND. From 1985 to 1990?

Mr. DELAHUNT. From 1985 to 1990. Again, I just do not think that we can overstate the historical record because I think it provides the American people, particularly those who are watching us here tonight, with information

for them to reach their own conclusions. The reality is, he did have chemical weapons; and as Secretary Powell indicated today, they knew he had chemical weapons when they launched Desert Storm in the first Gulf War and our soldiers were prepared; but, of course, he did not use them.

□ 2130

He did not use them. He only used them against his own people.

Mr. STRICKLAND. More than 10 years ago.

Mr. DELAHUNT. In 1988 in Halabja, and he murdered somewhere between 5,000 and 10,000 Iraqi Kurds, and we were silent then when we should have imposed the sanctions and insisted that he be brought to trial. So that is the full story. That is the full story.

Again, today, Secretary Powell continued to talk about intent. And there was evidence of intent, and I hear Dr. Rice, Condoleezza Rice, we know he used them. Yes. Back in 1988 and 1989, and we did nothing then, and here we are in 2002.

Mr. STRICKLAND. Mr. Speaker, may I point out something to my friend. The U.N. inspections worked. The U.N. inspectors were in Iraq. They were asking for additional time. It was this government that terminated the inspections right before this war began. And the fact is that if the inspections had continued, we would have uncovered the fact that these weapons of mass destruction did not exist in Iraq at the present time. And it is so sad, it is tragic that we rushed to a decision, that we told the U.N. inspectors their time was up and that we initiated this preemptive war. And we cannot, we must not, forget that over 530 of our fellow Americans have lost their lives, and we are losing lives in Iraq every day, and there is no end in sight.

Mr. DELAHUNT. Mr. Speaker, just to pick up on the gentleman's point that in terms of the work that the U.N. teams did, respectively it has been established that there were no stockpiles. There were no weapons of mass destruction. In fact, David Kay, appointed by President Bush, came back and told the American people, to use his words, we were all wrong. I think it is so important to analyze and understand all of the dots here and what lies in the future. As I said in my opening remarks, we are now creating alliances and working with people who rival Saddam Hussein in terms of their tyranny, their abuse of human rights, and their willingness to do anything to enhance their power.

I mentioned earlier we have a military base in Uzbekistan. And the President of Uzbekistan, here he is with our Secretary of Defense. The gentleman, if the Members will, to Secretary Rumsfeld's right, his name is Karimov, Islam Karimov. He is a tyrant. He is a thug, and we are in bed with him. The American people should know that. In Turkmenistan, I had mentioned earlier the leader of Turkmenistan, and we are sending him millions of dollars. Talk about a madman. He is a certifiable nut, changing the names of the calendar, April for his mother and January for himself. What are we doing? We are making the same mistake, and that is why it is important that those that are watching Iraq Watch tonight take this information, read on their own, and look to the future and understand that we are now or could be planting the seeds for another Saddam Hussein that will wreak havoc in the region, that obviously these two will continue to abuse human rights and what about our claim to moral authority when we are losing prestige in the world today?

Mr. INSLEE. Mr. Speaker, if the gentleman would yield, because he is bringing up moral authority, which is very important; and we were talking about the families we have been working with who have lost their sons and daughters in Iraq, and there is a moral obligation by the United States Government to come forward and answer some of these questions that we have been asking tonight. And the gentleman mentioned something about reading and some folks may find some reading material of interest. I want to refer to people about a moral question that our government owes to the American people, and that is the question of how this war was started based on what, according to Mr. Kay, was a false premise.

The people of this country, the families who have servicepeople serving in Iraq, those who have lost members of their families, they deserve a clear, cogent, and complete answer of how a war was started based on a false premise about what the status of weapons was in Iraq. And the gentleman mentioned things he was reading. I read something extremely disturbing to me this weekend. It was printed in the Knight Ridder newspapers. I read it in the Seattle Times February 10, an article entitled ''Doubts and Dissent Removed from Public Report on Iraq. Secret version President Bush received was more cautious about threat.''

We know at this point, according to Mr. Kay, our expert in the field and now even according to the President apparently, that the premise that gave rise to this war was false about the status of weapons of mass destruction in Iraq. And that is disturbing enough. It is it disturbing for our soldiers and sailors. It is disturbing of our standing in the world, starting a war on a false premise. But this article was more disturbing to me because the conclusion and premise of this article was not only was this premise false but that the Government of the United States of America in a sense distorted in significant ways the nature of intelligence that it had available to it before the war started. For instance, and again this is in the newspaper, and I cannot vouch for its authenticity. It makes reference to some intelligence reports. This is not coming from myself. It is coming from the Seattle Times and the Knight Ridder newspaper. But they made reference to a statement essentially by the President that there is no doubt, and that is a quote from this President, that the President of the United States looked at the American people and said there is no doubt, no doubt, that Iraq had some of the most lethal weapons systems devised by man before this war started.

But this article disclosed that the intelligence reports given to the President of the United States showed there was tremendous doubt about this situation. And I will quote from this article: ''Whereas the President of the United States was essentially saying there is no doubt that Iraq had reconstituted, in the words of the Vice President, a nuclear program.'' Listen to what the intelligence report said, according to this article, that was given to the President of the United States. This was an intelligence report prepared by the State Department's intelligence arm, which is called the Bureau of Intelligence and Research, known as the INR.

This is a quote. That report said ''the activities we have detected do not, however, add up to a compelling case that Iraq is currently pursuing what INR would consider to be an integrated and comprehensive approach to acquire nuclear weapons. Iraq may be doing so, but INR considers the available evidence inadequate to support such a judgment.'' The report goes on to say, ''INR is unwilling to project a timeline for the completion of activities it does not now see happening.''

So while the President of the United States, the leader of the free world, was telling the world and American soldiers and sailors and citizens that there was no doubt that this country had a meaningful, real, and contemporaneous nuclear program, our own intelligence services, at least one of them, was telling him they did not think so. This was not told to the American people. And even if one believes today that this war was totally justified based on the civil rights of the Iraqi citizens, and I respect people who have that view, even if one believes that, it is a moral wrong not to share this information with the American people and the U.S. Congress when this debate is going on.

Mr. STRICKLAND. Mr. Speaker, will the gentleman yield?

Mr. INSLEE. I have one more point I want to be sure I make, but I yield to the gentleman.

Mr. STRICKLAND. Mr. Speaker, when the President was interviewed on Sunday, he told the American people that the Congress had the same intelligence available to them as he had available to him. And that was not true. No one told us that there was ambiguity. The President and the Vice President spoke with surety. They said, as the gentleman has pointed out, there was no doubt.

Mr. DELAHUNT. I should interrupt the gentleman to say that Secretary

Powell made that statement again. And not having had the opportunity because he left early, I was stunned by that particular remark. I do not know any Member in this body that had these different reports. With the caveats and the qualifiers, what we got was something different, Mr. Speaker.

Mr. STRICKLAND. We cannot even find out who served on the Vice President's energy task force, let alone have access to all the intelligence that the President has available.

Mr. INSLEE. Mr. Speaker, let me make a point, because I think it is important. It is not just this nuclear threat. As the gentlemen know, Condoleezza Rice made repeated references to the mushroom cloud, which is a most disturbing image to all of us having suffered through September 11, and a real potential threat from Iran and North Korea. But it is not just the nuclear threat, but the American people were not given the full scoop in this regard.

The gentlemen will recall when the President and others made repeated references to the unmanned aerial vehicles that they told us was a threat to the continental United States, that Iraq could fly over American cities and spray biological material over the United States and none of us can always ever eliminate any threat. Today somebody may be planning to do that today as we speak. I do not want to be Pollyanna-ish about this, but the President told us that our intelligence services were telling us that was going on.

According to this article, let me tell the gentlemen what the United States Air Force was telling the President of the United States. What it said was: ''The Air Force does not agree that Iraq is developing UAVs, unmanned aerial vehicles, primarily intended to be delivery platforms for chemical and biological warfare, CBW agents. The small size of Iraq's new UAV strongly suggests a primary role of reconnaissance, although CBW delivery is an inherent capability.'' We were told that Iraq was developing these weapons that could fly over Philadelphia and spray biological and anthrax over it when the Air Force was telling the President of the United States they did not believe that was the case.

Let me finish one more point. During our national debate, I respected the President of the United States' statement that Saddam Hussein was a tyrant and a thug and was massively abusive to his own people, and perhaps he rightfully argued that he believed preemptive action was appropriate. That is an argument we would respect and listen to. But during this national debate, before this President sent our citizens to die in the sands of Iraq, he did not owe us 30 percent of the truth. He did not owe us 75 percent of the truth. He owed us the whole truth and nothing but the truth. Hans Blix, who was defamed mightily by this administration prior to this war, I think said it best when he got this information. He said, ''We deserve more than what a car salesman might give.

□ 2145

We deserve the whole truth.''

If these reports are accurate, again, I have not seen these, but I read about them in the newspaper, if these reports are accurate, we need to get to the bottom of what happened here. That is why this commission that the President has appointed needs to take it upon itself not only to look at the bureaucracy at the Central Intelligence Agency, but they need to know why the President of the United States and his administration was not entirely forthcoming about the intelligence in this regard.

Mr. DELAHUNT. You know what I would like to do? I would commend for reading, to those that are watching us have this conversation tonight, this Newsweek article. It is the publication of November 17, 2003, 4 or 5 months ago. Obviously, this is a picture of the Vice President, and it is entitled ''How Dick Cheney Sold the War: The Inside Story.''

Again, I think we and the citizens have an obligation to do as much homework as we can to fully understand the reality. Those points that the gentleman made, I have heard them on the floor today. Earlier the President went to Poland and spoke about those two mobile trailers that allegedly were being used in a bioweapon program. The CIA refuted that. Again, it is important to be accurate.

It is interesting, everybody in Washington at least knows and the American people should know that there has been tension within the administration between the Vice President on one side and Secretary Powell on the other side. If I had had an opportunity today, I was going to ask the Secretary if this story in The Washington Post was accurate.

There was a lengthy article; and it was, again, published on February 1 of this year. If you remember, when Secretary Powell went before the United Nations, what the article relates is that he was very careful and thorough in terms of what he believed to be accurate intelligence, and he had this CIA analyst come in and discuss it with him.

The CIA originally drafted his speech, which then went to the White House. But when it emerged, it looked entirely different. The Vice President's chief of staff, one individual by the name of Scooter Libby, and his National Security Advisor, Stephen Hadley, and other national security staffers had produced draft language for Powell, 45 pages on weapons of mass destruction, 38 pages on alleged links to terrorism, and 16 pages on Iraq's human rights abuses. Within 1 day, Powell's task force had largely abandoned the 45-page document on Iraq's weapons of mass destruction produced by Cheney's office and the National Security Council, using instead a classified National Intelligence Estimate assembled by the CIA in October.

Again, let me suggest this: a vision and a view and an ideology that had a conclusion and was looking for facts. We all know in the selection of facts, and, again, this can be done without even a conscious intent to deceive, but the attempt to make the case like lawyers do in a courtroom. But this is not a courtroom; this is not advocacy.

But, again, I was going to ask the Secretary, was that report true. When that speech that he had prepared had come out of the White House, out of the Vice President's office, changed so dramatically, did he abandon it and go and rely on the National Intelligence Estimate?

Do you know what? The American people have a right to know that process, the world has a right to know that process, because that was a presentation to the world by the representative of the United States to the world.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. HONDA (at the request of Ms. PELOSI) for February 10 and the balance of the week on account of personal reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. GUTIERREZ) to revise and extend their remarks and include extraneous material:)

Mr. HINCHEY, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Ms. NORTON, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Mr. EMANUEL, for 5 minutes, today.

Mr. LIPINSKI, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

Mr. GUTIERREZ, for 5 minutes, today.

Mr. SKELTON, for 5 minutes, today.

Mr. CONYERS, for 5 minutes, today.

Mr. COOPER, for 5 minutes, today.

Mr. STRICKLAND, for 5 minutes, today.

Mr. HOEFFEL, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Mr. MCDERMOTT, for 5 minutes, today.

Mr. BLUMENAUER, for 5 minutes, today.

(The following Members (at the request of Mr. GINGREY) to revise and extend their remarks and include extraneous material:)

Mr. GILCHREST, for 5 minutes, today.

Mr. PENCE, for 5 minutes, today.

Mr. SOUDER, for 5 minutes, today.

Mr. BURGESS, for 5 minutes, today.

Mr. GINGREY, for 5 minutes, today.

Mr. KIRK, for 5 minutes, today.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 610. An act to amend the provisions of title 5, United States Code, to provide for workforce flexibilities and certain Federal personnel provisions relating to the National Aeronautics and Space Administration, and for other purposes.

ADJOURNMENT

Mr. STRICKLAND. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to.

Accordingly, pursuant to the previous order of the House of today, the House stands adjourned until 4 p.m. on Saturday, February 14, 2004, unless it sooner has received a message from the Senate transmitting its adoption of House Concurrent Resolution 361, in which case the House shall stand adjourned pursuant to that concurrent resolution.

Thereupon (at 9 o'clock and 50 minutes p.m.), pursuant to the previous order of the House of today, the House adjourned until 4 p.m. on Saturday, February 14, 2004, unless it sooner has received a message from the Senate transmitting its adoption of House Concurrent Resolution 361, in which case the House shall stand adjourned pursuant to that concurrent resolution.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

6728. A letter from the Under Secretary, Department of Defense, transmitting a letter on the approved retirement of Vice Admiral Patricia A. Tracey, United States Navy, and her advancement to the grade of vice admiral on the retired list; to the Committee on Armed Services.

6729. A letter from the Under Secretary, Department of Defense, transmitting a letter on the approved retirement of Vice Admiral Patricia A. Tracey, United States Navy, and her advancement to the grade of vice admiral on the retired list; to the Committee on Armed Services.

6730. A letter from the Secretary, Department of Health and Human Services, transmitting the Centers for Disease Control and Prevention's final report to Congress on Human Papillomavirus, as required by Public Law 106-554; to the Committee on Energy and Commerce.

6731. A letter from the Secretary, Department of the Treasury, transmitting as required by section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), and section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c), and pursuant to Executive Order 13313 of July 31, 2003, a six-month periodic report of the national emergency with respect toIraq that was declared in Executive Order 12722 of August 2, 1990; to the Committee on International Relations.

6732. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the Department's final rule — Amendment to the International Traffic in Arms Regulations (RIN: 1400-Z) received February 5, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on International Relations.

6733. A letter from the General Counsel, Office of Management and Budget, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

6734. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; General Dynamics, Electric Boat Corporation, Groton, CT [CGD01-03-012] (RIN: 1625-AA00) received February 4, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6735. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety and Security Zones; New York Marine Inspection Zone and Captain of the Port Zone [CGD01-03-036] (RIN: 1625-AA00) received February 4, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6736. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Captain of the Port Milwaukee Zone, Lake Michigan [CGD09-03-277] (RIN: 2115-AA97) received February 4, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6737. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security and Safety Zone; Protection of Large Passenger Vessels, Puget Sound, WA [CGD13-03-018] (RIN: 1625-AA00) received February 4, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6738. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security and Safety Zone; Protection of Large Passenger Vessels, Puget Sound, WA; Correction [CGD13-03-018] (RIN: 1625-AA00) received February 4, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6739. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Drawbridge Operating Regulation; Upper Mississippi River, Louisiana, Missouri [CGD08-03-050] (RIN: 1625-AA09) received February 4, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6740. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Drawbridge Operation Regulations; Hoquiam River, Aberdeen, WA [CGD13-04-001] received February 4, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6741. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Drawbridge Operation Regulations; Southern Branch of the Elizabeth River, Chesapeake, VA [CGD05-04-010] (RIN: 1625-AA09) received February 4, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6742. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Drawbridge Operation Regulations; Intracoastal Waterway, Beach Thorofare, NJ [CGD05-04-002] received February 4, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6743. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Drawbridge Operation Regulations; Berwick Bay, Morgan City, LA. [CGD08-04-003] received February 4, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6744. A letter from the Assistant Secretary for Land and Minerals Management, Department of the Interior, transmitting a draft bill entitled the ''Abandoned Mine Reclamation Program Extension and Reform Act of 2004''; jointlyto the Committees on Resources and Ways and Means.

6745. A letter from the Secretary, Department of Transportation, transmitting the Department's 2003 annual report on the recommendations received from the National Transportation Safety Board regarding transportation safety, pursuant to 49 U.S.C. 1135(d); to the Committee on Transportation and Infrastructure.

6746. A letter from the Director, Office of Management and Budget, transmitting a report identifying accounts containing unvouchered expenditures that are potentially subject to audit by the Comptroller General, pursuant to 31 U.S.C. 3524(b); jointly to the Committees on the Budget, Appropriations, and Government Reform.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BOEHLERT: Committee on Science. H.R. 912. A bill to authorize the Administrator of the National Aeronautics and Space Administration to establish an awards program in honor of Charles ''Pete'' Conrad, astronaut and space scientist, for recognizing the discoveries made by amateur astronomers of asteroids with near-Earth orbit trajectories; with an amendment (Rept. 108–418). Referred to the Committee of the Whole House on the State of the Union.

Mr. BOEHLERT: Committee on Science. H.R. 3389. A bill to amend the Stevenson-Wydler Technology Innovation Act of 1980 to permit Malcolm Baldrige National Quality Awards to be made to nonprofit organizations (Rept. 108–419). Referred to the Committee of the Whole House on the State of the Union.

Mr. SENSENBRENNER: Committee on the Judiciary. H.R. 1997. A bill to amend title 18, United States Code, and the Uniform Code, of Military Justice to protect unborn children from assault, and murder, and for other purposes; with an amendment (Rept. 108–420 Pt. 1).

DISCHARGE OF COMMITTEE

Pursuant to clause 2 of the rule XII the Committee on Armed Services discharged from further consideration. H.R. 1997 referred to Committee of the Whole House on the State of the Union and ordered to be printed.

REPORTED BILL SEQUENTIALLY REFERRED

Under clause 2 of rule XII, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. SENSENBRENNER: Committee on the Judiciary. H.R. 3261. A bill to prohibit the

misappropriation of certain databases, with an amendment; referred to the Committee on Energy and Commerce for a period ending not later than March 12, 2004, for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(f), rule X (Rept. 108–421, Pt. 1). Ordered to be printed.

TIME LIMITATION OF REFERRED BILL

Pursuant to clause 2 of rule XII the following action was taken by the Speaker:

H.R. 1997. Referral to the Committee on Armed Services extended for a period ending not later than February 11, 2004.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. TERRY (for himself, Mr. SKELTON, Mr. HAYES, Mr. EDWARDS, Mr. SAXTON, and Mr. RYUN of Kansas):

H.R. 3795. A bill to amend the Impact Aid program under the Elementary and Secondary Education Act of 1965 to improve the distribution of school construction payments to better meet the needs of military and Indian land school districts; to the Committee on Education and the Workforce.

By Mrs. CUBIN (for herself and Mr. RAHALL):

H.R. 3796. A bill to amend the Surface Mining Control and Reclamation Act of 1977 to reauthorize and reform the Abandoned Mine Reclamation Program, and for other purposes; to the Committee on Resources.

By Mr. TOM DAVIS of Virginia (for himself and Ms. NORTON):

H.R. 3797. A bill to authorize improvements in the operations of the government of the District of Columbia, and for other purposes; to the Committee on Government Reform, and in addition to the Committees on Education and the Workforce, and Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MARKEY:

H.R. 3798. A bill to amend the Homeland Security Act of 2002 to improve aviation security; to the Committee on Transportation and Infrastructure, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ADERHOLT (for himself and Mr. PENCE):

H.R. 3799. A bill to limit the jurisdiction of Federal courts in certain cases and promote federalism; to the Committee on the Judiciary.

By Mr. HENSARLING (for himself, Mr. RYAN of Wisconsin, Mr. CHOCOLA, Mr. COX, Mr. BARRETT of South Carolina, Mr. MARIO DIAZ-BALART of Florida, Mr. FEENEY, Mrs. MYRICK, Mr. GUTKNECHT, Mr. BEAUPREZ, Mr. FRANKS of Arizona, Mr. OTTER, Mr. HERGER, Mr. DEMINT, Mr. CULBERSON, Mr. TOOMEY, Ms. HART, Mr. ROYCE, Mr. GARRETT of New Jersey, Mr. THORNBERRY, Mrs. MUSGRAVE, Mr. PENCE, Mr. SHADEGG, Mr. CARTER, Mr. NEUGEBAUER, Mr. HOEKSTRA, Mr. RYUN of Kansas, Mr. CANTOR, Mr. BOOZMAN, Mrs. CUBIN, Mr. GOODE, Mr. AKIN, Mr. DOOLITTLE, Mr. KING of Iowa, Mr. SMITH of Michigan, Mr. PITTS, Mr. ISTOOK, Mr. SAM JOHNSON of Texas, Mr. GINGREY, Mr. CHABOT, Mr. BARTLETT of Maryland, Mr. WILSON of South Carolina, Mr. KLINE, Mr. TANCREDO, Mr. NORWOOD, Mr. SESSIONS, Mrs. BLACKBURN, Mr. BARTON of Texas, Mr. KENNEDY of Minnesota, Mr. FLAKE, Mr. SCHROCK, Mr. COLE, Ms. GINNY BROWN-WAITE of Florida, Mr. MILLER of Florida, and Mr. TURNER of Ohio):

H.R. 3800. A bill to reform Federal budget procedures, to impose spending safeguards, to combat waste, fraud, and abuse, to account for accurate Government agency costs, and for other purposes.

By Mr. BARTLETT of Maryland (for himself, Mr. FLAKE, Mr. CRANE, Mr. OTTER, Mr. DOOLITTLE, Mr. MANZULLO, Mr. PAUL, Mrs. MUSGRAVE, Mr. BLUNT, Mr. SAM JOHNSON of Texas, Mr. AKIN, Mrs. CUBIN, and Mr. PENCE):

H.R. 3801. A bill to amend the Federal Election Campaign Act of 1971 to repeal the requirement that persons making disbursements for electioneering communications file reports on such disbursements with the Federal Election Commission and the prohibition against the making of disbursements for electioneering communications by corporations and labor organizations, and for other purposes; to the Committee on House Administration.

By Mr. BASS (for himself, Mr. BRADLEY of New Hampshire, Mr. FERGUSON, and Mr. SIMMONS):

H.R. 3802. A bill to amend part B of the Individuals with Disabilities Education Act to provide full Federal funding of such part, to provide an exception to the local maintenance of effort requirements, and for other purposes; to the Committee on Education and the Workforce.

By Ms. BERKLEY (for herself and Mr. BURGESS):

H.R. 3803. A bill to amend the Older Americans Act of 1965 to provide information and outreach for the prevention of osteoporosis; to the Committee on Energy and Commerce, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BROWN of South Carolina:

H.R. 3804. A bill to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to make beach nourishment projects eligible for inclusion in mitigation plans and for hazard mitigation assistance; to the Committee on Transportation and Infrastructure.

By Mrs. CAPPS (for herself and Mr. FARR):

H.R. 3805. A bill to withdraw the Los Padres National Forest in California from location, entry, and patent under mining laws, and for other purposes; to the Committee on Resources.

By Mr. GERLACH (for himself, Mr. ENGLISH, Mr. GILLMOR, and Mr. EHLERS):

H.R. 3806. A bill to amend the Internal Revenue Code of 1986 to allow a credit against the alternative minimum tax where stock acquired pursuant to an incentive stock option is sold or exchanged at a loss; to the Committee on Ways and Means.

By Mr. GIBBONS (for himself, Mr. CANNON, Mr. HUNTER, Mr. LEWIS of California, Mr. SESSIONS, Mr. TAYLOR of Mississippi, Mr. MOLLOHAN, Mr. CUNNINGHAM, Mrs. EMERSON, Mr. ISSA, Mr. OTTER, Mrs. MUSGRAVE, Mr. KING of Iowa, Mr. FEENEY, Mr. BURTON of Indiana, Mr. HALL, Mr. DOOLITTLE, Mr. BARRETT of South Carolina, Mr. CALVERT, Mr. BACHUS, Mr. BOOZMAN, Mr. BISHOP of Utah, Mr. CRANE, Mr. BARTLETT of Maryland, Mr. DUNCAN, Mr. FRANKS of Arizona, Mr. HOSTETTLER, Mr. DEMINT, Mr. HERGER, Mr. JONES of North Carolina, Mr. PENCE, Mr. LEWIS of Kentucky, Mr. WILSON of South Carolina, Mr. AKIN, Mr. WHITFIELD, Mr. PEARCE, Mr. CULBERSON, Mr. BAKER, Mr. PETERSON of Minnesota, Mr. TERRY, Mr. SCHROCK, Mr. SHIMKUS, Mr. TIBERI, Mr. GOODE, Mr. MCCOTTER, Mr. SIMPSON, Mr. TANCREDO, Mr. KENNEDY of Minnesota, Mr. ROGERS of Alabama, Mr. HEFLEY, Mr. MILLER of Florida, Mr. MANZULLO, and Mr. SHUSTER):

H.R. 3807. A bill to provide an amnesty period during which veterans and their family members can register certain firearms in the National Firearms Registration and Transfer Record, and for other purposes; to the Committee on the Judiciary, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GUTIERREZ:

H.R. 3808. A bill to amend title 11 of the United States Code to provide priority for the payment of employee claims arising under the Worker Adjustment and Retraining Notification Act; to the Committee on the Judiciary.

By Mr. LEWIS of Georgia (for himself, Mr. GEORGE MILLER of California, Mr. CONYERS, Ms. DELAURO, Ms. PELOSI, Ms. SLAUGHTER, Mr. MEEKS of New York, Ms. WOOLSEY, Mrs. CHRISTENSEN, Ms. NORTON, Ms. LEE, Ms. SOLIS, Mr. FRANK of Massachusetts, Mr. FROST, Mr. KUCINICH, Mr. RODRIGUEZ, Mr. GREEN of Texas, Mr. BERMAN, Ms. MILLENDER-MCDONALD, Mr. GRIJALVA, Mrs. MCCARTHY of New York, Mr. DAVIS of Illinois, Mr. NADLER, Mrs. MALONEY, Ms. WATSON, Mr. TIERNEY, Mr. BROWN of Ohio, Mr. RANGEL, Mr. OWENS, Mr. KILDEE, Mr. FARR, Mr. MATSUI, Mr. MCGOVERN, Mr. HONDA, Mr. THOMPSON of Mississippi, Mrs. JONES of Ohio, Mr. SERRANO, Mr. BALLANCE, Mr. WATT, Mr. RYAN of Ohio, Mr. BLUMENAUER, Mr. BACA, Ms. KAPTUR, Ms. WATERS, Mr. PAYNE, Ms. JACKSON-LEE of Texas, Ms. MCCOLLUM, Mr. FATTAH, Mr. ANDREWS, Mr. TOWNS, Ms. EDDIE BERNICE JOHNSON of Texas, Ms. CORRINE BROWN of Florida, Mr. DELAHUNT, Mr. LANGEVIN, Mr. BISHOP of New York, Mr. ALLEN, Mr. FILNER, Ms. KILPATRICK, Ms. BALDWIN, Mr. RUSH, Mr. CUMMINGS, Ms. LINDA T. SANCHEZ of California, Mrs. DAVIS of California, Mr. GEPHARDT, Mr. UDALL of New Mexico, Mr. WEINER, Mr. GUTIERREZ, Ms. LOFGREN, Mr. STARK, Mr. STRICKLAND, Ms. MCCARTHY of Missouri, Mr. HASTINGS of Florida, Mr. SCOTT of Virginia, Mr. OLVER, Mr. HOLT, Mr. CLAY, Ms. SCHAKOWSKY, Ms. ROYBAL-ALLARD, Mr. MEEK of Florida, Mr. HOEFFEL, Mr. EMANUEL, Mr. HINOJOSA, Mr. MCNULTY, Mr. PASTOR, Ms. CARSON of Indiana, Mr. WYNN, Mr. BISHOP of Georgia, Ms. MAJETTE, and Mr. SCOTT of Georgia):

H.R. 3809. A bill to restore, reaffirm, and reconcile legal rights and remedies under civil rights statutes; to the Committee on

the Judiciary, and in addition to the Committees on Education and the Workforce, and Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. MALONEY (for herself, Mr. TOWNS, Mr. CROWLEY, Mr. JACKSON of Illinois, Mrs. CHRISTENSEN, Mrs. JONES of Ohio, Mr. SCOTT of Georgia, Mr. STARK, Mr. KENNEDY of Rhode Island, Ms. MCCOLLUM, Mr. ISRAEL, Mr. WAXMAN, Mr. DOGGETT, Mr. NADLER, Mr. EVANS, Mr. GRIJALVA, Mr. LANTOS, Ms. NORTON, Ms. JACKSON-LEE of Texas, Ms. SCHAKOWSKY, Ms. LEE, Mr. OWENS, Ms. MILLENDER-MCDONALD, Mrs. LOWEY, Ms. SLAUGHTER, and Ms. ROYBAL-ALLARD):

H.R. 3810. A bill to provide a United States voluntary contribution to the United Nations Population Fund only for the prevention, remedy, and repair of obstetric fistula; to the Committee on International Relations.

By Mr. PAUL:

H.R. 3811. A bill to amend the Internal Revenue Code of 1986 to waive the employee portion of Social Security taxes imposed on individuals who have been diagnosed as having cancer or a terminal disease; to the Committee on Ways and Means.

By Mr. POMEROY:

H.R. 3812. A bill to require the Secretary of Veterans Affairs to carry out a demonstration project on priorities in the scheduling of appointments of veterans for health care through the Department of Veterans Affairs, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. ROHRABACHER:

H.R. 3813. A bill to provide for a Near-Earth Object Survey program to detect, track, catalogue, and characterize certain near-earth asteroids and comets; to the Committee on Science.

By Mr. SESSIONS:

H.R. 3814. A bill to enhance peace between the Israelis and Palestinians; to the Committee on International Relations.

By Ms. SLAUGHTER (for herself and Mr. HOUGHTON):

H.R. 3815. A bill to amend title 18, United States Code, to provide expanded protections against the misuse of public safety officer uniforms, and for other purposes; to the Committee on the Judiciary.

By Mr. STRICKLAND:

H.R. 3816. A bill to require employees at a call center who either initiate or receive telephone calls to disclose the physical location of such employees, and for other purposes; to the Committee on Energy and Commerce.

By Mr. MILLER of Florida:

H. Con. Res. 362. Concurrent resolution expressing the sense of the Congress regarding the importance of organ, tissue, bone marrow, and blood donation and supporting National Donor Day; to the Committee on Energy and Commerce.

By Ms. ROS-LEHTINEN (for herself, Mr. BLUNT, Mr. ENGEL, Mr. ACKERMAN, Mr. SMITH of New Jersey, Mr. CHABOT, Mr. CROWLEY, Mr. PENCE, Mr. MCCOTTER, Mr. TANCREDO, Mr. BERMAN, Mrs. JO ANN DAVIS of Virginia, Mr. BURTON of Indiana, Ms. BERKLEY, and Mr. LANTOS):

H. Con. Res. 363. Concurrent resolution expressing the grave concern of Congress regarding the continuing gross violations of human rights and civil liberties of the Syrian people by the Government of the Syrian Arab Republic; to the Committee on International Relations.

By Mr. TURNER of Texas (for himself, Mr. BELL, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. DOGGETT, Mr. EDWARDS, Mr. FROST, Mr. GONZALEZ, Mr. GREEN of Texas, Mr. HINOJOSA, Ms. JACKSON-LEE of Texas, Mr. LAMPSON, Mr. ORTIZ, Mr. REYES, Mr. RODRIGUEZ, Mr. SANDLIN, and Mr. STENHOLM):

H. Res. 523. A resolution providing for consideration of the bill (H.R. 594) to amend title II of the Social Security Act to repeal the Government pension offset and windfall elimination provisions; to the Committee on Rules.

By Mr. ENGEL (for himself and Mr. BURTON of Indiana):

H. Res. 524. A resolution supporting the goals and ideals of Anti-Slavery Day; to the Committee on the Judiciary.

By Mrs. JOHNSON of Connecticut:

H. Res. 525. A resolution urging the Secretary of Homeland Security and the Secretary of State to designate Poland as a program country under the visa waiver program established under section 217 of the Immigration and Nationality Act if Poland satisfies the requirements in subsection (c)(2) of such section; to the Committee on the Judiciary.

By Mr. NEY (for himself, Mr. LANTOS, Mr. BLUNT, Mr. SNYDER, Mr. BEREUTER, Mr. BERMAN, Mr. BURGESS, Mr. DELAHUNT, Mr. GUTKNECHT, Mrs. JONES of Ohio, Mr. WEXLER, Mr. CUNNINGHAM, Mr. BURTON of Indiana, Ms. ESHOO, Mr. HONDA, Ms. GINNY BROWN-WAITE of Florida, and Mr. UDALL of Colorado):

H. Res. 526. A resolution expressing the sympathy of the House of Representatives for the victims of the devastating earthquake that occurred on December 26, 2003, in Bam, Iran; to the Committee on International Relations.

By Mr. RODRIGUEZ:

H. Res. 527. A resolution celebrating the 50th anniversary of the opening of the Falcon International Dam, recognizing the dam's importance as a source of water and power and as a symbol of friendship and cooperation between the United States and the United Mexican States, and urging Mexico to honor all of its obligations under the 1944 Treaty Relating to the Utilization of Waters of the Colorado and Tijuana Rivers and of the Rio Grande; to the Committee on International Relations.

By Mr. SHERMAN (for himself and Mr. HONDA):

H. Res. 528. A resolution expressing the sense of the House of Representatives that France should modify or abandon its ban on religious articles and symbols in state schools and respect the freedom of all to practice their religious faith without state interference; to the Committee on International Relations.

ADDITIONAL SPONSORS

Under Clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 111: Mr. EDWARDS and Mr. NEAL of Massachusetts.

H.R. 173: Ms. MCCARTHY of Missouri, Mr. LEWIS of Georgia, Mr. TURNER of Texas, and Mr. LINCOLN DIAZ-BALART of Florida.

H.R. 218: Mr. ROTHMAN, Mr. BRADY of Pennsylvania, and Mr. TURNER of Ohio.

H.R. 290: Mr. ABERCROMBIE, Mr. PAYNE, Mr. GEORGE MILLER of California, and Ms. KAPTUR.

H.R. 339: Mr. JOHN and Mr. BACHUS.

H.R. 370: Mr. STARK and Mr. FILNER.

H.R. 371: Mr. ANDREWS.

H.R. 391: Ms. PRYCE of Ohio.

H.R. 442: Mr. PAYNE.

H.R. 476: Mr. SANDERS.

H.R. 504: Ms. JACKSON-LEE of Texas.

H.R. 547: Mr. BROWN of Ohio.

H.R. 571: Mr. BROWN of Ohio and Mr. HOLT.

H.R. 594: Mr. SIMPSON, Ms. HART, and Ms. PRYCE of Ohio.

H.R. 685: Mr. HONDA.

H.R. 687: Mr. FRANK of Massachusetts.

H.R. 727: Mr. DAVIS of Florida.

H.R. 768: Mr. KENNEDY of Rhode Island and Mr. GREENWOOD.

H.R. 785: Ms. KILPATRICK.

H.R. 814: Ms. MILLENDER-MCDONALD, Mr. RENZI, and Mr. STARK.

H.R. 839: Mr. GUTIERREZ, Mr. REYNOLDS, and Mr. GILLMOR.

H.R. 932: Ms. JACKSON-LEE of Texas.

H.R. 962: Mr. FATTAH, Mrs. MCCARTHY of New York, Ms. LINDA T. SANCHEZ of California, Mr. EVANS, and Mr. PRICE of North Carolina.

H.R. 1004: Mr. SCHIFF.

H.R. 1057: Mr. ISSA, Mr. SESSIONS, and Mr. SHIMKUS.

H.R. 1080: Mr. MICHAUD and Mr. BRADLEY of New Hampshire.

H.R. 1088: Mr. DOGGETT.

H.R. 1127: Mr. BRADLEY of New Hampshire, Mr. BALLENGER, and Mr. EVANS.

H.R. 1155: Mr. LARSEN of Washington.

H.R. 1179: Mr. BALLENGER and Mr. CRANE.

H.R. 1196: Mr. ANDREWS.

H.R. 1200: Ms. DELAURO and Mr. TIERNEY.

H.R. 1214: Mr. HINCHEY, Mr. ROGERS of Michigan, and Mr. ROTHMAN.

H.R. 1304: Ms. SLAUGHTER.

H.R. 1325: Mr. FOLEY.

H.R. 1336: Mr. CARDIN.

H.R. 1478: Mr. DEMINT.

H.R. 1480: Mr. SNYDER.

H.R. 1483: Mr. ANDREWS.

H.R. 1532: Mr. GREEN of Texas, Mr. COBLE, and Mr. TOWNS.

H.R. 1567: Mr. COLLINS.

H.R. 1608: Mr. SOUDER, Mr. OWENS, Mr. BURTON of Indiana, Mr. MCNULTY, Mr. FILNER, and Mr. PASTOR.

H.R. 1622: Mr. DAVIS of Alabama and Mr. MILLER of North Carolina.

H.R. 1631: Mr. WICKER, Mr. KLINE, Mr. HERGER, Mr. JONES of North Carolina, Mr. SESSIONS, Mr. GALLEGLY, Mr. BARRETT of South Carolina, and Mr. SIMPSON.

H.R. 1639: Ms. LORETTA SANCHEZ of California.

H.R. 1726: Ms. BORDALLO, Mr. WICKER, and Ms. WOOLSEY.

H.R. 1784: Mr. MILLER of North Carolina.

H.R. 1916: Mr. UDALL of New Mexico.

H.R. 2096: Ms. BERKLEY, Mr. JOHN, Mr. RODRIGUEZ, and Mr. SIMPSON.

H.R. 2227: Mr. PAYNE.

H.R. 2262: Mr. BELL and Mr. ACKERMAN.

H.R. 2318: Mr. TURNER of Texas.

H.R. 2694: Mr. OBERSTAR.

H.R. 2632: Mr. FROST.

H.R. 2720: Mr. GREENWOOD.

H.R. 2724: Mr. FILNER.

H.R. 2743: Mr. MICA.

H.R. 2797: Mr. UPTON.

H.R. 2849: Mr. BALLENGER.

H.R. 2852: Mr. KENNEDY of Minnesota and Mr. EVERETT.

H.R. 2863: Mrs. NAPOLITANO, Ms. SOLIS, Mr. SPRATT, Mr. DICKS, Mr. HAYES, and Mr. BURR.

H.R. 2952: Mr. WU.

H.R. 2963: Mr. BACA.

H.R. 2967: Mr. BRADY of Pennsylvania, Mr. ANDREWS Ms. PRYCE of Ohio and Mr. DUNCAN.

H.R. 2987: Ms. NORTON.

H.R. 3015: Mr. SHIMKUS.

H.R. 3026: Mr. NADLER.

H.R. 3104: Mr. SCHIFF, Mr. FROST, Ms. LORETTA SANCHEZ of California, Mr. PETRI, Mr. DEFAZIO Mr. MURTHA, Mrs. MALONEY, Mr. CROWLEY, Mr. BAIRD, Ms. GONZALEZ, Mr. MARSHALL, Mr. STARK, Mr. GUTIERREZ, Mrs.

MCCARTHY of New York, Mr. KENNEDY of Rhode Island, Mr. JOHN, Ms. MCCARTHY of Missouri, Ms. DELAURO, and Mr. MCINTYRE.

H.R. 3180: Ms. SLAUGHTER and Mr. DEUTSCH.

H.R. 3192: Mr. FILNER and Mr. KLECZKA.

H.R. 3193: Mr. HEFLEY and Mr. SKELTON.

H.R. 3215: Mrs. CUBIN, Mr. DOOLITTLE Mr. CRANE, Mr. ISSA, Mr. HEFLEY, Mr. TOOMEY, Mr. BONNER, Mr. HENSARLING, Mr. JENKINS, Mr. BONILLA, Mr. MILLER of Florida, and Mr. KING of Iowa.

H.R. 3243: Mr. OXLEY, Mr. SMITH of New Jersey, Mr. CLAY, and Mr. FARR.

H.R. 3246: Mr. BRADLEY of New Hampshire, Mr. JONES of North Carolina, and Mr. KENNEDY of Minnesota.

H.R. 3274: Mr. GINGREY, Mr. NEY, Mr. DEAL of Georgia, Mr. TOM DAVIS of Virginia, Mr. WHITFIELD, Mr. DAVIS of Tennessee, and Mr. HOEKSTRA.

H.R. 3281: Mr. GILCHREST.

H.R. 3293: Mr. EMANUEL and Mr. PAYNE.

H.R. 3310: Mr. CRANE.

H.R. 3344: Mr. CLAY and Mrs. MCCARTHY of New York.

H.R. 3362: Mr. NADLER and Mr. PAYNE.

H.R. 3378: Mr. CASE, Mr. GREENWOOD, Mr. VAN HOLLEN, Mr. SHAW, and Mr. HASTINGS of Florida.

H.R. 3416: Mr. NADLER.

H.R. 3438: Mr. EMANUEL, Mr. NEAL of Massachusetts, Mr. DELAHUNT, Mr. KENNEDY of Rhode Island, Mr. MARKEY, and Mrs. MILLER of Michigan.

H.R. 3473: Mr. LEACH, Mr. NADLER, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. CLAY, and Mr. SHADEGG.

H.R. 3482: Mr. PASTOR.

H.R. 3510: Mr. MARKEY.

H.R. 3528: Mrs. MCCARTHY of New York and Mr. FRANK of Massachusetts.

H.R. 3539: Mrs. DAVIS of California.

H.R. 3570: Mr. CAMP, Mr. DINGELL, and Mr. STUPAK.

H.R. 3574: Mr. SMITH of Texas, Mr. MOORE, Mr. DAVIS of Tennessee, Mr. BOUCHER, Mrs. BIGGERT, Mr. SESSIONS, Mr. HINOJOSA, Mr. DAVIS of Alabama, Mr. GONZALEZ, Mr. TOM DAVIS of Virginia, Mr. HEFLEY, Mr. PUTNAM, Mr. THOMPSON of California, Mr. ROSS, and Mr. GOODLATTE.

H.R. 3593: Ms. MCCOLLUM.

H.R. 3619: Mr. BOUCHER, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. MCHUGH, and Ms. LOFGREN.

H.R. 3676: Mr. GRIJALVA and Ms. JACKSON-LEE of Texas.

H.R. 3684: Mr. MCDERMOTT.

H.R. 3687: Mr. BOEHLERT, Mr. LEWIS of Kentucky, Mr. CULBERSON, Mr. FERGUSON, and Mr. WILSON of South Carolina.

H.R. 3695: Mr. FERGUSON.

H.R. 3707: Mr. SKELTON, Mr. WEINER, Mr. LANGEVIN, Mr. MCGOVERN, Mr. CONYERS, Mr. HINOJOSA, Mr. VAN HOLLEN, Mr. HASTINGS of Florida, Mr. RUSH, Mrs. JONES of Ohio, Mr. GREEN of Texas, Mr. CRAMER, Ms. LEE, Ms. CARSON of Indiana, Mr. DAVIS of Alabama, Mr. BELL, MR. CLYBURN, and Mr. GEPHARDT.

H.R. 3711: Mr. FILNER and Mr. HINCHEY.

H.R. 3717: Mrs. JO ANN DAVIS of Virginia, Mr. RUSH, Mr. GOODLATTE, and Mr. GOODE.

H.R. 3722: Mr. BEREUTER.

H.R. 3726: Mrs. MALONEY, Mr. SERRANO, Mr. BISHOP of New York, Mrs. LOWEY, Mr. NADLER, Mrs. MCCARTHY of New York, Mr. MEEKS of New York, and Mr. OWENS.

H.R. 3728: Mr. GILCHREST.

H.R. 3736: Mr. NORWOOD, Mr. ISAKSON, Mr. TAYLOR of Mississippi, Mr. SHIMKUS, Mr. FORBES, Mr. GOODE, Mr. STEARNS, Mr. PAUL, Mr. BARTLETT of Maryland, Mr. GINGREY, and Mr. MILLER of Florida.

H.R. 3737: Mr. TOM DAVIS of Virginia.

H.R. 3743: Mr. MARSHALL, Mr. PETERSON of Minnesota, and Mr. MCINTYRE.

H.R. 3757: Mr. ADERHOLT, Mr. PENCE, Mr. TANCREDO, Mrs. MYRICK, Mr. FEENEY, Mr. JONES of North Carolina, and Mr. AKIN.

H.R. 3763: Mr. TOM DAVIS of Virginia, Mr. LEWIS of Kentucky, Ms. ESHOO, Mrs. WILSON of New Mexico, and Mr. BURNS.

H.R. 3777: Mr. BEREUTER, Mr. OSBORNE, Mr. BARTLETT of Maryland, Mr. STENHOLM, and Mr. HEFLEY.

H.R. 3780: Mr. RANGEL, Ms. JACKSON-LEE of Texas, Mr. CROWLEY, Ms. NORTON, and Mrs. CHRISTENSEN.

H.R. 3784: Mr. BEAUPREZ, Mr. FEENEY, Mr. HENSARLING, Mr. GINGREY, Mr. PENCE, Mr. GARRETT of New Jersey, Mr. SMITH of Michigan, Mr. KING of Iowa, Mrs. MYRICK, Mr. AKIN, Mr. GOODE, and Mrs. CUBIN.

H.R. 3791: Mrs. JO ANN DAVIS of Virginia.

H.J. Res. 45: Mrs. WILSON of New Mexico and Mr. LANTOS.

H.J. Res. 72: Mr. SIMMONS and Mr. DINGELL.

H.J. Res. 87: Mr. TAYLOR of Mississippi, Mr. RANGEL, and Mr. MENENDEZ.

H. Con. Res. 218: Mr. CUMMINGS.

H. Con. Res. 247: Mr. LYNCH.

H. Con. Res. 266: Mr. BISHOP of Georgia.

H. Con. Res. 298: Mr. LATOURETTE.

H. Con. Res. 318: Mr. BURTON of Indiana, Mr. AKIN, and Mr. KING of Iowa.

H. Con. Res. 326: Mr. INSLEE.

H. Con. Res. 327: Mr. FILNER and Mr. PITTS.

H. Con. Res. 332: Mr. BONNER, Mr. LOBIONDO, Mr. SCHROCK, Mr. ROTHMAN, Mr. JOHN, Mr. BURTON of Indiana, Mr. BONILLA, Mr. ROGERS of Alabama, Mr. KLINE, Mr. BACHUS, and Mr. FERGUSON.

H. Con. Res. 344: Ms. DELAURO, Ms. JACKSON-LEE of Texas, Mr. GORDON, Mr. CUMMINGS, Mr. FILNER, Mr. RANGEL, and Mr. COSTELLO.

H. Con. Res. 352: Ms. MCCOLLUM, Mr. PALLONE, Mr. FALEOMAVAEGA, Mr. MEEK of Florida, Mr. CROWLEY, Mr. LANTOS, Mr. UDALL of New Mexico, Ms. JACKSON-LEE of Texas, Mr. ABERCROMBIE, Mrs. MALONEY, Mr. MEEHAN, Mr. BERMAN, Ms. CORRINE BROWN of Florida, Mr. HASTINGS of Florida, Mr. LOBIONDO, Mr. MCNULTY, Mr. MCDERMOTT, Mr. MCINTYRE, Mr. FILNER, Ms. ROS-LEHTINEN, and Mr. DAVIS of Florida.

H. Res. 60: Mr. MATHESON.

H. Res. 101: Mr. DEUTSCH and Mr. WATT.

H. Res. 125: Mr. KINGSTON.

H. Res. 313: Mr. SANDERS.

H. Res. 381: Mr. WEXLER, Mr. WAMP, Mr. RUSH, and Mr. ENGEL.

H. Res. 402: Mr. DUNCAN.

H. Res. 482: Mr. LEWIS of Kentucky, Mr. QUINN, and Mr. ETHERIDGE.

H. Res. 552: Mrs. MALONEY, Mr. TOWNS, Mr. KING of New York, Mr. GREEN of Wisconsin, Mr. FEENEY, Mrs. DAVIS of California, Ms. BALDWIN, Mrs. CHRISTENSEN, Ms. NORTON, Ms. MILLENDER-MCDONALD, and Mr. KILDEE.

PETITIONS, ETC.

Under clause 3 of rule XII,

56. The SPEAKER presented a petition of the Wisconsin Commercial Ports Association, relative to Resolution #02–03 authorizing funding for modernization of lock and dam infrastructure on upper Mississippi and Illinois rivers' inland waterways transportation system, as also approved by the Brown County Harbor Commission and the Brown County Board of Supervisors; which was referred to the Committee on Transportation and Infrastructure.

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Congressional Record

PROCEEDINGS AND DEBATES OF THE 108th CONGRESS, SECOND SESSION

Vol. 150 WASHINGTON, WEDNESDAY, FEBRUARY 11, 2004 No. 17

Senate

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

PRAYER

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

Let us pray.

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

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

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

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

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

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

We pray this in Your loving Name.

Amen.

PLEDGE OF ALLEGIANCE

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

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

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

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

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

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

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

ECONOMIC GOOD NEWS

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

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

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

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

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

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

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

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

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

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

I yield the floor.

RECOGNITION OF THE MINORITY LEADER

The PRESIDENT pro tempore. The Democratic leader is recognized.

EXPORTING U.S. JOBS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

She wrote:

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

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

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

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

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

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

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

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

The Democratic leader.

ORDER OF BUSINESS

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

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

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

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

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

ECONOMIC POLICY

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

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

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

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

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

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

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

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

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

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

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

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

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

I thank the Senator for her question.

The PRESIDENT pro tempore. The Senator from Nevada.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

PROTECTING THE TROOPS

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

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

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

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

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

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

so they are not vulnerable in these areas.

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

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

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

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

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

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

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

It goes on to say:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

I yield the floor.

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

The PRESIDING OFFICER. Four minutes seventeen seconds.

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

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

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

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

Mr. DURBIN. I read this book.

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

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

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

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

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

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

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

The PRESIDING OFFICER. The Senator from Texas.

ORDER OF BUSINESS

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

The PRESIDING OFFICER. They have 20 seconds remaining.

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

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

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

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

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

The PRESIDING OFFICER. Correct.

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

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ALLARD. I thank the Chair.

THE ECONOMY

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

I yield the floor.

CONCLUSION OF MORNING BUSINESS

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

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

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

The assistant legislative clerk read as follows:

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

Pending:

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

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

The PRESIDING OFFICER. The Senator from Virginia.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Mr. ALLEN. I would be happy to.

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

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

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

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

Mr. ALLEN. Of course not.

Mr. WARNER. Fine.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Mr. ALLEN. It has failed for many years.

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

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

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

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

The PRESIDING OFFICER. The junior Senator.

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

The PRESIDING OFFICER. The distinguished junior Senator.

Mr. INHOFE. I thank the Chair.

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

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

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

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

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

Mr. ALLEN. I surely will.

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

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

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

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

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

Mr. WARNER. Yes.

Mr. ALLEN. What is the question?

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

I thank the Senator for yielding the floor.

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

AMENDMENT NO. 2311

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

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

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

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

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

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

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

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

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

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

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

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

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

I yield the floor.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

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

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

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

The amendment is as follows:

> At the appropriate place, insert the following:

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

(a) FINDINGS.—The Senate finds that—

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

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

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

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

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

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

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

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

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 2286

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

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

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

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

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

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

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

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

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

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

These tragic statistics are reversible if we take action today.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

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

The legislative clerk called the roll.

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

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

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

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

[Rollcall Vote No. 9 Leg.]

YEAS—57

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

NAYS—41

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

NOT VOTING—2

Edwards	Kerry

The motion was agreed to.

The PRESIDING OFFICER. The Senator from Tennessee.

CHANGE OF VOTE

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

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

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

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

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

The motion to lay on the table was agreed to.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

I ask that it be supported by my colleagues.

AMENDMENT NO. 2327 TO AMENDMENT NO. 2311

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

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

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

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

The amendment is as follows:

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

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

SEC. 1409. RENTED OR LEASED MOTOR VEHICLES.

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

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

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

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

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

''(d) DEFINITIONS.—In this section:

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

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

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

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

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

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

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

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

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

The PRESIDING OFFICER. The Senator from Washington.

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

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

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

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

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

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

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

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

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

jobs were created and we curtailed the benefit program.

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

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

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

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

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

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

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

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

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

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

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

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

Mr. INHOFE. I object.

The PRESIDING OFFICER. The objection is heard.

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

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

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

I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

minimum wage, and this is what has happened:

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

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

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

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

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

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

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

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

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

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

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

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

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

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

INDEPENDENT COMMISSION TO INVESTIGATE IRAQ INTELLIGENCE

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

> Brazen: Boldness.

Yes, he is pretty bold.

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

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

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

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

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

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

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

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

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

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

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

This is Bill O'Reilly—

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

Appearing on TV, O'Reilly said:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Mr. REID. It is absolutely the case.

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

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

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

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

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

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

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

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

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

Mr. INHOFE. Mr. President, parliamentary inquiry.

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

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

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

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

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

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

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

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

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

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

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

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

The Senator from Nevada has the floor.

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

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

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

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

These are facts.

Mr. DORGAN. Will the Senator yield?

Mr. REID. I am happy to yield.

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

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

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

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

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

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

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

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

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

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

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

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

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

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

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

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

I yield the floor.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

What is the most expensive way?

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

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

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

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

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

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

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

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

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

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

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

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

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

I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

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

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

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

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

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

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

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

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

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

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

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

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

I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri.

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

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

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

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

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

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

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

He understands that.

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

I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

JOBS MOVE OVERSEAS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Mr. HOLLINGS. Yes, sir.

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

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

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

Mr. HOLLINGS. I surely am.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Mr. INHOFE. Will the Senator yield?

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

I will be delighted to yield.

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

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

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

Mr. INHOFE. Will the Senator yield further?

Mr. HOLLINGS. Yes.

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

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

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

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

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

Mr. HOLLINGS. Yes.

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

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

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

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

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

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

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

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

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

I thank the distinguished Senator.

I yield the floor.

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

The PRESIDING OFFICER. The Senator has that right.

THE FUTURE OF SCIENCE AND TECHNOLOGY IN AMERICA

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

I yield the floor.

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

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

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

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

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

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

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

The Federal Government doesn't get an equity position. We don't get royalties. We are not benefiting from the fruit of these subsidies, but we are certainly taking the taxpayers' money from families who might be earning $30,000, $40,000, or $50,000 a year—middle income or low income. We are taking their tax money and giving it to some private corporation to subsidize their new product development. That is simply wrong. It does not matter if there is a merit review. It does not matter if the man or woman or the board evaluating these programs is being very thoughtful about it and very judicious in trying to be fair and balanced and pick the right technology or the most promising technology.

It is wrong to be subsidizing the product development of a private company selling its goods into the marketplace, trying to make a profit. It is certainly not an efficient way to run an economy. It certainly is not fair to those competitors who are selling similar products who have to compete with the company getting the big government subsidy or the small government subsidy. It does not matter to me if they get $100,000 or $200,000 or $2 million. It certainly is not the role of the Federal Government to try to manipulate or micromanage markets for commercial products. That is not the role of the Federal Government.

I do not take issue with a lot of the concern and interest shown in encouraging our children to dedicate themselves to areas of science or technology or mathematics. I certainly enjoyed math and science as a student, and although I don't know how well I performed, I performed well enough to go to engineering school and work at least at one time in the real world helping to develop new products and helping to bring them to market. Maybe it is that personal experience, having worked at the very type of firm that may be applying to the Federal Government for these subsidies, that makes me so concerned this is not the right role for the Federal Government. This is not the best way to spend taxpayers' money.

That is precisely the reason the administration has said we ought not to be spending $150 million in this way. We can find a better use for this money. We can find a better way to utilize it for the public good in a way that does not, in my opinion, sap our economic strength by trying to manipulate or micromanage these markets.

There are many areas of the Federal Government where we might be providing support—through the National Science Foundation, through the National Institutes of Health—the basic research in medicine or physics or chemistry or mathematics or some of the other areas I mentioned which might be very worthwhile, to expand our understanding in these areas of basic science and mathematics. But helping some company develop a new air conditioning system or new control system or write a new software code they can sell into the marketplace is not the way to do it.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, let me respond briefly to the comments of my colleague. I respect his background and knowledge in engineering and science. He is, I believe, the only qualified engineer we have serving in the Senate at this point. I certainly respect that.

I believe strongly the Advanced Technology Program which he has discussed is a very good use of taxpayer dollars. It is not, as he describes it, subsidizing product development by individual companies. It is, in fact, assisting with generic, broad-based, high-risk, precompetitive technology development.

I suggest to my colleague much of our ability to compete in world markets depends upon our remaining world leaders in the various generic technologies we are talking about. In microelectronics, in nanotechnology, in a whole range of areas, we need to have Government support for continued development of generic technologies so our companies can, in fact, pick up on that and hopefully be competitive in the world markets. That is what has happened in biotechnology.

Maybe the genome project is a terrible use of taxpayer dollars, funding the development of the genome product. There are a lot of commercial benefits coming out of that and many more in the future. But that was a government-funded research effort, and that was an extremely good investment. That is one of many examples.

The Advance Technology Program—and I do not have all the examples with me today, but I will bring them to the Senate in the days ahead. But to say the rest of the world can do what it wants in the way of pursuing generic-enabling, precompetitive technologies, we are doing nothing in those areas, is shortsighted in the extreme. Essentially, that is what this administration has done. We do not want an Advanced Technology Program in this country. The Japanese can do what they want, the Europeans can do what they want, the Chinese can do what they want, along with every other major country.

I just returned 2 months ago from a trip to Taiwan. I urge my colleague to go to Taiwan—maybe he has been to Hsinchu Science Park near Taipei—and talk to them about how it is inappropriate for government to be involved in any way assisting in the development of precompetitive technology that might benefit some of these companies. They do not understand what language you are talking in that kind of discussion.

We are in a severe competition with the rest of the world to remain the world leader in science and technology. The advanced technology program is an essential part of us maintaining that leadership. It is wrongheaded for this administration in this day and time to be coming to the Congress and saying, let's eliminate this program. Sure, we want high-wage jobs to be created, but the answer to that has been, Let's cut taxes some more.

That is not an economic strategy that is going to get the job done. We need various elements of an economic strategy. One of those is to remain the world leader in generic precompetitive technology development. That is what the Advanced Technology Program is intended to do. I strongly favor continued and increased funding of it.

We have a basic disagreement on this issue. I wanted that on the record.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SUNUNU. I appreciate the comments of the Senator from New Mexico.

To reiterate what I hope I was clear in saying before, I am not talking about National Science Foundation funding, which was the funding principally used to support the development of the human genome project. I have been quite supportive of the NSF funding and the National Institutes of Health funding research, which is where the human genome funds came from.

Talking about the Advanced Technology Program, I am not quite sure what ''precompetitive'' means. I would like to use the definition that is just behind the Senator from New Mexico. It says ''commercial potential.'' That means products that are commercially viable that will be sold in the marketplace, in a competitive marketplace, in that description behind the Senator from New Mexico.

It says the grantees of this program are businesses—businesses and joint R&D partnerships that are funded by, I assume, I hope, American businesses. In fact, at one time some of the largest grantees of this program were those in the automotive industry, automotive manufacturing industry. We were using these ATP funds for the partnership for the next generation vehicle. This was an initiative driven originally by Vice President Al Gore at the time to develop a hybrid car, hybrid electric and combustion engine. After spending about $2 billion in all with the Advanced Technology Program, that effort was abandoned. It simply is a case in point as to why it is not a good idea to take taxpayer money and try to subsidize the product development—in this case, of cars—that is a product sold in the marketplace, and in a competitive marketplace at that.

One final anecdote, and I think it is an important anecdote. The Senator from New Mexico mentioned Taiwan. I have been to Taiwan before; not to this particular office park. I do not believe in a national economic policy that says: Let's do what the Japanese are doing. Let's do what the Germans are doing.

In Germany right now they have over 10 percent unemployment. In Japan right now they are still in the throes of a deflationary spiral and a stock market collapse that began several years ago.

I do not want to be Japan. I do not want to be Germany. I want to be America. I want the strongest, most competitive, most vibrant economy in the world. That is what we have today. I do not want to lose that, certainly. But if we look back just a little bit, back to the late 1980s, industrial policy wonks within the Senate and the U.S. Government were insisting if we wanted to be a competitive economy, we had to subsidize the development of the high-definition TV standard, and they did not talk about putting $100 million or $200 million or $150 million, as we have in the Advanced Technology Program today, into subsidizing the development of a TV standard. They were talking about billions—$2 billion, $5 billion, $10 billion—to subsidize the development of a commercial application.

Fortunately, the United States did not do that. But Japan, the model cited by the Senator from New Mexico, did do it. They put roughly $20 billion of their federal taxpayer resources into the development of that commercial standard. As a result, they have a high-definition TV standard that cannot rival the standard that was developed by the private sector, the competitive marketplace here in the United States.

It is a small example.

We might be able to point to an example where a technology or venture in ATP did result in a good commercial product that enabled the owners of that product to make a lot of money. But, as I often point out to my constituents, if you let me spend $150 million a year, I can certainly create a few jobs with it; the question is, is it the role of the Federal Government. Should we be micromanaging private sector, profitable companies in the private marketplace? Should we be subsidizing one company at the expense of its competitors? Is it the right thing to do? I think in this case it simply is not.

I yield the floor and very much appreciate the Senator from New Mexico engaging in this discussion and difference of opinion.

The PRESIDING OFFICER. The minority whip.

Mr. REID. Mr. President, I first of all extend my appreciation and my apologies to the Senator from Wyoming, Mr. THOMAS, for allowing me to go before him. I will be as brief as possible. I wanted the discussion to be in keeping with what has been said by the Senator from New Mexico and the Senator from New Hampshire.

I am not a scientist, but I am a historian. I understand history. I know, for example, in 1844 Congress was approached by a man who said: I want to revolutionize the communications systems in this country. He asked Congress to appropriate $40,000 for an experiment he did not have the wherewithal to do. He had been trying for many years to get the money to do this.

The experiment was to build a telegraph line between Washington, DC and Baltimore, MD. For $40,000 they did it. The Federal Government did not ever have to put another penny into that project. It revolutionized the way we communicated in America—the telegraph system. The Federal Government did the right thing by doing the research and development on this issue.

Let's fast forward now more than 100 years from 1844 when two scientists from MIT, by the name of Danby and Powell, were stuck in traffic in New York. They were both professors at MIT, scientists. They said: This is ridiculous. We shouldn't be stuck in traffic like this. We should figure something out that would stop this.

They went back to the laboratories, and they, within a short period of time, invented magnetic levitation, which is the ability of these huge trainlike vehicles to speed through the air, but the vehicle is less than a quarter of an inch off the guideway. It goes 300 miles an hour.

The Federal Government, the United States of America, for 5 years paid for research and development for this new technology. There were cost-cutting issues that came forward and it was eliminated. There was no more research and development. But the Germans and the Japanese picked up from where we left off, and now they are in the process of finalizing their experimentation of magnetic levitation.

We are going to have magnetic levitation in this country, no question about it. It is only a question of when. The bill that is now before this body will spend hundreds of millions of dollars on magnetic levitation. The bill before that did not spend that much. It is going to happen, but we are going to have to import the equipment and the technology from Germany and Japan.

I believe the Senator is right. I believe the Federal Government has to be very careful in picking and choosing where we help with research and development on a scientific project, but we have an obligation, I believe, to the taxpayers of this country to develop the telegraph or magnetic levitation.

I underscore the need for this and applaud and congratulate the Senator from New Mexico for his usual farsightedness.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, let me just continue, if I can, for another 2 minutes before yielding to my colleague. I promise it will be very short.

I thank the Senator from Nevada very much for the examples he cited. I think there are many other examples, and in the coming days and weeks I will try to bring some of those to the floor, as I am sure my colleague from Nevada will.

The truth is, we would not have an Internet if it were not for Government-funded technology development. The President himself has identified some areas where he believes we need to put additional resources into research and development—developing hydrogen-operated vehicles, for example.

There are a great many areas where the Government does have a legitimate role to play in underwriting generic, precompetitive technology our companies can then take to be competitive and remain competitive. That is what the Advanced Technology Program has done. There are many examples we can point to over the years of successes they have had, and we will get those examples out for the Senate.

But it is shortsighted in the extreme for us to be saying, in this day and time, when we are worried about high-wage job creation in this country, that the way to start dealing with that is to eliminate this kind of program, to eliminate our support for science and technology development in the Department of Commerce. That is a very shortsighted approach. I hope this Congress will not agree with this President and go along with this kind of cut.

Mr. President, with that, I yield the floor. Again, I thank my colleague, Senator THOMAS, for his courtesy in allowing us to continue this debate as long as we have.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. THOMAS. Mr. President, I enjoyed listening to the debate.

I do rise to talk some more about the issue that is before us, the issue we have been talking about now for 10 days, and that hopefully we will be able to complete within the next couple of days, and that, of course, is the highway transportation infrastructure bill that is now before us.

I thank the chairman of the EPW Committee and the ranking member and the staff for continuing to move forward with this important bill.

Sometimes we take for granted what is out there, whether it be electricity—we have been working on the electric bill—whether it is energy. Because it is there, we just sort of forget all that goes into making sure it is there.

But our previous transportation infrastructure bill, the Transportation Equity Act for the 21st Century, expired on September 30 of the past year. Now we are nearly half a year beyond the bill expiring to take care of our infrastructure needs. For some time, then, the transportation system has been operating under a 5-month extension, which expires at the end of this month, by the way, and which doesn't fund nearly to the present needs because it is a CR from before.

So the infrastructure is in great need. All of us recognize that. There is an increasing use of it, increasing numbers of cars on the road, increasing numbers of trucks.

Our whole economy depends on this transportation infrastructure. The Interstate Highway system is almost 50 years old. Thirty-two percent of our major roads are in poor or mediocre condition. You can see that, particularly when we have had the rain and the storms, you drive around and bump into the potholes.

But more importantly, we don't have the kind of expansion to handle the increased traffic. Twenty-nine percent of our bridges are structurally deficient, functionally obsolete. Thirty-six percent of the Nation's urban rail vehicles and maintenance facilities are in substandard condition. Twenty-nine of the Nation's bus fleet and maintenance facilities are substandard or in poor condition. We really have a challenge with one of the most important aspects of our economy being in poorer shape, certainly, than we would like to see it or even imagine that it is.

I am very pleased that we are working on this bill. I happen to be a member of the EPW Committee as well as the Finance Committee. Those are the two main committees involved. I have been involved for some time—in fact, 6 years ago I was involved in the previous program from the EPW Committee. I feel strongly about this issue, very strongly about it in terms of the infrastructure, very strongly about it in terms of the jobs that it creates. Quite frankly, it creates more jobs more quickly than any other kind of activity we could undertake.

We are in the process of seeking to get that resolved, of course. This legislation would result in thousands of jobs. In my State of roughly half a million people, one of the smallest States in the country, 20,000-plus jobs mean a lot. We would have those very quickly. In fact, for every $1 billion in highway construction, we can expect 47,000 new jobs to occur. This means creating opportunities for people to work.

In my State, again, we have nearly 20,000 people who are employed as truckers and move more than 31 million tons of manufactured freight and earn more than $674 million in wages. So this is part of the economy that is impacted and affected. Without good, safe roads, of course, these people can't get their jobs done.

The highway system is almost 50 years old. You don't think about all the things that are involved in that. It is terribly expensive to have roads fixed. Last year we had 20 or 30 miles of roads being fixed over the mountain into Yellowstone Park. This is a U.S. road. This is an interstate highway that people were using. Of course, it is very expensive. So there are a lot of dollars involved in doing this. But we can't allow these kinds of things to continue to deteriorate.

I just came from a meeting for an hour or so with the Director of the National Park Service. I happen to be chairman of the Park Service Subcommittee. One of the issues important to the Park Service is maintenance of highways in national parks. Of course, here again it is very expensive but absolutely necessary to have it done. There is a great deal of discussion about what we ought to do. The expenses are high. We are all concerned about the budget and the deficit, of course. We want to work to change that. But we have had that in mind as we have gone along on this whole program.

Of course, the basic source for funds for highway funding is the tax on gasoline that each of us pays, 18.5 cents each time we put in a gallon of gas. That goes into this fund. It goes into the fund for highways, partially for mass transportation as well. The funding actually was done in the Finance Committee, and there has been a considerable amount of talk about the fact that there was some sort of trick being pulled in order to get money in there that didn't belong there. Quite frankly, I followed it as closely as I could. I keep hearing these incorrect allegations.

I encourage critics to read the Finance Committee title. Under the committee title, the highway trust fund will maintain more of the excise taxes that were intended to go into that fund originally but have not been there. This accomplishes partial elimination for the ethanol blend of fuels. These fuel users now pay the full excise tax, and the trust fund under this plan will receive the money. It has not in the past. The benefits will be taken as a tax credit against the general fund as are all other energy production incentives.

Likewise, the trust fund will retain excise taxes collected from certain users such as State and local governments using the highways and paying into that fund. Currently, these users get a refund. Under the committee amendment, the refund is not charged to the highway trust fund. What we have done is made some changes in the funding that should have been going into the trust fund but has not been going into the trust fund, and then finding some others to replace these so that there is not a reduction in the general fund but that the highway trust fund has more body to it.

The committee changes have been called gimmicks. We hear the allegation that the Finance Committee used accounting gimmicks. This is unfair and incorrect. What the Finance Committee did do was ensure that the trust fund keeps more of the excise tax, which is what it was designed to do in the first place.

Then, for instance, the Finance Committee recognized that the trust fund should earn interest on the balance. It is a huge amount of money, and the interest is a significant amount. It has not gone into the trust fund in the past. It would do that.

So there are a number of aspects that have been changed here. We find a good deal of complaint on the floor that these were gimmicks and criticisms of the Finance Committee. Unfortunately, interestingly enough, the Commerce Committee is also a part of this. They have been able to spend $7 billion in their programs, but they don't ever mention that. All they do is complain about what the Finance Committee is doing.

I can't emphasize enough the need to move this bill and to move it now. This idea that we would have a CR for a year simply doesn't deal with the issues we have, the problems we have, keeping up this infrastructure in the way it needs to be kept up. We have solved these issues. What we need to do is pass this bill this week and go into conference committee. Get the House to do what they are going to do with it, go into the conference committee, work with the House and the White House and with the Senate and come up with a bill that is appropriate for everyone and will be accepted by others. That is the system we have.

Increasingly, if someone disagrees with the system, instead of debating and discussing their differences, they just look for ways to hold up the bill. Quite frankly, that is a high price to pay for all Americans to not have these jobs, to not have this infrastructure kept up, to not be able to do what is needed on one of the most important aspects of our economy. We have the opportunity to do that.

I am certainly hopeful that we can come to some agreement. No one in this Senate is more concerned than I am about the spending level. I think you have to take a look at what we are seeking to do to balance the budget, to reduce the deficit, and to help increase the economy.

These are the issues we have been dealing with. Of course, in addition to that, as a cause of the deficit, we had September 11. So it is not easy. But we can do it. I certainly hope we do and that we move forward as quickly as possible to be able to do this.

I yield to my friend from Missouri.

Mr. BOND. Will the Senator yield?

Mr. THOMAS. Absolutely.

Mr. BOND. Mr. President, the Senator made a very good point about the need to move this bill. He raised the question about a 1-year extension. Is it the understanding of my colleague that the major projects that would generate the kind of work that is needed to improve our Nation's infrastructure, the major highway and bridge projects, cannot be undertaken on a 1-year extension because these are multiyear projects and they need a multiyear extension?

Mr. THOMAS. The Senator is absolutely right. These are large projects. They are contracts. They take a while. If you are going on a 1-year extension, our highway department, for example, couldn't put the contracts out on some of the most important jobs because they wouldn't be finished in that length of time and they don't have the dough. It is that simple. That is a very important aspect to continuing to resolve this question now.

Mr. BOND. If the Senator would further yield, I know the Senator is from a Western State in the north, and the time during which significant highway construction can go forward is limited by the weather.

What is the timeframe for summer construction in your State?

Mr. THOMAS. Well, of course, in order to have summer construction, it is necessary that now the Transportation Department be able to know what their funds are going to be, what their ability to contract will be, so that they can do it very soon, so that these contractors can get in place in April and begin to work for a longer summer. If they have not gotten the contract until late in the summer, they are all faced with a couple of months of work, and they go into winter, which they cannot do. Seasonal is very important. We have a chance to take advantage of the summer construction system now.

Mr. BOND. Mr. President, I ask that question because some people talked about a 3- or 4-month extension. I wonder if my colleague agrees that that simply would miss an entire season, even in Missouri, where our weather may not be quite as harsh but we would not be able to really undertake any construction projects. Is that similar to the condition in the Senator's State?

Mr. THOMAS. Absolutely. We have heard a great deal from our transportation people before Christmas, wanting this. This was supposed to have been done in September, when the fiscal year began. They wanted to be in to make the contracts then so that these contractors could get ready. It is going to be quite close now. Still, if we can move in February, it will give us a pretty good shot.

Mr. BOND. Mr. President, I thank my colleague.

Mr. REID. Will the Senator from Wyoming yield for a question?

Mr. THOMAS. Certainly.

Mr. REID. Mr. President, I think the picture here says it all. We have on the floor now two of the majority party and two of the minority party, representing diverse areas of this country, including Wyoming, Missouri, Vermont, and Nevada, and I also see my friend from New Jersey in the Chamber. Each State is so reliant and dependent upon doing something about this highway bill that all of us in the Chamber are doing everything we can to move this ball down the field.

The State of Wyoming is an example that doesn't have a lot of people coming there to pay enough money into the trust fund to take care of the needs of that great big State. Not only is it large area-wise, but having spent some time there myself in the cold winter, I know maintaining the roads in Wyoming, compared to a place such as Nevada, is more expensive because of the tremendous variation in temperatures.

My point is that this legislation is bipartisan. It is legislation that is for every part of the country, as evidenced on the floor.

I was speaking here, off the record, with the distinguished Senator from Missouri. We are going to pass this legislation now in a matter of hours. It is imperfect, but it is a really good piece of legislation to allow the director of the Department of Highways in the State of Nevada to have some ability to look down the road, as they have a continuum for money, so we can complete projects we have to do in Nevada. We are a big State area-wise. We have problems in the southern part of the State that are totally different from in the northern part of the State. It rarely freezes in the southern part, but in the northern part, for instance, we have Wild Horse Reservoir that, on various occasions, is the coldest place in the country. So we have our own problems, as do Missouri, New Jersey, Vermont, and Wyoming. I am so happy there has been this cooperation on this bill. I hope it sets a tone for the rest of the year. It is a Presidential election year and some Senate seats are up.

For the first bill this year, I think the distinguished majority leader and the distinguished Democratic leader picked a good one to show that we can work together on matters and set aside our partisan differences. We have done it on this bill. I appreciate the comments of the Senator from Wyoming.

Mr. THOMAS. I thank the Senator.

I yield the floor.

Mr. BOND. Mr. President, very briefly, this is a difficult bill, as the distinguished Senator from Nevada has said. There is a lot of work that goes into it. If anybody was completely 100 percent happy with it, we would not have done our job, because there are too many interests. The only way to accommodate them is to work on a bipartisan basis.

I want to say this while the Senator from Nevada is here. The Senator from Nevada and the Senator from Vermont and, obviously, my good friend from Wyoming, on both sides of the aisle, with Senator INHOFE as chairman of the committee, have worked well together, including the occupant of the chair. This is probably one of the most important economic stimulus infrastructure bills we are going to act on this year, or maybe for quite a few years. I hope we can get a solid vote to move forward tomorrow. There is a lot more work to be done, as I believe several have already said. We are waiting for the House to act. When the House acts, we will take it and work with them and we will take into consideration what the White House has said to

see if we can—and we must—craft a good bill that takes care of the crying needs of infrastructure.

I have said before on this floor so many times that it is not just a question of convenience, of cutting down on idling time, it is a question of long-term economic growth as well as immediate jobs. In Missouri, it is a question of saving lives by having adequate highways. When we have two-lane highways carrying 15,000 or 20,000 cars a day, that is too many. We should have divided highways. The fact that we don't means that wherever you travel in Missouri on heavily traveled two-lane roads, you see little white crosses where grieving families and friends have indicated the place where a loved one was lost.

This bill isn't going to solve all the problems in Missouri. If we pass this bill, many of the problems in Missouri and around the country will be solved. I urge my colleagues to work together and move forward on the bill. Our staffs are working now on a cooperative basis with a very large number of amendments that have been filed to see how many we can accept, how we can move it along.

Tomorrow is going to be a very busy day. We will try to accept as many amendments as we can on a bipartisan basis. If you want more money, please tell us where you are going to find it because we are strapped for money and major new spending sources without revenue are going to be difficult to accommodate.

Within those parameters, I urge everybody to work together. The filing deadline for first-degree amendments is past. I know what we have in front of us. I hope we can resolve as many as possible.

I yield the floor.

Mr. JEFFORDS. Mr. President, I thank the Senator for his statement. I want to reassure all of our Members that we will be working together and have been working together, and we will find a solution to many of those amendments. We won't unless they are filed. The sooner they are filed, the sooner we may even have a chance to get home for the weekend. That might be incentive for some.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. LAUTENBERG. Mr. President, I rise to discuss an amendment that was cosponsored by Senator DEWINE from Ohio. We would like to have had this considered in this important transportation bill.

I want to say this to those who are managing the bill and who have developed it. We see a piece of legislation that has a lot of good aspects to it. My State of New Jersey is doing better in this bill than it has on occasions in the past, with some adjustments here and there that give us some more funding in transit as well as highways. We appreciate that.

The subject we want to discuss is one that deals with safety, which is an integral part of this legislation and certainly should be, and that subject is the result of drunk driving.

Drunk driving cost the lives of 17,419 people in 2002. It is an increase for the third straight year in a row. This is unacceptable in our society by any measure. This is evidence that we are not doing enough to win the war on drunk driving. In 2000, I was proud to team up with Senator DEWINE to standardize our Nation's drunk driving blood alcohol concentration level at .08. That is a critical step toward reducing drunk driving, but that measure alone will not end this crisis.

During my career of public service, I promoted many legislative initiatives to help curb drunk driving in our country. In addition to .08, I wrote the law that established a minimum legal drinking age of 21. Most Americans have responded to these laws by drinking responsibly and reducing fatalities and injuries on our highways.

At one point it was estimated that we saved 1,000 young people a year from dying on the highways as a result of that change in the age of drinking.

The most feared category of drunk drivers who have failed to mend their ways is also the most shameful: the hardcore drunk drivers. These are the problem drinkers. These are the ones who ignore the dangers and have no concern for the safety of those of us on the road, including our families and our friends.

It is estimated that hardcore drunk drivers are responsible for as many as 40 percent of all alcohol-related deaths on the road, and that means about 6,000 to 8,000 people a year die at the hands of a hardcore drunk driver. That is not an acceptable situation.

Many of us have terrible, tragic stories involving lost loved ones due to drunk driving crashes. A young woman on my staff recounted a moment in her life when she was a teenager, when five of her close friends, all juniors in high school from southern New Jersey were hit by an SUV. Four were killed and one was badly injured. This was in broad daylight at 3 o'clock in the afternoon. A heavily intoxicated 29-year-old woman had plowed her SUV into the girl's car. One police officer described the scene as ''an explosion with glass everywhere.''

The driver of the SUV is what safety experts term a ''higher-risk'' or ''hardcore'' drunk driver. In fact, her blood alcohol content was found to be .21 nearly 5 hours after the crash, and usually that diminishes significantly. This is almost three times the legal limit of .08. Perhaps the most disturbing part of this story is the fact that this driver had two prior charges of driving while intoxicated in 1991 and 1996.

Some States have adopted laws that try to get hardcore drunk drivers off the road. It is something we heard a lot about when we put in place the .08 blood alcohol concentration standard. They said you have to get to the hardcore people; they are the ones who are really dangerous on the road. That is true, but anybody who is impaired while driving is a problem.

A TEA–21 program that we put into place resulted in 36 States and the District of Columbia passing repeat offender laws, but currently only 13 States have enhanced penalties based on blood alcohol concentration levels of .15 and above. Thirteen States and our own District of Columbia still do not have laws mandating alcohol assessment and treatment by a professional. Fourteen States do not have laws mandating that a drunk driver's vehicle be impounded.

We have to take action to keep these hardcore drunk drivers off our roads. The costs we pay are too high. We can save thousands of lives by passing this bipartisan commonsense amendment that I would like to offer along with Senator DEWINE.

Victims rights groups, such as Mothers Against Drunk Driving, have brought to our attention the need to change our laws to make our roads safer. It is my great pleasure to work with the dedicated, thorough, and caring people of MADD.

This hardcore drunk driving amendment takes advantage of research and policies that have been proven effective to fix what is wrong with this current repeat offender program.

First, it builds on the excellent work done by Senator INHOFE and Senator JEFFORDS in the bill by allowing the use of ignition interlocks, a popular and effective tool. Forty-two States have laws allowing for ignition interlocks to be used so that in case of hardships, a conditional license can be granted.

Our amendment also fixes the loophole that currently exists to allow States to spend Federal funding designated for driver safety programs on construction projects. While road construction is certainly a worthy ambition, this loophole defeats the purpose of the Federal program in the first place and must be addressed.

Our amendment cracks down on very high blood alcohol concentration drivers. Drivers with a .15 percent or greater blood alcohol concentration are almost 400 times more likely to be involved in a fatal accident than a sober driver.

I believe the Federal Government needs to continue strong leadership in relation to reducing alcohol-impaired driving. Not all States have dealt with this safety crisis in a comprehensive manner. Loopholes still exist, loopholes so large that drunk drivers continue to drive right through them.

Now is the time to take the next step in getting these hardcore drunk drivers off our roads. I look forward to working with Senator DEWINE, Senator DORGAN, and Senator CORZINE, all of whom joined with me in trying to reduce the 17,000 alcohol-related traffic fatalities that occur each year.

It is regretful that we cannot have an opportunity to offer our amendment. It

is relevant and germane to this bill, but not having the chance to offer the amendment, frankly, hurts our work and our interests in keeping our highways safer, saving lives wherever we can.

This is something I hope we can work out with the managers of the bill to see if there isn't something we can do to show that we are seriously interested in getting drunk drivers off the road. Remember, over 17,000 deaths a year on our highways, 40 percent of which are due to the antics of the repeat drunk driver.

The PRESIDING OFFICER. The assistant Democratic leader.

Mr. REID. Mr. President, before the distinguished Senator from New Jersey leaves the floor, I want to make this comment. I am sure we all wonder, having served in legislative bodies, what has been accomplished, what have we been able to point to that we have done that changes the lives of people in our country. Let me say to my friend from New Jersey, he need not worry about that because his legacy has already been established.

I owe so much to the Senator from New Jersey, as does my whole family, and I speak for most families—I should say the vast majority of families in America, many of whom don't realize what the Senator from New Jersey has done to make their lives more pleasant.

When we used to travel back and forth from Las Vegas and Reno to Washington with my family—they were little children at the time—my daughter and my boys, especially two of them, could not stand cigarette smoking in an airplane. It really made them physically ill. We would pacify them and say, well, that is in a different section; do not worry about it. As we know, when one person smoked on an airplane, we all smoked on an airplane. The Senator from New Jersey is more responsible, by far, than any other one person, or group of people, for being persistent and pushing that there would be no smoking on airplanes. The Senator from New Jersey did that.

When he started out on this issue, people thought he was tilting windmills. No one believed with the very powerful interests that favored smoking on airplanes, including the airplane owners and, of course, the cigarette manufacturers, that the Senator from New Jersey could accomplish what he did. But he did.

In addition to that, we all owe a debt of gratitude to the Senator from New Jersey for pushing to make sure all States had a .08 standard for blood alcohol. The Senator from New Jersey did this.

The reason I mention these two things that are the legacy—and I have only mentioned a couple of things because they stick out in my mind that the Senator from New Jersey has done, that I know. With the tireless efforts of the Senator from New Jersey on the things that he believes in, that he is talking about, this will get done. This will be accomplished for a number of reasons, not the least of which it is the right issue but, No. 2, because the Senator from New Jersey is the one who is pushing this.

I want the Senator from New Jersey to know how much I—and I speak for millions of Americans—recognize his great contributions to making our lives healthier, better, and safer in America.

Mr. LAUTENBERG. Mr. President, I take this moment to respond to my good friend from Nevada. He has always been interested in the safety and well-being of our people at the basic level, where we can make a difference. Senator REID from Nevada is always there, and I appreciate his support. I like working with him. When he says this is going to be done, my colleagues can take it to the bank because we are going to keep on working on it.

If we ever forget what it is we are talking about today, just continue to read the papers, and there will be stories about the intoxicated driver who went way over the limit and took a life.

I will never forget a young woman who came in from Maryland to talk to us one day. She was waiting with her daughter for the schoolbus, child in hand. Someone driving a car at 8 in the morning jumped the curb and killed this child whose hand she was holding.

Then there was the man in Hawaii who was driving with his wife behind a car that his son and daughter had rented. They were struck by a drunk driver. It killed them both.

These things happen all the time, enough to kill over 17,000 people a year. That means that in less than 4 years, there will be as many people killed on our highways as were killed in Vietnam. So this is not a trivial thing, and we are going to have to keep on working on it.

I am willing to do it, and I know the Senator from Nevada is willing to do it. We just have to hope that the opportunity arises.

The PRESIDING OFFICER (Ms. COLLINS). The minority whip.

Mr. REID. The Senator from New Jersey was responsible for one of the most memorable debates that I ever was present for in the Senate, and I am sure the Senator from New Jersey will remember it. It was a debate on drunk drivers. The very articulate Dale Bumpers, former Senator from Arkansas, gave many great speeches but none more memorable than when he spoke about his being a law student at Western University and he received a call from his brother. He knew it was bad news. He did not know how bad it was, but a drunk driver had killed his parents when he crossed over the line.

The Senator will also remember the distinguished former chairman of the Budget Committee, now the ranking member of the Budget Committee, the Senator from North Dakota, KENT CONRAD, who was made an orphan as a little boy by a drunk driver who killed his parents.

So we have to continually do more to keep these higher-risk drunk drivers off the road. They are a menace to society. In my opinion, the only thing they understand is force, power. They have to be put in jail. They have to be prevented from driving their cars.

As the Senator knows, we are in a parliamentary quagmire and maybe there is a short-lived victory for those who oppose what the Senator is trying to do but it will not last long.

Mr. LAUTENBERG. I thank the Senator.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, I rise to speak about the highway transportation bill which we are on right now. I will discuss basically two general points. The first has to do with the amount of funding in the bill and the administration position on that matter. Then secondly, I will talk a little bit about the funding formula in the bill.

As everyone knows, we are talking about a bill that would authorize and pay for the highway transportation and mass transit needs of the country over the next 6 years, financed historically by the gas tax. The 6-year bill that has been offered intends to be more generous than that by taking in some additional revenues, providing a lot more funding, and extending the authorization that currently exists for a period of 6 years.

I ask unanimous consent that at the conclusion of my remarks this Statement of Administration Policy be printed in the RECORD.

The PRESIDING OFFICER. Without objection it is so ordered.

(See exhibit 1.)

Mr. KYL. I am quoting now from a February 11, 2004, Statement of Administration Policy from the executive office of the President, Office of Management and Budget. As my colleagues know, these Statements of Administration Policy are issued with respect to important legislation and they set forth the administration's position on the legislation.

After noting that the administration supports enactment of the 6-year highway funding bill, the letter says the following:

> The administration's proposal, as modified by the President's FY 2005 budget, would provide $256 billion over six years, an historically high level of investment for highways and transit. This proposal represents a $45 billion, or 21 percent, increase over the Transportation Equity Act for the 21st Century (TEA–21), the six-year bill enacted in 1998.

The administration goes on in this Statement of Administration Policy to say the following:

> The administration believes that surface transportation reauthorization legislation should exhibit spending restraint and adhere to the following three principles.

Now, let me digress before I state what those principles are. The reason

the administration is talking about spending restraint is because the bill that is before us is far larger in its amount of spending than what the administration's proposal and the President's budget provide for, and it is far larger than is necessary. Frankly, in view of the status of our excess spending and our Federal budget deficit, it is more than we can afford.

Moreover, it is greatly in excess of the funds we collect with the gas tax, which in the past has been the funding that has been used to pay for this highway bill. So this is what the President and the administration is writing in this letter.

The administration believes the legislation should exhibit spending restraint and adhere to the following three principles: One, transportation infrastructure spending should not rely on an increase in the gas tax or other Federal taxes. Two, transportation infrastructure spending should not be funded through bonding or other mechanisms that conceal the true costs to the Federal taxpayers. And three, highway spending should be financed from the highway trust fund, not the general fund of the Treasury.

It goes on:

All spending for highways should be authorized and appropriated from the Trust Fund and derived from taxes imposed on the highway use, thereby maintaining the link between Trust Fund revenues and highway spending.

Madam President, how does the administration's position and the articulation of the three principles under which it believes the bill should be funded compare with what we are considering on the floor here? I am going to go on and quote the administration's characterization of the legislation on the floor.

However, the bill pending before the Senate authorizes $262 billion on highway and highway safety, which is $50 billion above the President's request, and $56 billion on mass transit, which is $12 billion above the President's request. In total the Senate bill authorizes $318 billion in spending on highways, highway safety, and mass transit over the next six years, a full $62 billion above the President's request for the same period.

The Administration's proposed authorization level of $256 billion over six years is consistent with the three principles listed above. We support a responsible six-year bill and support many of the provisions contained in this legislation. However, we oppose S. 1072 and the pending substitute because their spending levels are too high and they violate these principles discussed above. Accordingly, if legislation that violates these three principles—such as this legislation which authorizes $318 billion—were presented to the President, his senior advisors would recommend that he veto the bill.

There is more in the letter, but I think you get the gist of it. The administration is trying to tell us it would prefer a bill that, No. 1, adheres to the President's budget, to spend no more than $256 billion, and, No. 2, does not violate the three sensible funding principles the President lays out in the bill.

But the statement of administration policy notes that the bill before the Senate is a full $62 billion above the President's request, and it concludes in this part by noting that:

The administration, therefore, opposes Senate bill S. 1072 because the ''spending levels are too high'' and because ''they violate the principles discussed above.''

And if we end up passing legislation such as this, then the President's senior advisors will recommend he veto the bill.

I think the President is getting the same message the rest of us should be getting from our constituents, the American people: Congress and the President have been spending too much money.

In defense of the President, he has reached agreements in the past year with the leaders of the House and the Senate over spending limits and has said he would not support any legislation—and I presume he would have vetoed legislation—above that level. We have sent him bills at those levels. So in that regard, it is not the President's fault.

But I take responsibility as a Member of this body, and all of my colleagues should as well, that we as the body that initiates the spending proposals and sends them to the President must act more responsibly in ensuring that we do not exceed revenues, that we send the President bills that are fiscally restrained and that will not add to our budget deficit.

Alan Greenspan, the Chairman of the Fed, has made the point many times in recent months that the biggest threat to our economic growth and to our fiscal stability is profligate spending, and he has urged us to rein in our appetite for spending.

Some of my colleagues on the other side have expressed great dismay that when the Office of Management and Budget was finally able to calculate the cost of the Medicare prescription drug bill from last year, instead of $395 billion of cost over 10 years, as calculated by the Congressional Budget Office, the administration's people found that it actually would be far higher than that, over $500 billion.

Some of our Democratic friends have said—I gather they seem to suggest that therefore it is the President's fault. The President's people are the folks who found out that the spending was more than the $400 billion and have brought that forth and told us that. What should we do?

Later on I am going to give my colleagues an opportunity to bring the spending back in line with the $400 billion of which they seem so enamored. I think that is plenty. I think we can live within that $400 billion limit. So we will all have an opportunity to decide whether we really mean it when we say the spending on that bill should be limited to $400 billion over 10 years.

My point in digressing from the discussion of the highway bill is to note that there has been a focus on a lot of the spending the Senate and House have engaged in recently, and certainly the prescription drug and Medicare funding bill is one of the largest. Another we have had before us is the energy bill, which has a subsidy of about $30 billion. The administration budget request was $8 billion. That is another bill that, were we to pass in excess of $8 billion in subsidies, would exceed the administration's request.

Here is a third example where the Senate is poised to pass a bill way in excess of the President's request. My point is it is not the White House that is doing the spending, it is the Congress that is passing the bills that have the spending in them. The President is sending us a signal that he is tired of this and his advisors are saying, to be precise about it, that they will recommend a veto to the President if we don't get this bill more in line with what the President's budget is. He is sending us a message.

I urge my colleagues to read that message, to listen to what the President is saying. He means business. He is right. We are spending too much money. This bill is an over 40 percent increase in highway spending. We all know roads and bridges need to be built. We all understand some jobs are produced. That is fine. But do we, in this era of budget deficits and excess spending, have to increase spending in this one area by over 40 percent? Isn't a 21 percent increase over last year sufficient?

The President's budget is almost flat. It has about a half a percent increase—except for homeland security and defense—for the discretionary part of our budget. We know it is going to be difficult to live within that, but we should try. But how can we in good conscience pass a budget that has virtually no growth in it, except for homeland security and defense, and then with regard to highways say that is an exception; we are going to increase spending by 21 percent? The income of how many people in this country will grow 21 percent this year? Not very many. Not, certainly, for the average working man and woman.

I daresay, at a 21 percent increase, we can do just as well, in terms of building our roads and highways, and then if we need to adjust it later on because we are rolling in dough, we can do that. But for this year at this time with this kind of deficit, we should not do it. That is what the President's advisors are saying in this letter.

What I would like to do is talk for a little bit about how the bill before us violates those three principles. Let me just cite a couple of examples.

The first principle is that the transportation infrastructure spending should not rely on an increase in the gas tax or other Federal taxes. It doesn't rely on an increase in the gas tax, but it will rely upon Federal taxes because we will be taking money from the general fund. That gets us to the

second and third points. Transportation infrastructure should not be funded through bonding—we are not going to do that—or other mechanisms that conceal the true cost to Federal taxpayers. I will show you in this bill how that happened. And the third principle is highway spending should be financed from the highway trust fund and not from the general fund of the Treasury.

No. 2 and No. 3 go together here. Let me give a couple of examples from the highway part of this; not mass transit but the highway part is funded from the gas tax. We are going to collect $196 billion in gas tax revenue. That is how much we should spend on highways. But, no, we are going to be spending much more than that. How do we make up the difference? Obviously, Members of Congress are pretty creative in figuring out how to pay taxpayer dollars. So, a lot of new ways of deeming money to be in the trust fund have been thought up here. Some of them actually I suggest have some merit.

Just to give one example: Interest in the highway trust fund. The highway trust fund is a fund that has maybe $9 billion or $10 billion, give or take $1 billion, in it at any given time. You have to have some money in the bank. It is like a bank account, to pay the checks when they come due. There is always money coming in when people buy gasoline and pay the tax, and one thing we could do is attribute to the trust fund interest which is otherwise attributed to the general fund. That is between $1 and $2 billion. I am perfectly happy to have that attributed to the trust fund.

If you go through some exercises like that, you can get up to $214 billion, more or less, in revenue you say is somewhat legitimately attributed to gas tax revenues.

Let me give you two examples of revenues that are being attributed to the highway trust fund that really are not revenues in any sense of the term, and, therefore, would violate both principle No. 2 and principle No. 3.

One of these concepts has to do with the fact that counties, cities, towns, churches, and schools are by and large exempt from paying a gas tax. What we are going to do in this bill is pretend like they actually paid the tax. That is worth, I think, $8 billion. That is a nice thing, if you can get away with it. But I don't think it reflects reality. That is $8 billion. We are simply going to treat this as if the trust fund had received all of the money from counties, cities, towns, and so on.

Is the general fund going to collect that money from the schools, churches, cities, and towns? No. There isn't going to be any new revenue. Your school district is not going to have to pay money for the gasoline that it buys for the schoolbuses that are driven. They will not have to pay the Federal gasoline tax, but we will pretend like it does. That $8 billion is pretend money.

There is another part of this which they calculate at $9 billion that is attributed to the highway trust fund. What is this? The gas tax is 18.3 cents. But for ethanol users, we provide that they don't have to pay 5.2 cents of that. There is an exemption for that of 5.2 cents on each gallon. In this bill, we are going to pretend like they paid that to the trust fund. We are going to actually collect their money. The revenue will actually be collected. But when people ask for a refund, we will send it right back to them. Assuming that most people will ask for a refund because they can get it, we are going to be sending the money right back to them.

As a result, we take with one hand and we give back with the other, and the fund is no better off. There is no real money in the fund except what was there before. We haven't added to the fund. We have collected the 5.2 cents and then we give it back when the people apply for the refund.

Since Federal contractors actually have to pay their people, buy asphalt, and run their road graders, how are we going to make up this $17 billion?

As I have indicated, in both cases this is not real money. We are going to get it from the general fund. We are going to just spend that money from the general fund.

How are we going to do that? It is not in the budget. The Finance Committee has come up with a variety of tax law changes which will close certain corporate loopholes and in other ways raise revenue that is not currently raised. We had hoped and anticipated that additional revenue would be applied to a reform which has to do with corporate tax relief that will have to be passed this year because the WTO—the World Trade Organization—has ruled against the United States in a case in which we have been providing some tax relief to American manufacturers abroad. We are going to have to take that tax relief away in order to make these companies whole. We will have to pass a different kind of tax relief. To do that, you have to have the ability to pay for it. That is what this money was going to be used for. Instead of using it for that, we will use it to build bridges and highways. We will take that money, put it in the general fund, and send that over to the highway trust fund.

We are violating the principles laid down by the administration that none of this bill should be paid for by either a mechanism that conceals the true cost to the taxpayers or financed from the general fund of the Treasury.

This bill, both by being in violation of at least some of the principles laid down by the President and by being $62 billion in excess of what the President said the bill should cost, is going to create a situation in which the senior advisers of the President are going to recommend a veto. We should not be passing a bill under those circumstances or be passing this bill under those circumstances.

What do we do about it? There are a couple of different options. One of the options is that we could simply modify the bill to take out that $62 billion, get it back down to the level of the President's budget, and support that. I have an amendment that would do that. In effect, it will say the President's budget of $256 billion—that represents a 21-percent increase—ought to be enough, and, therefore, we would finance only that amount of money.

I think we should vote on that and express our will in that regard, support the President, and be willing to begin exercising some fiscal restraint.

Some people say they do not want to reduce the 6-year funding by that much money. They would actually be able to spend over 40 percent more than last year and, therefore, maybe what we should do instead is simply reauthorize the existing law for 1 year, get past the election, and then do another 6-year authorization bill that will spend 40 percent more than last year, since, obviously, that is going to cost more money than we are taking in in gas tax revenues, since there are objections to taking it from the general fund because that creates a horrible precedent, and therefore we will raise the gas tax.

We don't want to tell people that because, of course, in an election year we wouldn't want anybody to really think we intend to raise the gas tax. So let us be real quiet about this and not discuss this alternative too much because it assumes that next year we will come in and provide this large amount of money and raise the gas tax. We could do that. It certainly is at least better than what we have before us, because it simply reauthorizes at existing levels the highway authorization bill for 1 year and we can decide to do it next year at the time. Some of us would oppose the gas tax increase.

I suggest that either of those alternatives are better than the third alternative, which is to pass the bill that is before us.

I want to make this clear. There are not very many people in this body for whom I have greater respect than the chairman of the EPW Committee, the Senator from Oklahoma. I don't mean to suggest in anything that I am saying here that the effort of the committee and the chairman of the committee is anything other than an attempt in good faith to try to satisfy the demands of our country's infrastructure and provide the best possible highway transit funding program they can. I will say they have been very unfair about the way they treated my State, but that is another matter that I will talk about in a minute. I want to make it clear that the chairman has a tough job. He has done his very best in this regard. I want that to be very clear.

But the third alternative is to pass the bill before us. The argument made is that we know it is way too much money but we will get into the conference committee because the House

will pass a bill and then you will have the House and the Senate bills. We will get together and figure out an appropriate amount of money. We will get the President's people in there to negotiate to make sure it won't be too much so the President won't veto the bill.

That is another way to do it. I can't support that because we would be supporting a bill out of this body that is far too big in spending.

The House bill presumably will be above the President's request. It is a little hard to figure out how we are going to start with a bill that is $62 billion over what the President wants, and the House bill is—I don't know how much but let us pick a number—say, $50 billion more than the President wants. And somehow they are going to compromise at a number closer to what the President wants. That is ordinarily not the way things work around here. I think it will be close to $256 billion. They are playing with fire and risk sending the bill to the President which he is going to veto. That will demonstrate that we are not very responsible. I think that would be the wrong thing to do.

Let me address the other subject I said I would address, and that is the fairness of this bill.

I say to my colleague from Oklahoma that he would be the very first to say it is almost impossible to get a bill that spends this amount of money and divvy it up among over 400 Members of the House of Representatives and 100 Senators and have everybody think they have been treated fairly, especially given the historic unfairness of the way the formulas have worked.

Again, he has a tough job. I make the point right up front that I know he has tried his hardest to do this right. In fact, one of his guiding principles was to try to get all of the States up to a level of funding equal to 95 cents out of every dollar that they send to Washington for the highway gas tax. The minimum level today is 90.5 cents.

There are a lot of us who represent donor States such as Arizona. We are donors. We send $1 and we only get 90.5 cents back in highway revenues. The chairman wanted to try to do something about that to try to remove some of that unfairness. I commend him for that. For the most part, he has gotten States up to 95 cents out of every $1.

A lot of States are donee States, and they are way above a dollar. Obviously, the reason only some States get 95 cents back is some States get more than $1. But I commend the chairman for trying to get at least to 95 cents.

The problem is, as has been explained to me, there are some fast-growth States, such as Florida, California, Colorado, or Arizona. We have been at such a low level in the past in terms of the amount we were reimbursed, the 90.5 cents, and we are growing so fast in order to keep up with our growth, it would require so much money to catch us up to the 95-cent level that basically it cannot be done. So they will bring other States up to 95 percent, States that already for the past 5 years have done very well, for the past 10 years have done very well. For those States that have continually lagged behind, such as the ''growth'' States I mentioned, since it is so darned expensive to catch them up, we just will not try to do that for 5 years.

So here is the result we get, demonstrated on this chart. I note the dark blue represents on the chairman's chart a green color which he demonstrated the other day when we were discussing this, saying: Arizona actually will increase its spending over this period of time. Then in 2009—assuming the money is there—you will go back up to 95 cents like everyone else.

In 2004, the State of Arizona, which is in the dark blue, would get a little bit more—it gets 90.5 cents. That is what is guaranteed. In 2005, we get 90.5 cents. In 2006, we get 90.5 cents, as well as in 2007. In 2008 it goes up a little bit but is still under 91 cents. Then if there is enough money in 2009, hopefully we get to go back up to where everyone else is, guaranteed 95 cents.

We just took a State perhaps roughly comparable to Arizona, and this State happens to be Missouri, but I could pick any number of States that illustrate the same idea. Missouri, on the other hand, is guaranteed 95 cents each one of these years.

Here is the point: During this 5-year period of time—because there was not enough money, some State had to sacrifice or be sacrificed and that happens to be my State of Arizona. I don't like that, and I don't think it is fair. I would have rather had, in this case, Missouri brought down to 93 and raise Arizona up to 93 rather than taking some all the way up to 95 and leaving the rest of us down at 90.

My colleague from Oklahoma says, but you are getting a substantial percentage increase and even a dollar increase, because you are growing so fast. That is true. But in terms of the total amount of money Arizona would lose during this period of time, it is over $160 million. So during this 5 years, Arizona will lose out on over $160 million it would have received if it had been treated the same as the other States and gotten the base of 95 cents.

Remember, there are a lot of States that are way up here that are getting over 100 cents, 110 cents; some are getting several dollars back. I will not name names.

The bottom line is some States are treated very well and States such as my State of Arizona are not treated so well. I obviously cannot be expected to support a bill that picks on a few States such as mine and says, look, we just did not have enough to go around so you have to be the one that does not get paid what everyone else gets paid. We are sorry; be happy with the fact you are getting more money than you have ever gotten before.

My answer is, we are growing faster than anybody and therefore, of course, we are getting more money than we got in the past, but we are not getting the same relative amount other States are. We are not getting 95 cents on our dollar contributed. We are still stuck down here at this 90.5 cent level. That is not fair.

I want to be clear about this. My opposition to this legislation is based upon the first two points I made. It is too much money and we are going to fund it now out of general revenues rather than the highway trust fund, as a result of which there will be no logical constraint on how much we spend in the future. At least pegging it to what we received in Federal gas revenues in the past was a break-loss, a check and a balance, and it prevented us from going beyond that amount of money. But once you begin to dip into the general treasury, there is no logical end to how far you can dip. As I said, you could double the amount of increase the administration has asked for, you could go to over 40 percent increase and say, we are just going to make part of that up through general revenues. Why not 50 or 60 percent? There is no logical end once you get away from the highway trust fund. That is why I oppose this bill.

The sponsors of the bill were not able to equalize the States, as hard as they tried, in terms of the funding formula, and therefore there are some Members from some States that obviously have to point this out, have to demonstrate the unfairness and inequality of it and ask the bill be amended to provide a more fair result.

The amendment I spoke of that funds the bill at $256 billion over 6 years does not address this problem. So I make it clear, the amendment I have offered that allows people to vote for an amount in the highway spending that is consistent with the President's budget request does not fix this. I am willing to support that amendment. I am willing to send the bill to conference with that amount of money, but I am also hopeful my colleague from Texas will be offering an amendment tomorrow—has filed it and will offer tomorrow—that will to some degree at least fix this problem for those states such as Texas and Arizona which are not guaranteed the same 95 cents everyone else is guaranteed.

I am hopeful we will be able to vote on that and support that tomorrow.

There are other amendments which I will speak to later, one that my colleague Senator MCCAIN has offered that represents a good compromise in the way we fund highway revenue and reimburse the States. We will talk about that tomorrow. There may be an additional amendment offered tomorrow we will want to support.

I am hoping I will have a chance to vote on these tomorrow. The way this bill has procedurally come before the Senate, we will vote on a cloture petition tomorrow at 9 o'clock. That is a vote which presumably will pass. It means we then have only 30 hours of

debate on the bill and opportunity to offer amendments and have those amendments voted on. My understanding is there are over 400 amendments that have been filed. On a bill of this importance and this magnitude, I don't think it is right we only have 30 hours to dispose of 400 amendments. It obviously cannot be done.

I ask for my colleagues' understanding that when this debate begins after the cloture motion is approved tomorrow—assuming it is—we will have an opportunity to offer these amendments, have a brief period of time to discuss them, have a vote on them, and go on to the next amendment. It is not my intention to try to garble up the works or slow things down. I hope we can speed things up to the point we can get these amendments considered within that period of time. If not, because there are actually two different cloture motions here, we may have to have a second cloture vote and then have another 30 hours so we can continue to try to get the amendments adopted. That is something we are just going to have to work through. I ask for my colleagues' cooperation so that perhaps we can avoid that second 30 hours. But if necessary, obviously, we will have to use that.

Now, if there are questions or refutation of anything I have said, I am happy to hear that and I can stay for a few minutes to try to answer or respond to questions.

If my colleague from Oklahoma would like to speak, I yield the floor to him.

EXHIBIT 1

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,

Washington, DC, February 11, 2004.

STATEMENT OF ADMINISTRATION POLICY

S. 1072—SAFE, ACCOUNTABLE, FLEXIBLE, AND EFFICIENT TRANSPORTATION EQUITY ACT

The Administration supports enactment of a six-year highway, highway safety, and transit authorization bill and procedural efforts that would limit consideration of extraneous amendments and bring the bill to an up or down vote. Such a multi-year authorization would provide States and localities with predictable funding that enhances long-term transportation planning. The Administration's proposal, as modified by the President's FY 2005 Budget, would provide $256 billion over six years, an historically high level of investment for highways and transit. This proposal represents a $45 billion, or 21 percent, increase over the Transportation Equity Act for the 21st Century (TEA–21), the six-year bill enacted in 1998.

The Administration believes that surface transportation reauthorization legislation should exhibit spending restraint and adhere to the following three principles: (1) transportation infrastructure spending should not rely on an increase in the gas tax or other Federal taxes; (2) transportation infrastructure spending should not be funded through bonding or other mechanisms that conceal the true cost to Federal taxpayers; and (3) highway spending should be financed from the Highway Trust Fund, not the General Fund of the Treasury. All spending for highways should be authorized and appropriated from the Trust Fund and derived from taxes imposed on highway use, thereby maintaining the link between Trust Fund revenues and highway spending.

However, the bill pending before the Senate authorizes: $262 billion on highways and highway safety, which is $50 billion above the President's request, and $56 billion on mass transit, which is $12 billion above the President's request. In total the Senate bill authorizes $318 billion in spending on highways, highway safety, and mass transit over the next six years, a full $62 billion above the President's request for the same period.

The Administration's proposed authorization level of $256 billion over six years is consistent with the three principles listed above. We support a responsible six-year bill and support many of the provisions contained in this legislation. However, we oppose S. 1072 and the pending substitute because their spending levels are too high and they violate these principles discussed above. Accordingly, if legislation that violates these principles (such as this legislation, which authorizes $318 billion) were presented to the President, his senior advisors would recommend that he veto the bill.

In addition, the Administration opposes inclusion in a surface transportation bill of unrelated provisions regarding Amtrak. Any legislation regarding the future of Amtrak should be considered separately and should provide for meaningful reforms, such as those proposed by the Administration. If surface transportation legislation containing such provisions were presented to the President, his senior advisors would recommend that he veto the bill. The Administration wants to work closely with Congress to achieve an acceptable bill and recommends attention to the following areas.

Safety. The Administration appreciates the creation of a new Highway Safety Improvement Program (HSIP) and a strong safety belt incentive program, but believes the bill should also require States that have not enacted primary safety belt laws or achieved safety belt use rates of 90 percent to spend no less than 10 percent of core highway safety construction HSIP funds on behavioral safety projects eligible under the Section 402 program. In addition, the Administration opposes limiting a State's flexibility to use HSIP funds by requiring mandatory set-asides for rail-highway grade crossings or safe routes to schools. The Administration believes that several programs of the National Highway Traffic Safety Administration (NHTSA) should be consolidated and a portion of those funds should be used to reward States that aggressively reduce fatalities in the manner proposed by Section 2001(a) of the Administration's proposal. Also, language similar to that included in the Administration's proposal on providing for NHTSA-administered highway safety data grants should be added to help States improve their data to reasonable standards.

Environmental Provisions. The Administration opposes substantially broadening the list of eligible projects for Congestion Mitigation and Air Quality (CMAQ) funding because many of these new projects would have minimal air quality benefits. Eligibility for CMAQ funds should be limited to projects that achieve air quality benefits, particularly because the number of Clean Air Act nonattainment areas, which need this type of funding, will increase. The Administration believes that the bill should improve project delivery while protecting our environment. The bill should include a 180-day statute of limitations for legal challenges following final agency approval of highway and transit projects. This limit is necessary to reduce litigation uncertainty that can impede project development for years. The bill should also avoid adding new requirements to the transportation planning process, and integrate the transportation planning process with other environmental review processes to reduce redundancies.

With respect to project review under the National Environmental Policy Act, the bill should clarify the authority of State and local governments to be joint lead agencies, with the U.S. Department of Transportation, in preparing environmental documents. The Administration also notes that section 1511 is inconsistent with the President's proposal is SAFETEA, and encourages the Senate to adopt the President's proposal.

The Administration also believes that the bill should clarify standards pertaining to public park and recreational lands, wildlife and waterfowl refuges, and historic sites—commonly referred to as ''Section 4(g).'' A clarification of the Section 4(f) definition of ''prudent'' is needed to forestall confusing standards applied unevenly by the Federal Courts of Appeals. In addition, the bill should address the overlap between Section 4(f) and Section 106 of the National Historic Preservation Act to decrease project delays and uncertainty.

In addition, the Administration believes that the bill should not include a mandatory two percent set-aside from the Surface Transportation Program (STP) to support a highway stormwater discharge mitigation program. Stormwater discharge mitigation costs are already eligible under STP.

New Regulatory Mandates. The Administration strongly opposes the numerous mandated rulemakings for NHTSA and the FMCSA. These provisions predetermine timetables and outcomes without adequate grounding in science, engineering and proof of net safety benefits. By prescribing specific requirements and mandating priorities, these provisions will delay or interfere with ongoing safety initiatives and may have the unintended consequence of redirecting agency resources away from programs that will do more overall good for safety. The Administration also objects to the inclusion of: (1) costly and burdensome provisions of the bill requiring FMCSA to issue medical certificates to 6.5 million commercial drivers while limiting the performance of medical examinations to physicians alone; and (2) the bill's expansion of hours-of-service safety exemptions.

Financing and Freight Mobility. The Administration appreciates the bill's expansion of the Transportation Infrastructure Finance and Innovation Act (TIFIA) loan program by lowering the project threshold and broadening the list of eligible projects to include freight projects. However, the Administration opposes removing the TIFIA program requirement that a borrower have a dedicated source of revenue for repaying its TIFIA loan. Likewise, the Administration opposes allowing railroads to use Federal grants to pay the credit risk premium or repay Railroad Rehabilitation and Improvement Financing loans.

The Administration supports amending the bill to give States the ability to manage congestion and raise additional revenue by allowing drivers of single occupant vehicles to use High Occupancy Vehicle lanes by paying tolls. The Administration also supports amending the bill to provide States flexibility to implement variable tolls on interstates for congestion management or air quality improvement purposes. In addition, the Administration supports amending the bill to incorporate the Administration's proposal to amend the Internal Revenue Code to permit the issuance by State and local governments of ''private activity bonds'' for highways and surface freight transfer facilities.

Public Transportation Programs. Aside from concerns about overall funding levels,

the Administration is pleased that the bill includes provisions to improve human service transportation coordination and expand the ''New Starts'' program, but is disappointed by the omission of a performance incentive program to reward transit agencies based on increases in transit ridership.

Accountability and Oversight. The Administration is pleased that the bill includes stringent project management and financial plan requirements which were requested by the Administration. Improved accountability and focused oversight by the Federal Highway Administration will help maximize the effective use of available funds.

Funding Firewalls and Guarantees. The Administration supports a separate category or ''firewalls'' for determining the level of spending from the Highway Trust Fund, but only in the context of the Administration's proposal for annual statutory limits on discretionary spending. In addition, the Administration does not propose the creation of ''firewalls'' for general fund spending on such critical areas as defense and homeland security, and therefore opposes such treatment for general fund spending on mass transit programs.

Byrd Test Change. The Administration opposes weakening the Byrd Test to compare spending authority to current resources plus for years, rater than two years, of estimated future revenue. The Byrd Test was established at the creation of the Highway Trust Fund in 1956 to ensure that future revenues would be sufficient to cover outstanding spending authority. The Byrd Test has been successful in ensuring the Highway Trust Fund's solvency for nearly 50 years, and modification could allow levels of spending that cannot be sustained by estimated revenues to the Highway Trust Fund.

Park Roads. The Administration supports the funding level for park roads, but opposes the provisions of section 1806 of the bill that establish a park funding priority system that would reduce the Administration's ability to implement the President's Park Legacy Program. Allocation of park road funding should be consistent with the sound asset management approach on which the President's Park Legacy Program is based and which is currently used by the National Park Service, in a manner that will best address the needs of all parks, not just a few.

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MAGLEV. The Administration opposes the continued authorization of funding for Magnetic Levitation Transportation Technology Deployment (MAGLEV). The Administration's SAFETEA proposal did not seek funding for MAGLEV and believes funds can be better spent investing in the Nation's public transportation systems.

Budget estimates and enforcement

This bill would affect direct spending and receipts. It is critical to exercise responsible restraint over Federal spending in a manner that ensures deficit reduction and the Administration looks forward to working with Congress to control the cost of this bill. The Budget Enforcement Act's pay-as-you-go requirements and discretionary spending caps expired on September 30, 2002. The President's FY 2005 Budget includes a proposal to extend the discretionary caps through 2009, a pay-as-you-go requirement that would be limited to direct spending, and a new mechanism to control the expansion of long-term unfunded obligations. OMB's cost estimate of this bill currently is under development.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. First of all, there is no one I have a higher regard for than the man who was elected with me to the other body in 1986, Senator KYL, the junior Senator from Arizona, and they elected him then to come over to this body in 1984. We are both conservatives.

He has heard me say many times when I was first elected to the other body, I got on the Transportation Committee and the reason I did it was because I always felt the conservatives were pretty big spenders in two areas. One is national defense and the other is infrastructure. That is what we are sent here for. Apparently, the most recent poll I saw shows the vast majority of the people, 69 percent, are willing to spend more money if it will be spent on highways, roads, and bridges. I see that as what we are here for.

I have to address the fact that there are a lot of amendments that have come up. I have stood here for 2 weeks trying to get people to propose amendments, to discuss their amendments. We sit down here and we talk about everything there is to talk about until now at last there is hysteria that we do not have time to bring up our amendments. There has been plenty of time.

I have to say, too, to my good friend, the junior Senator from Arizona, it is because of the senior Senator from Arizona that we have not been able to bring up the amendments because they are objecting to any motions to bring them down to vote. That means the only thing we can vote on that does not require that particular permission is a tabling motion which we have done only once because no one else has had anything else to table.

So that is the reason.

I regret that we wasted a lot of time when we were inviting people to come down. Those who were opposed to this for any number of reasons—some legitimate reasons, some not so legitimate—were the ones who were stopping us from moving forward with the bill.

First, I think as far as the cloture motion, the Senator from Arizona is exactly right. In fact, I appreciate the letter he was citing from the administration that came down today. It says: ''The Administration supports enactment of a six-year highway [bill],'' and so forth, and they are in support of the cloture motion.

So this is the administration that is in support of the cloture motion. I think if you look at the letter—and I will give you a different slant than my friend from Arizona—they have three criteria. There is nothing new about this. I saw this 2 months ago. I saw it on the 4th of this month when they sent a letter from the administration. It says these three criteria are:

[T]ransportation infrastructure spending should not rely on an increase in the gas tax or other Federal taxes. . . .

I believe this meets that guideline.

(2) transportation infrastructure spending should not be funded through bonding or other mechanisms that conceal the true cost to Federal taxpayers. . . .

I agree with that. In fact, I have been the one who has rejected the suggestion of any type of a bonding that might just be deficit spending in disguise, something we are going to pay back in the future, some increased debt.

This is the big one. This is the one the Senator, with his vast knowledge, has gone through and who is in a better position to do that than I; and that is the criterion that says:

[H]ighway spending should be financed from the Highway Trust Fund, not the General Fund of the Treasury.

Now, perhaps it is hard. There could be an honest disagreement here. If some money is going to the general fund and is being paid at the pumps by people who are paying for the gas tax, that should be going into the highway trust fund. It is user paid. We all agree with that concept.

For those of us who feel strongly about this, I can remember I was outraged back in the middle 1990s when the previous administration came through and they wanted $8 billion so they could do something other than roads, and it came out of the trust fund and went into the general fund. Frankly, this takes it back. This rectifies a problem that should not have existed in the first place and keeps us honest with the American people.

Look at the moral issue part of this. The people drive up to the pump. There is not a Senator who does not have constituents who drive up to the pump. They don't mind paying that tax—some say they would go ahead and pay more taxes—and they assume that money is going to go for the repair and construction of roads and infrastructure. In fact, that is not the case. There have been raids on that for a long period of time.

I am not going to go over the list of the Finance Committee. I talked to the chairman and the ranking member of the Finance Committee back when we were working on this bill well over a year ago. It said when we come up with what we believe is necessary to just stay even—there is one report out that says even with this spending level that does not even keep us repairing what we have today, but if this comes up, you guys in the Finance Committee are going to be the ones who have to come up with this.

I have never been on the Finance Committee. I have never attended one of their meetings. I don't know how it works. But I do know the chairman and ranking member said: We have come up with a way to come up with this money. Sure, a lot of it, as the Senator mentioned, is spending down the trust fund. Yes, we can do that probably to $6.5 billion without hurting ourselves. That is an assumption we make here. The interest? Yes, it should go to the

trust fund. There are some fixes in there in terms of ethanol that are all part of it. This going after people who avoided paying taxes is something we would all agree is something that should happen.

The one area the Senator mentions, frankly, I can't address is having to do with the WTO. I am just going to trust the Finance Committee that they have come up with this and have done what I asked them to do a long period of time ago.

Oh, yes, in response to that, I was underlining something. This came out in the Finance Committee, I say to my friend from Arizona. It said: In the view of the Finance Committee, these tax policy benefits—we are talking about benefits deductions, whether they are ethanol or maybe a car that is fuel efficient—nonetheless, to encourage them to do that, they are exempt from certain taxes. But those cars and those trucks still drive on our roads, still cause damage to the roads, and because they want to have a tax policy that has nothing to do with infrastructure, has nothing to do with roads and highways, fine, if we all agree on that, it should come out of the general fund, it should not come out of the highway trust fund. We are rectifying that and getting it back to the highway trust fund.

Now, on formulas, this is the most complicated part of the bill. I say to the Senator, your senior Senator came down and said he would like to trade formulas with Oklahoma. I have to say, as I have said several times down here in the last 2 weeks, everyone has the same formula. You have the same formula. North Carolina has the same formula. Maine has the same formula; Oklahoma does.

Now, the results come out differently because in that formula we are taking care of problems that are real problems. Arizona is a fast-growing State, the State of Texas, the State of California, the State of Florida. So in order to make all of this happen, there are caps, there are ceilings. If you bump the ceiling, we are not going to go above that. You may not like it because you are a fast-growing State. But if you don't, then that is going to be paid for in the formula with a change, maybe a change that is going to be coming in the form of an amendment tomorrow, by getting into some of the States such as Pennsylvania and New York.

So here is what we have in the formula: No. 1, total lane miles on the interstate, on principal arterial routes; No. 2, VMT—that is, vehicle miles traveled—on the Interstate System, on principal arterial routes, excluding the interstate, and on the Federal aid system; No. 3, annual contributions to the highway trust fund attributed to commercial vehicles; No. 4, diesel fuel used on highways; No. 5, relative share of total cost to repair or replace deficient highway bridges—I am very sensitive to that; my State of Oklahoma is dead last in terms of the condition of bridges—next, weighted nonattainment and maintenance areas and, lastly, rate of return of donor States.

We all know that the Senator from Arizona and I both know all about being a donor State. If we accelerated the point within those 6 years to raise that amount, then, obviously, there would not be enough money to ultimately get to the 95 percent we want to ultimately get to. So if you change one thing in the formula, it changes everything. You cannot do it in a vacuum.

There will be amendments, I am sure, tomorrow that are going to be addressing this and wanting to change the formula. But if you do it, it is going to change other States.

Now, if you will remember, the reason I am proud of this formula is that we have tried to do it. We tried to do it in 1991 with ISTEA. We tried to do it in TEA–21 in 1998. We failed during that time because right about at this point in the process they said: Well, we can't do it. There are too many people who don't like the way the formula has come out. So instead of that, we need 60 votes. How do we get 60 votes?

So they had a minimum guarantee. They said: All right. We are going to offer 60 of these votes what they want in terms of a percentage of the overall, and then, once we get to 60 votes, who cares? We have our 60 votes and we are going to pass it.

Well, I refused to do that back when the temptation was great to do it about 3 months ago. So the formula is going to be the first pure formula that we have had. But are there frailties in it? Yes, there are. There are corrections to be made because if you look in previous years at States where they have had an undue political influence, they have gotten more than their share.

Let's look at Pennsylvania. They had a good friend of the Senator from Arizona and myself who served in the other body, Bud Shuster, a Congressman from Pennsylvania. He, for a number of years, was the chairman of the committee, and Pennsylvania did disproportionately well.

I would say the same thing of our beloved Daniel Patrick Moynihan of the State of New York; certainly John Chafee, one we all loved, from Rhode Island. So the Northeast got kind of a benefit to which they were not entitled.

In fact, to be specific, under TEA–21—let's keep in mind I was a senior member of the Environment and Public Works Committee in 1998 when we put this together. And so at that time, in terms of a percentage of taxes paid in, New York got $1.25 back; Pennsylvania, $1.20 back; Rhode Island, $2.16 back; Montana—Senator BAUCUS, who is a very hard worker for his State—$2.18 back; Oklahoma, 90.5 cents, the minimum, the bare minimum.

I am the guy who should be out here complaining. When your senior Senator said, we ought to swap, if we swapped, I would end up with $40 million more. I will stand here right now and swap with you, and it will not affect any of the rest of the formula.

The formulas are not an easy thing to deal with.

Insofar as the State of Arizona is concerned, if you take an average of the 6 years of TEA–21, $463 million, and then you watch as it goes up here to finally reach $800 million, the total amount of increase is $1.11 billion in the State of Arizona. For my State of Oklahoma, the chart looks almost the same, but the difference is we end up at $1.07 billion. So there is $40 million more going to the State of Arizona. I don't like that. If I were to try to do something as chairman, I probably could have. I could probably have looked at the first run and said, no, Oklahoma needs to have more. But I didn't do it because we wanted the formulas to work. So the formulas are something that you can't mess with because if you do, you get right back to the minimum guarantee policy we have had in the past. I don't think that is good for anyone.

Since we have committed some time to two other Members, including the Senator from North Carolina, I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Madam President, I ask unanimous consent to print in the RECORD the Statement of Administration Policy dated February 11, 2004, and also, though I did not quote from it, an editorial of the Wall Street Journal entitled ''Road Kill,'' and the date is February 10, 2004.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET, WASHINGTON, DC, FEBRUARY 11, 2004.

STATEMENT OF ADMINISTRATION POLICY

S. 1072—SAFE, ACCOUNTABLE, FLEXIBLE, AND EFFICIENT TRANSPORTATION EQUITY ACT

(Senator Inhofe (R) Oklahoma and 3 cosponsors)

The Administration supports enactment of a six-year highway, highway safety, and transit authorization bill and procedural efforts that would limit consideration of extraneous amendments and bring the bill to an up or down vote. Such a multi-year authorization would provide States and localities with predictable funding that enhances long-term transportation planning. The Administration's proposal, as modified by the President's FY 2005 Budget, would provide $256 billion over six years, an historically high level of investment for highways and transit. This proposal represents a $45 billion, or 21 percent, increase over the Transportation Equity Act for the 21st Century (TEA–21), the six-year bill enacted in 1998.

The Administration believes that surface transportation reauthorization legislation should exhibit spending restraint and adhere to the following three principles: (1) transportation infrastructure spending should not rely on an increase in the gas tax or other Federal taxes; (2) transportation infrastructure spending should not be funded through

bonding or other mechanisms that conceal the true cost to Federal taxpayers; and (3) highway spending should be financed from the Highway Trust Fund, not the General Fund of the Treasury. All spending for highways should be authorized and appropriated from the Trust Fund and derived from taxes imposed on highway use, thereby maintaining the link between Trust Fund revenues and highway spending.

However, the bill pending before the Senate authorizes: $262 billion on highways and highway safety, which is $50 billion above the President's request, and $56 billion on mass transit, which is $12 billion above the President's request. In total the Senate bill authorizes $318 billion in spending on highways, highway safety, and mass transit over the next six years, a full $62 billion above the President's request for the same period.

The Administration proposed authorization of $256 billion over six years is consistent with the three principles listed above. We support a responsible six-year bill and support many of the provisions contained in this legislation. However, we oppose S. 1072 and the pending substitute because their spending levels are too high and they violate these principles discussed above. Accordingly, if legislation that violates these principles (such as this legislation, which authorizes $318 billion) were presented to the President, his senior advisors would recommend that he veto the bill.

In addition, the Administration opposes inclusion in a surface transportation bill of unrelated provisions regarding Amtrak. Any legislation regarding the future of Amtrak should be considered separately and should provide for meaningful reforms, such as those proposed by the Administration. If surface transportation legislation containing such provisions were presented to the President, his senior advisors would recommend that he veto the bill.

The Administration wants to work closely with Congress to achieve an acceptable bill and recommends attention to the following areas.

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[From the Wall Street Journal, Feb. 10, 2004]

ROAD KILL—CONGRESS'S SPENDING BINGE MOVES TO THE PASSING LANE

An old political adage has it that the most dangerous place in Washington is between a Congressman and asphalt. That is exactly where taxpayers now find themselves as Congress conspires to pass another monster highway bill. The only good news is that President Bush is showing signs he may fight this election-year porkfest.

The Administration has its own highway proposal, which is hardly cheap. Mr. Bush is asking for $256 billion over six years, which is 21% more than the past six years and fairly close to Treasury estimates of revenue from the current 18.4-cent-a-gallon federal gas tax that is earmarked for roads.

Ah, but this isn't enough for the boys of summer construction. The draft Senate bill demands $55 billion more than Mr. Bush and is loaded with fiscal gimmicks that divert money from general (non-gas-tax) revenues into road building. The House bill from Transportation Chairman Don Young is even worse—an astonishing $375 billion with a five-cent gas-tax increase.

Notwithstanding lip service to the budget deficit, the strategy for passing this is to offer so many goodies for individual Members that they can't resist. The American Road & Transportation Builders Association, aka the road graders lobby, recently advertised how much more booty each Member could take home under the Young bill.

In the Senate, meanwhile, Minority Leader Tom Daschle is planning to attach his stalled ethanol-subsidy legislation (cost to drivers: $8.5 billion a year) to the bill in order to attract farm state votes—and grease his own re-election this year. Republicans who go along with this self-serving gambit will be helping Mr. Daschle defeat GOP challenger John Thune in South Dakota this fall.

One of the more embarrassing arguments from Congress's highwaymen is that this is somehow a ''jobs bill.'' So at least for this parochial matter, Republicans claim to believe in the superiority of government over private spending. Some Econ 101: Highway spending rolls out slowly over many years but new taxes are immediately taken away from the more productive private economy. It's more accurate to say that Mr. Young's bill would be a net job loser.

If Republicans really wanted to be true to their principles, they'd scale back the federal highway fund and return road-financing to the states. The federal government got into this game in the 1950s to build the Interstate Highway System. That network is nearly complete, but Congress now views the highway trust fund as a way to make all Americans pay for local road projects. States are much better placed to judge real needs, and they'd have the flexibility to experiment with innovative proposals like tolls, express lanes and public-private partnerships.

Such delusional hope aside, the ultimate size of this bill will depend on Mr. Bush's determination to enforce his budget request. History isn't necessarily on his side; when Ronald Reagan vetoed a highway bill in 1987, Congress overrode him. And despite calls last week from fiscal conservatives to delay the bill, Majority Leader Bill Frist refused after 75 Senators voted to start debate.

Still, this is a fight worth having. Congress will keep spending freely until Mr. Bush shows he's willing to spend political capital to say no. In a letter to Congress last week, Administration officials warned that any bill that includes higher gas taxes, trickster accounting or a siphoning of general tax revenues will face a veto. Presidents who make veto threats and don't fulfill them quickly become irrelevant.

Mr. INHOFE. Madam President, I ask unanimous consent to print in the RECORD the summary of the Finance Committee's highway trust fund proposal.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUMMARY OF FINANCE COMMITTEE HIGHWAY TRUST FUND PROPOSAL

Finance Committee jurisdiction extends to the highway use-related excise taxes, the Highway Trust Fund, and the expenditure authority of the Highway Trust Fund. The Finance Committee acted primarily on the cash flow into and out of the trust fund. Cash flow into the trust fund is represented by trust fund excise tax receipts. Cash flow out of the trust fund is represented by trust fund outlays. Matters involving contract authority and obligation limits are not Finance Committee subject matter and the committee did not speak to them.

According to the Congressional Budget Office (''CBO''), current law trust fund receipts will total $227.8 billion over the six year period. CBO projects $196 billion in highway account receipts and $31.8 billion in mass transit account receipts.

The authorizing committees' actions placed demands on the trust fund of $231 billion for highways and $36.6 billion for transit for the six year authorization period. That means a total of $267.6 billion in demands on the trust fund.

Prior to Finance Committee action, demands on the trust fund exceeded receipts by $39.8 billion over the six year period. To make up this funding gap, the Finance Committee developed two categories of proposals. The first category increased trust fund receipts by tightening compliance. The second category included accounting changes that raised trust fund receipts.

The compliance changes raised trust fund receipts by $5.6 billion over the authorization period. These changes were also scored as revenue raisers by the Joint Committee on Taxation. These proposals have no impact on the budget deficient.

The budget resolution assumes that 2.5 cents per gallon of gasohol receipts, currently held by the general fund, will be transferred to the trust fund. That transfer raises trust fund receipts by $5 billion over the authorization period. The Finance Committee also assumed that trust fund balances would be spent down by $7.5 billion over the authorization period. Adding all of these changes together with the compliance changes, the Finance Committee closed the gap by $18.1 billion over the authorization period. That left a funding gap of $21.7 billion.

The Finance Committee proposed to close this gap with a group of trust fund accounting changes. These proposals raise trust fund receipts by shifting the burden of tax policies from the trust fund to the general fund. In the view of Finance Committee, these tax policy benefits have nothing to do with highway use and should not burden the trust fund. Included in these proposals is a repeal of the partial exemption for ethanol-blended fuels. The tax benefit for ethanol, like nearly all energy production incentives, is transferred to the general fund through a tax credit. The same effect is applied to refunds for special categories of users such as State and local governments. Finally, the Highway trust Fund will earn interest on its balance, so that the highway and transit programs are not prejudiced. This second category of proposals closed the funding gap, but, without revenue offsets, would have increased the budget deficit by $21.7 billion.

Finance Committee members decided that this second category of proposals should not have a deficit impact. To this end, the Finance Committee title includes a group of loophole closers previously approved by the committee.

Ninety-five percent cost over $120 billion . . . the cost forced us to construct a new method. Equity Bonus keeps the cost of rectifying donor states affordable.

COMPARISON OF NH AND VT [BOTH LOW POPULATION STATES PER MCCAIN]

Response: VT does very well under the formulas for the core programs (not changed from TEA–21 in this bill). Former NH Sen. Smith's position on the EPW committee during TEA–21 ensured that NH did well under the politically drafted 1104 table despite their relative poor performance under the formulas.

CO IS GETTING A RAW DEAL

Response: Colorado has the highest rate of growth . . . Senator Allard, a member of EPW has been very supportive of the bill.

ADDITIONAL COMMENTS

Highway Trust Fund was raided during TEA–21 of $8 billion (Note: argument will be made that the $8 billion was given up in order to get the ''firewalls'')

If we were to accelerate getting all states to 95 percent sooner it would add to the cost of the bill and donee states like PA and NH would have a lower rate of return

On average, in SAFETEA, donee states lost 4 cents from TEA–21 and donor states gained 4 cents from TEA–21 . . . I would call that a fair exchange.

PLAYERS IN TEA–21

	2003 of TEA–21	2009 of SAFETEA	Historic
New York (Moynihan)	1.2488	0.9975	1.23
Pennsylvania (Shuster)	1.2084	0.9746	1.16
Rhode Island (Chafee)	2.1662	1.8234	2.22
Montana (Baucus)	2.1842	2.2015	2.35
Oklahoma	0.9050	0.9500	0.87

FORMULA FACTORS:

Total lane miles on the Interstate, on principal arterial routes (excluding the interstate), and on the Federal aid system

Vehicle Miles Traveled (VMT) on the Interstate system, on principal arterial routes (excluding the Interstate), and on the Federal aid system

Annual contributions to the highway trust fund attributed to commercial vehicles

Diesel fuel used on highways

Relative share of total cost to repair or replace deficient highway bridges

Weighted non-attainment and maintenance areas

Rate of return of donor states

Mr. KYL. Madam President, if I could ask my colleague from Oklahoma a question, I appreciate the relative dollars received by States such as his and mine. I would just ask one question: Does the State of Oklahoma, under this policy, receive 95 cents in each of the next 5 years, and does the State of Arizona receive 90.5 cents for every dollar we send in?

Mr. INHOFE. The State of Oklahoma does not. It goes up to 95 cents. The first year, it is 90.5; next year, 91.75; and it gradually goes up. Yours does not because for the State of Arizona, it hits the ceiling. So you have 90.5 each of the first 4 years, then 90.84, then 95.

Mr. KYL. I thank the Senator.

Mr. INHOFE. I yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina.

Mrs. DOLE. Madam President, our transportation infrastructure is one of this country's most important investments. It is literally the foundation of America. Each day our roads, bridges, buses, and railways help countless Americans travel to their jobs, visit a faraway relative, or take a day trip with their kids.

As a former Secretary of Transportation, I am constantly in awe of this vast reach of modern-day transportation. I can still recall from my tenure at the Department the completion of the Interstate 40 corridor which runs from Wilmington, NC, to southern California, an enormous stretch of highway that literally links us from coast to coast. It is these kinds of investments that are vital to sustaining our communities and our economy. By ensuring that our roads, bridges, and infrastructure are prepared for the future, we provide economic stability. For my home State, that is a crucial component of our economic recovery.

As many of you know, North Carolina is going through painful economic times as traditional textile, furniture, and other manufacturing jobs are diminishing. Improving our transportation infrastructure is a vital part of getting North Carolina's economy back on track.

Let me give an example. Construction is already underway for Interstates 73 and 74 in North Carolina, and planning has begun for Interstate 20. The Department of Transportation estimates that the projects in this bill would create 86,900 jobs in North Carolina.

Further, these roads go through areas that are among the hardest hit by economic difficulties, creating jobs especially in rural parts of North Carolina, where mobility between towns and cities is essential for commerce. These routes of opportunity make our communities more attractive to businesses and promote investment in our neighborhoods.

Additionally, there is an 89 percent increase in funding to address North Carolina's growing transit needs, with a special emphasis on our rural areas. This money can be used to provide more buses as our rural residents travel from home to work each day. And for urban areas, such as Raleigh, Greensboro, and Charlotte, I am proud that the Banking Committee on which I serve has included much-needed dollars to relieve congestion by investing in buses, street cars and, in some cases, light rail.

We all know that relieving congestion creates a cleaner environment, improves worker productivity, combats stress, and gives employees more time with their families and less time struggling with a long commute.

This legislation also addresses a problem that exists with the highway trust fund. Right now, North Carolina gets just 90.5 cents for every dollar we put into the trust fund. This legislation guarantees that North Carolina's share will increase to 95 cents over the next 5 years. That will mean an additional $50 million a year for transportation construction, and we all know how much good can be done with those dollars.

The bill also expands the Small Starts program to include mass transit projects under $75 million. My State and local leaders' biggest complaint is the mounds of paperwork and regulatory hurdles that must be completed, even for the smallest transportation project. It simply is not fair that these smaller projects must jump through the same large hoops as the biggest projects in the United States. The Small Starts project will allow for simpler, less costly review of these projects, and that is good news for our States.

Now let me touch on another area of the legislation that is near and dear to my heart. Safety was at the forefront during my 5 years as Secretary of Transportation. Our rule 208, as we called it at Transportation, encouraged the passage of State seatbelt laws and the inclusion of passive restraints in new cars.

In 1984, there were only a handful of airbag-equipped cars on the road. Not a single manufacturer was currently offering airbags at that time. I remember a long search for a car with an airbag to use in a demonstration on the White House lawn. But today that number stands at 40 million. And as we all now know, airbags save lives and prevent crippling, disabling injuries. At that time, in 1984, there was only a 14 percent usage rate for seatbelts, and there was not one single State seatbelt law in the United States.

Our regulation 208 helped change all of that. Today, 49 States and the District of Columbia have seatbelt laws. As of 1998, the national seatbelt use rate was 69 percent. Some States, such as my home State of North Carolina, have a use rate of over 80 percent. It is estimated that 11,900 fatalities and 325,000 serious injuries are prevented each and every year due to usage. It is said that rule 208 literally changed the climate of highway safety in America.

It was also a privilege back then to work with my friend, Senator FRANK LAUTENBERG, to champion legislation encouraging States to raise their drinking age to 21, thereby helping to eliminate drunk driving and blood borders between our States.

There are many safety provisions included within this bill. Funding is there to ensure that our secondary roads are safer, something that is vitally important to rural areas. Too often accidents occur on the small two-lane secondary roads, in many cases leaving death and destruction in their wake. The money in this bill will make those roads safer for our families and our children.

There are also provisions for installing skid-resistant surfaces at intersections, traffic signal upgrades, and improvement in pedestrian and bicyclist safety. All of these are sorely needed. Safety on our roads must continue to be a priority.

Madam President, it is imperative we act now to pass this critical legislation. I urge my colleagues to support it. It is a win-win for all of our States, for businesses, and especially for the millions of Americans who rely on our transportation infrastructure each and every day.

I yield the floor.

Mr. INHOFE. Madam President, first, before the Senator from North Carolina leaves, I want to say we are very fortunate to have her expertise having served as Secretary of Transportation and in other capacities where she provided leadership. She has an understanding of transportation needs probably greater than any other single person in this Chamber. I thank her for her contributions here.

I yield the floor.

The PRESIDING OFFICER (Mr. ALEXANDER). The Senator from Minnesota is recognized.

Mr. DAYTON. Mr. President, I want to discuss a couple of amendments I intend to offer if the opportunity arises in the next couple of days.

I thank the bill's managers, Senator INHOFE and the ranking member, Senator JEFFORDS, for standing up against what I believe are very misguided attempts to take a meat cleaver to this very important bill. It is terribly unfortunate that immediately following the most recent budget projections, which show enormous deficits for this year and for the years thereafter, the very first legislation that comes to the floor is this one that provides transportation funding for the next 6 years.

This is not, I urge my colleagues, the place to economize. To do so in this bill would be penny wise and pound idiotic. It would be kind of like a person who was told by his doctor he has to lose weight and he decides to eliminate fruits and vegetables. These are public investments in our Nation's highways, bridges, rail lines, and mass transit systems. They are critical to our social and economic vitality—moving products quickly to market; moving people swiftly, smoothly, and safely to jobs, schools, and family activities, and then back home again. These are critical investments in the future of our country. They are termed capital investments, which means they are projects which themselves generate future wealth.

People say we ought to operate Government more like a business, and I agree. They should recognize that successful businesses regularly go into debt to finance their capital projects.

Building new plants, expanding or modernizing existing facilities are good and necessary reasons to incur debt.

Most State and local governments also issue debt—public bonds to finance their capital projects. They use current receipts for ongoing operations or consumption. In the Federal Government, we are doing the opposite. We are going seriously into debt to pay for current programs and consumption and treating our capital improvement budget, such as this transportation bill, as if it were the same program spending. It is not.

Bankers and brokers understand that difference. Homeowners, farmers, and business owners understand that difference. State government officials understand that difference. Why can't this administration and Congress understand that difference?

That understanding is important because this is a bill where we need to think bigger, not smaller. Unless my colleagues' States are in very different conditions, and their highways, bridges, rail lines, mass transit systems are in much better shape than my State of Minnesota's, then they have the same critical shortage of funding as Minnesota.

In my State, the conditions and capacities of our highways and other public infrastructure have been declining over the last decade, and they are going to continue to do so without this additional infusion of Federal money. Our State and local governments simply do not have, and they are not going to have in the future, the increasing amounts of funding necessary to keep up with or catch up with growing populations and increased usage. It is only here in the Federal Government that we have the resources—at least we did until a couple years ago, before the budget surpluses were turned into deficits. But even now, we still have the resources, though not to do everything. It comes down to what are our priorities. What and who do we consider most important?

The President has made his priorities very clear. He has made making the 2001 and 2003 tax rates permanent the centerpiece of his budget and his economic recovery strategy. If so, we are going to be waiting quite a while for that recovery because the President's proposal won't even take effect until the expiration dates for the change now already in place; and for the 2001 tax bill items, that will be the year 2010. For the 2003 items, most of those won't be extended until the years 2006, 2007, and beyond.

This bill before us today is the best economic stimulus bill and jobs creation bill possible for right now—not 2006 or 2010, but right now—in Minnesota and across America, which is why the funding level for this bill ought to be increased, not decreased.

I had an amendment I would like to offer—although it flies in the face of reality—to double the amount of Federal funding that was provided 6 years ago, which was $218 billion, to increase that to $436 billion. That contrasts with the Senate bill now of $311 billion and the House bill of $375 billion, although I would not increase the amount by increasing the gasoline tax as is being proposed in the House. I would fund mine through the general fund, dedicate the revenues from the highway trust fund into the purposes they are being used for, but not use that as a ceiling for funding the necessary public infrastructure. That would be a business such as Target Corporation deciding the number of new stores it is going to build in the next few years is going to be a function of some formula, such as the percentage or revenues from socks or shorts that are being sold; and if somebody, for fashion reasons, decides they are going to go sockless for a year, that number goes down and so does the investment in new stores go down. No sensible business would make future investment decisions based on this kind of formula and be dictated by that result.

In this case, as well, we should be deciding as a body, with the House and the administration, what level of public investment we need to make in highways and mass transit systems over the next 6 years—make that decision based on the needs and then decide how we are going to fund it.

Again, we do these things backward here and, as a result, we don't make the commitment that will pay off for this Nation if we do it, and we will sacrifice the future of our highways and airports and rail lines if we don't do it.

While recognizing it is unlikely to be adopted by this Senate, especially in the face of the President's insistence that even the Senate number be reduced further—again, I salute Senator INHOFE and Senator JEFFORDS for standing resolutely in favor of this and being the fiscal conservatives they are. They recognize these are public investments that are vital, and to fail to make them would be—at least for Minnesota—virtually catastrophic. I thank the Chairman and ranking member for their steadfastness in supporting this and the level of commitment it makes.

I also am proud to be a cosponsor of the Build America Bonds Act, which is being sponsored by Senator TALENT of Missouri and Senator WYDEN of Oregon, because if we are not going to use public dollars directly for these projects, then another way to finance them would be for the Federal Government to issue bonds and provide tax credits to those who purchase the bonds.

The proposal made by Senators TALENT and WYDEN would issue another $50 billion of Federal bonds that would be then used throughout the States to advance these projects. If we are not going to use general revenue dollars or highway trust fund dollars sufficiently to meet the needs, then we ought to incorporate bonding in addition to what is being funded elsewhere.

I also thank Senator GRASSLEY, the chairman of the Senate Finance Committee, for his initiative in the legislation for correcting what is essentially a penalty to those States, such as Iowa and Minnesota, that have been using ethanol as part of their fuel.

In Minnesota, we have had for the last 8 years a requirement that 10 percent of every gallon of gasoline sold in our State be comprised of ethanol. Right now, nationwide it is less than 2-percent ethanol in proportion to gasoline. If you listen to some of my colleagues, they would have you believe the use of ethanol is going to drive prices for gasoline or its substitute through the roof when, in fact, the opposite is true.

I use in my car in Minnesota with a slight engine modification made by the manufacturer, a Ford Explorer, a fuel that consists of 85-percent ethanol and 15-percent gasoline. That is 20 cents a gallon cheaper in southern Minnesota than regular unleaded. It runs just as well. The vehicle performs just as well.

If we want to reduce the $115 billion a year we send overseas to pay for the foreign oil we import, there is no more readily available way to do that than to increase the use of ethanol. I regret, because of some of the opposition to that, that Senator FRIST's and Senator DASCHLE's amendment to increase the use of ethanol over the next decade in this country by a very modest amount is not going to be offered as an amendment to this legislation. Hopefully, it can be considered by the Senate and passed as a separate measure in the very near future.

The use of ethanol in the current formula penalizes States for that consumption. Again, I thank Senator GRASSLEY and also the ranking member of the Senate Finance Committee, Senator BAUCUS, for their initiative. It is going to be vital from my standpoint that the measure passing the Senate and the conference report include that correction.

I also will have two amendments I hope I will have the opportunity to offer. One is a rural roads safety amendment which I developed with the support of the National Association of Counties. It will provide additional funding. The amendment itself calls for $1 billion a year over the 6-year lifespan of this bill. This would be additional funding to provide for programs to improve the safety of our rural roads across the country.

More than 25,000 people die each year on our rural roads system. It is a fatality rate that is 2½ times greater than that for urban highways. In fact, it is the highest rate of fatalities per vehicle mile for any type of transportation in this country.

Despite this need on some 840,000 miles of rural two-lane roads, funding directed from this bill in the past has provided very little direct assistance to rural communities which, in my State at least, have the least capacity to undertake these expensive projects.

This funding would provide for improving roadway alignments, eliminating wheel way rutting, including

skid resistance, widening lanes and shoulders, installing dedicated turn lanes—whatever the State and particularly the county and local units of government decide are in their best interest.

It is also being introduced in the House by Representative BOB NEY who is the chairman of the House Administration Committee. I hope it will receive favorable consideration in the next few hours.

The other amendment I would like to offer is a mandate for the Federal vehicle fleet to use either 10-percent ethanol-blended gasoline or biodiesel fuel, 2 percent or more where it is available and where it is at a generally competitive price. The amendment would apply to some 650,000 Federal vehicles everywhere except for the Department of Defense and the military, and it provides the opportunity for the Federal Government to take the leadership in encouraging the use of ethanol and biodiesel fuels by its own practices.

These are, as I said earlier, fuels that will add to our rural economic recovery to increase the prices of commodities, such as corn and soybeans, in the marketplace which raises profits for farmers and lowers subsidy costs for taxpayers. They are cleaner burning fuels than oil-derived fuels, and they put money in the pockets of Americans rather than foreigners.

This amendment, as well, I hope, will be considered favorably by this body. It is not going to increase costs. In fact, if anything, based on my experience with ethanol, it is going to lower costs, and it is going to provide a real boost to the rural economy of America.

In closing, I wish to say again that this legislation is crucial for Minnesota. It is crucial for our Nation. That is why tomorrow I am going to vote in favor of the cloture motion to proceed to this measure and move to pass it in the Senate. Hopefully, the House will follow suit as well so we can get this bill passed and signed by the President and into effect and get this money to the States where it can be well used and be an economic stimulus and provide jobs.

I hope during the course of that consideration I will have an opportunity to offer these amendments.

I thank the Chair, and I yield the floor.

The PRESIDING OFFICER. The assistant Democratic leader.

Mr. REID. Mr. President, I wish to take an opportunity to respond to some of the statements made by the distinguished junior Senator from Arizona, my friend Mr. KYL. I have the greatest respect for him. He is a neighbor of the State of Nevada. We have worked well together in many different areas, but his statement regarding this highway bill is simply off base.

I respectfully suggest that maybe we should understand that there are three separate but equal branches of Government. We have a responsibility in the legislative branch of Government to do what we think is right for the people of our respective States. I think we have done as well as we can do for the people of this country.

The Presiding Officer has been a Governor of 1 of our 50 sovereign States. I think he would—I have not spoken with him—have recognized during his tenure as Governor how very important the highway programs were in the State of Tennessee.

In this legislation that is now before this body, the State of Tennessee is going to do extremely well with this bill. The State of Tennessee, which has been a State that has given far more than it has taken in—that is, in the State of Tennessee, for every dollar paid into that fund, the people of Tennessee have contributed 10 cents out of every dollar to the rest of the country. The people of Tennessee have not gotten what some think is a fair shake in this legislation.

There was an effort to bring every State, including the State of Tennessee, to 95 cents in this bill. The State of Tennessee, rather than getting the 90 cents on the dollar previous to this bill being enacted, will get an average of 94.25 cents for every year this bill is in effect, and, in the final year, it will get 95 percent. That is a tremendous boon to the State of Tennessee.

We have done that for every State in the Union that in the past was paying into the trust fund far more than they were getting.

The State of Arizona also gets 95 cents on the dollar. My friend, the Senator from the State of Arizona, is complaining because we don't do it fast enough.

I want everyone to know how very difficult it was to get a formula that would bring every State up to 95 percent at the end of this sixth year. It was extremely difficult. So I would respectfully suggest to my friend from Arizona he should be complimenting us rather than saying he does not like what we have. In years past, we would not worry about the State of Arizona and the State of Tennessee. What we would do was see if we had the votes and just roll over everybody. That was how we used to do this. This is my fourth bill. That was how we used to do things, but we are not doing that this year. We are trying to be fair.

Rather than being critical of what we have done to bring everyone up to 95 percent by saying we did not do it soon enough, we should be complimented. Frankly, we could do this bill without the States of Arizona and Tennessee. We could do without those four votes. But we decided to be fair and to do everything we could to allow a minimum at the end of this year.

So I repeat for the third time, rather than being castigated for not bringing up the 95 percent sooner, I think the people of the State of Arizona—I know the people in the Department of Transportation—are happy with what they have. This is going to be a wonderful thing for the State of Arizona.

I really do not recognize tears shed by a State that is growing rapidly. The State of Nevada beats all States. We have grown more rapidly in the last 14 years than any State in the Union. We hold the record. We are the fastest growing State in the Union. So when someone says they are a rapidly growing State and should be treated differently, we also understand what it means to grow fast. We believe we have treated Arizona very fairly.

This is probably more difficult for someone in the majority to say but it is not hard for me to say: I dare the President to veto this bill. He is not going to veto this bill. This letter we have, this statement of administration policy, comes to us all kinds of times on various types of legislation. President Clinton sent us threats. President Bush sends us threats. That is what they are. The President will not veto the biggest jobs bill during his entire 4 years in office. He is not going to do it. I do not care if it is the number we have in this bill or the one Chairman YOUNG from the House wants. He wants $270 billion. Ours is $255 billion. This bill will not be vetoed by President Bush, and my colleagues can take that to the bank.

My friend from Arizona also says he is disturbed that because we got the money for this bill, he wants to make sure the World Trade Organization does not punish us. I wish they would punish us and kick us out of the World Trade Organization. I do not want to be part of the World Trade Organization. So that does not sell too well with me.

So I repeat, States have been treated very fairly in this bill. We are going to be able to invoke cloture on this bill because it is the right thing to do.

I understand the legislative process. We are going to pass a bill; the House, in their wisdom, will pass a bill; and it will go to conference. We will try to prevail in what we want. The House will try to prevail in what they want. When they are invited, which I am sure will be often, the administration will be expressing their views at the conference. Then we will have a bill and it will be sent to the President's desk. That is how the process works.

It is way too early to be threatening a veto. This is done lots of times. I do not think anyone should be quaking in their boots over a statement of administration policy. They probably have a stack of these statements of administration policy left over from the Clinton Presidency that is that high. They just peel these out on probably two-thirds of the bills we have.

I have been around for awhile. I am not impressed with this statement of administration policy because the administration knows, everybody in this body knows, that this is one step, but an extremely important step, in a very long effort to get this bill to the President's desk. We will get it to the President's desk. It will not be easy, but what has been accomplished has been very important to the process.

As I said earlier, this bill should be a picture for the American people. We are working in the Senate in a bipartisan fashion to produce a bill that is good for the American people. It is a bill that I have said before is imperfect. It is not perfect. It is difficult to do.

This is the bill. I can hardly lift it. I guess that shows how weak I am, but it is still a pile of paper. This stack of it is the highway portion of it. Another stack of it is the transit portion of the bill, and then the finance portion. This has been a year in the making. It has been extremely difficult to do.

For someone to come to the floor and say what we need to do now is have a 1-year extension—I do not think so. In the process, we would lose hundreds of thousands of jobs by extending this a year. The Presiding Officer knows that the planning department and the departments of transportation for every State in the Union have to do multiyear planning. There cannot be a transportation system in a State on a year-to-year basis. Some of these projects take years to complete, and if we stall for another year, it is going to make the projects more expensive. They will cost more money, not less money.

So I understand that my friend from Arizona comes here all the time as a spokesperson for the administration. He does it on lots of issues. I respect his being someone who answers the beck and call of the administration. He is here on so many different issues spouting what the administration wants, but we are legislators and we will get to the White House, the administration, in due time to work this out.

I repeat, we are a separate but equal branch of Government and this is not the time for the President—rather, the President's people; I should not use his name—to be waving all of these threats.

My friend from Arizona talks about these deficits. Well, my colleagues have heard us on this side talk about why we think the deficits are there, but in this legislation we have not talked about all the bad things and all the negative things that we believe the majority party is doing and the majority has not talked about all the bad things they think we are doing. This has been a bipartisan rush to score a touchdown and take this bill to the House and see what they do to respond.

I hope they can do it quickly, and I am confident they will. They can usually move things much more quickly than we can and then we work out a process to work out the differences between the House and the Senate and move this thing to the White House. It can be done and it really has to be done; we have no choice. This transportation bill is important for the American people. As the Senator from Mississippi, the distinguished former majority leader and minority leader, Mr. LOTT, said on this floor this week, there will not be more important legislation we deal with this entire year than this legislation. This is the most important thing we are going to deal with, and I agree with the junior Senator from Mississippi, this is the most important legislation we have to deal with.

I compliment and applaud the chairman of the committee, the ranking member of the committee, my counterpart, the chairman of the subcommittee. We have worked well together. I think we have set an example for what the Senate should be, could be, and I hope will be in the future.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRAHAM of Florida. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAHAM of Florida. Mr. President, in response to the threat to end the debate on the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003—the acronym is SAFETEA—I rise in opposition to cloture on this legislation. I do so for several reasons.

First, I believe strongly that increasing investment in our Nation's infrastructure—our transportation system, our water and sewer systems, our electric grids, our crumbling schools—is critical to our Nation's future well-being. Today, we are debating one of the keystones of that investment—transportation, highways, public transit, and rail.

Transportation is an integral part of everyone's daily life. It is an integral part of America's current and future economic well-being. Federal investments in transportation infrastructure increase our economic vitality and our international competitiveness.

I believe the key question for the foreseeable future of America is how we maintain America's standard of living while at the same time competing in a global marketplace where lowest unit cost of production is the holy grail. That is going to be a significant challenge to our generation and to future generations of Americans.

I don't think there is any easy answer, but I believe the answer begins with an investment in three things:

No. 1 is innovation. America must continue to be the leading edge on whatever the next wave of technological progress will be in this world.

No. 2, we must have the best educated citizenry in the world so that they in turn can be the most efficient.

No. 3, we must invest in our infrastructure, not just because it contributes to our daily quality of life but because it is a critical factor in our productivity and ability to compete in the world.

We are having a big controversy now over what the elements of America's long-term economic future are. We have people saying outsourcing jobs is going to be the key to our economic success. We have others who say various forms of tax policy. They, in my opinion, miss the point. We have to invest in those things that will make us more productive, and infrastructure is one of the keys to that progress.

I think there are three factors by which you evaluate the legislation that is before us:

No. 1, increasing Federal investment in infrastructure to avoid a further decline in the highway network and to reduce congestion.

No. 2, assuring that users pay for the highway system to avoid additions to America's burgeoning deficit.

No. 3, greater fairness among the States.

I am concerned that SAFETEA will shortchange the American people on all three factors.

First, what should be the goal of transportation funding? From a number of the speeches I have heard on the Senate floor and in committees, it appears as if the debate is over numbers. The President said he will veto any bill that exceeds his proposal of $206 billion for highways over the next 6 years. Senator INHOFE, chairman of the Environment and Public Works Committee, said cutting funding below the $255 billion level for highways would place the allocation of funds among the States in jeopardy. Congressman DON YOUNG, chairman of the House Transportation and Infrastructure Committee, is advocating a level of $300 billion over the next 6 years for highways.

What I think is missing in all of these pronouncements is an evaluation of what these numbers mean to the condition of America's highways over the 6-year life of this legislation.

When the Transportation Act for the 21st Century—TEA–21—was approved in 1998, I stood on this floor and predicted that when the bill expired in 2003, our Nation's transportation system would be in worse physical condition and with a higher level of congestion than on the day we passed the bill. That prediction has, unfortunately, come to pass.

According to the U.S. Department of Transportation's Conditions and Performance Report, capital investment by all levels of government between 1997 and 2000 remained below the cost to even maintain the system we currently have. The result? Overall performance of the system declined.

Since the passage of TEA–21, the highway system has degraded by 6 percent. Twenty-three percent of the highways in the Nation's urban areas are now considered ''unacceptable'' by the standards of U.S. Department of Transportation. Twenty-nine percent of the Nation's bridges are considered structurally deficient or in a deteriorating condition.

Additionally, according to the annual congestion study by the Texas Transportation Institute at Texas A&M University, the agency to which the U.S.

Department of Transportation looks for the evaluation of congestion, the average commute delay in urban areas has increased by 14.3 percent since 1998. This means the commute that used to take 25 minutes in 1998 will now add an extra 2 hours per month to the commute of the average American.

I will make the same prediction today that I made in 1998; that is, if the Senate adopts the funding levels currently in this bill, our Nation's highways will be in worse physical condition, with increased congestion, by the end of this authorization in the year 2009 than it is today, February 11, 2004.

The failure to address these conditions in the past has created the situation we must address in the future. By the U.S. Department of Transportation estimate, by the year 2009 we will face an additional $400 billion in infrastructure backlog and congestion costs will balloon to over $90 billion. We are not even able to maintain the current quality of our roads under the SAFETEA authorization level.

In order to maintain the highway system in its current level of fiscal condition and without increasing congestion, the American Association of State Highway and Transportation Officials estimates that investment of $92 billion a year by Federal, State, and local governments, close to $300 billion of that Federal, will be required over each of the next 6 years. In addition, our problem is compounded by the distinguished majority leader's statement yesterday that SAFETEA, already inadequate, must be trimmed to avoid a Presidential veto.

We are now at a point of decision. Are we prepared to tell the American people we are willing to accept a further deterioration of our highways and bridges and increased congestion? If we have the same experience over the next 6 years that our highway system has experienced in the last 6 years, we will see a degradation from 1998 to 2009 of approximately 12 percent and a commute delay will increase 30 percent.

Is this an acceptable result for the safety, the quality of life, and the economic expectations of the American people? In my judgment, the answer is clear. The answer is no.

The President supports an even more accelerated rate of decline in the conditions and congestions of our highway system than SAFETEA. He has insisted that the highway portion of SAFETEA be funded at $206 billion, roughly 65 percent of what is required just to maintain our highway systems at their current levels. We must do more. We cannot continue to ignore the problem and allow a critical component in our quality of life and our economic future to deteriorate.

I have a second concern. As I stated, a fundamental principle is users should pay for the use they get of our transportation system. That has been a principle throughout our Nation's history, particularly when we launched the Interstate Highway System. President Eisenhower increased the Federal motor fuels tax in order to be able to finance the Interstate Highway System, not leave it as a burden for our children and grandchildren and we, this generation of Americans, are the beneficiary of that wise judgment.

During the Finance Committee consideration of SAFETEA last week, I discussed the option of raising the Federal motor fuel user fees to fund the bill at the level needed to maintain current conditions. Many of my colleagues were not comfortable with the idea of increased fees, raising the Federal user fee just 3.7 cents per gallon. That is what we would be required if it were indexed for inflation to fully fund a Federal program of the $300 billion over the next 6 years, which is required to at least maintain the status quo in the quality of our highways.

Again, President Bush has made it very clear he will not support any highway bill that is financed by an increase in user fees, by bonding, or by funding from the general fund. I am sorry to hear the President neither supports funding the Nation's infrastructure at the levels recommended by his own Department of Transportation, nor does he support the principle that the users of the system should support the levels of investment needed to maintain and improve our highways.

If we are not willing to fund the SAFETEA bill at the appropriate level to maintain their current condition and reduce or maintain the current levels of congestion—to do as the first principle of a physician ''do no harm,'' to the system—if we are unwilling to do that, maybe we should not be considering a 6-year bill at all. Instead, the Senate should work on a 1-year extension of the current program with a commitment to work on a more substantial long-term bill next year after the Presidential elections.

We are not willing to raise fees on those who use our highways but instead have approved ''offsets'' for the spending in SAFETEA. But many questions about how the deficit will be affected as a result of these offsets remain. Last week, the Finance Committee equalized losses to the general fund by using offsets from what already had been used. For example, $22.3 billion worth of already committed tax changes. One offset used is a crackdown on corporate tax shelters, a policy that I have long supported. However, this offset has already been used in two other pieces of legislation approved by the committee and awaiting final action by the Congress—the charitable giving or CARE Act and the JOBS Act, which is our response to the WTO abolition of our current means of financing international transactions and other tax provisions, such as ending the tax bills that come with incorporating in other countries to avoid paying taxes, eliminating tax benefits for individuals who expatriate for tax reasons, and closing tax loopholes uncovered as a result of the Enron scandal again. But, again, these were the provisions that have already been used to fund other legislation.

The fiscal imprudence does not end with using offsets that have already been previously used. The bill also employs a gimmick of requiring corporations to pay their 2009 taxes in order to make it appear in the year 2008 we have raised a sufficient amount of revenue over the 6-year period of the bill. Obviously, the consequences are we will start the next 6 years in the hole because we used money through an accounting gimmick to make it appear as if it were revenue within this 6-year cycle.

These overpaid corporate taxes will ultimately be refunded, however, meaning we do not really offset the cost of the bill over the period that the highway spending occurs. This is shady bookkeeping, reminiscent of the procedures that this body worked so hard in the recent past to reform in the private sector.

Is it fair to offset the spending in this bill with already used revenue raisers or accounting gimmicks? It is duplicative at least, irresponsible at worst. We must legitimately pay for this bill.

Third, I have fought for many years to create a funding structure that is based on equity, on providing States that face the highest level of need with their fair share of Federal funds. This bill has a fatal flaw. It creates a formula for highway funding that has absolutely no solid basis in rationale public policy.

In my State of Florida, traffic delays cost the average motorist in our eight largest cities $485 per year in lost time and fuel. By the year 2020, Florida will add about 6 million new residents, doubling its international trade, and welcome more than 100 million tourists per year. This additional growth will multiply congestion and delay tremendously.

This is only a snapshot of the growing problems in my State and not an uncommon story for many States in the South and West.

Over the past 15 years, America's population has grown by 18 percent. Florida's population has grown at twice that rate, 39 percent. Vehicle miles traveled, a good measure of the use of our highway system, has grown by 48 percent nationally but 90 percent in Florida. Lane miles, a measure of the extent of the system, have grown less than 10 percent nationally over the last decade, and only 11 percent in Florida in the face of a 90-percent growth in the use of our highway system.

High growth States all face similar circumstances. In 1982, just 10 of the 25 most congested areas pursuant to the Telecommunications Transportation Institute study were located in high-growth areas such as Maryland, Colorado, Texas, Arizona, California, and Florida. Today, 15 of the most congested areas in the Nation are in those

States. But the funding formula we are considering has failed to catch up with this reality.

Under SAFETEA, these growth States are continuing to receive the lowest level of return on contributions to the highway fund, despite their obvious and growing needs.

This bill attempts to get these States to 95 percent by providing what is referred to as an equity bonus. But the equity bonus, unfortunately, does not cover all the funds available for distribution. And it will keep our State at the TEA–21 level return of 90.5 cents for every dollar sent to the Federal motor fuels trust fund until the year 2009.

Most important, however, is this entire concept assures that an unfair scheme will remain in place. All States should be guaranteed equal treatment with a formula that incorporates a yearly increase in the rate of return or the glidepath to get all States to a 95-percent return on the amount of funds they send to the motor fuel tax by 2009.

The bill we voted out of committee was significantly different from the bill we will vote on here on the Senate floor. The pending committee amendment exceeds 1,300 pages and includes significant changes from the status of the bill as it left the committees. This means the formulas which have been circulated by the committees of jurisdiction at the start of the debate no longer reflect the state of the bill.

For example, what effect will the Finance Committee's actions have on State-by-State allocations? A provision approved by the Finance Committee to change the way gasohol is taxed will change each State's contribution levels to the highway trust fund.

Will any of the amendments accepted by the managers of the bill affect the equity bonus, diluting the rate of return to our States?

This seems to be part of a disturbing trend in this body. Whether it is the energy bill, the prescription drug bill, or now it seems the transportation bill, there is a tendency to pass things now and ask the tough questions later. That practice is unacceptable in the world's greatest deliberative body.

Before the vote on cloture on SAFETEA, the Senate should be honest about what SAFETEA will do. One, it will guarantee our roads, bridges, and transit systems will be in worse shape in 2009 than they are today. Is that acceptable? It will increase the size of the Federal deficit. Is that acceptable? It will ensure that States will not receive their fair share of Federal highway funding. Is that acceptable? The answer is no.

Are Members of the Senate comfortable moving forward and approving a bill this week with open questions about how the formulas work, at what level the bill will be funded, and how any changes made here on the Senate floor will affect the ''delicate balance'' as described by the chairman? I am not satisfied. For these reasons, I will oppose cloture.

Thank you, Mr. President.

AMENDMENT NO. 2311

Mr. ROCKEFELLER. Mr. President, I rise today in strong support of Senators CANTWELL and KENNEDY's amendment to reinstate and extend the Federal unemployment insurance program. This measure would provide 6 additional months of financial assistance to thousands of West Virginians and millions of Americans who have exhausted their regular state-funded benefits. This support is desperately needed and deserves immediate attention.

The Temporary Extended Unemployment Compensation, TEUC, program expired on December 31, 2003. In response to a slowdown in the American economy, Congress created this program in March 2002 to provide federally-funded unemployment benefits to the long-term unemployed who want to work, and who are looking for work, but are unable to find employment in the current economic climate. As all of my colleagues are aware, Congress extended the program twice, in January and May of 2003 respectively, because jobs remained scarce and new ones were not being created. Now, with millions of our constituents still looking for work and with 90,000 workers exhausting their State-funded benefits each week millions of Americans need our help once again.

Over the past two years our economy has suffered through a difficult recession. Recently, however, according to some economic indicators, it does appear to be turning the corner. At least the data indicates we are poised to return to better and improved economic output from years past. This is some encouraging news, but it is long overdue. Despite strong economic growth over the last two quarters of 2003 and a surge in the financial markets, jobs continue to be hard to find. At this time, there is merely one job opening for every three out of work Americans. This is totally unacceptable. We cannot merely continue to muddle through a ''jobless recovery''—we must get the unemployed the relief they need.

Those who oppose extending emergency unemployment insurance have also argued that recent improvements in the economy and the labor market demonstrate that the program is no longer needed. How can the administration tout upward trends as a major economic turnaround when so many Americans are still struggling so hard just to make ends meet? The White House claims that jobs are one of the administration's primary concerns. Yet, I am troubled that the White House has been conspicuously silent about unemployment insurance, which has been proven to boost economic output. It has been reported that continuing the Temporary Emergency Unemployment Compensation, TEUC, program would be the single best mechanism to boost the economy, giving the economy a $1.73 jolt for each $1 of Federal benefits. Unemployment insurance benefits are excellent stimulus because they aid people who are likely to spend additional resources immediately.

Opponents to the extension cite a drop in the national unemployment rate, among other improvements in the economy, to justify phasing out this program that serves as the final safety net for workers across the country. It is true that the Nation's unemployment rate has dropped, albeit minimally, over the past few months. But it is clear that these numbers are misleading. A closer look at the numbers reveals that thousands of Americans are so frustrated they actually gave up looking for work altogether and dropped out of the labor market. Nearly 15 million Americans are out of work and the number of long-term unemployed remains enormously high, at almost 2 million. Constituents in my home State of West Virginia have been particularly vocal about the seriousness of this situation. In January, nearly 1,200 West Virginians exhausted their State-funded benefits. That number will jump to nearly 7,000 over the next 6 months. If we pass this amendment, more than 8,000 of my constituents would get the help they need and deserve.

My offices are taking calls from West Virginians who need such help. One example is a woman who lost her job due to company layoffs. She decided to return to school so that she could learn new skills and reenter the workforce better prepared for an uncertain future. My constituent was depending on the TUEC benefit to help finance her education. Without extending these benefits, how will she make ends meet until she finishes her training? I believe that it's a matter of this administration's priorities. And I very much worry we do not have our priorities straight.

Lack of jobs is the primary culprit. But what is equally troubling is that there is a clear shift of jobs from high-paying industries to lower-paying sectors. This fundamental change in the job market was precipitated by a variety of factors. But simply replacing a good, secure, and well-paying position that includes health insurance and pension benefits with a minimum wage job just doesn't cut it. And sadly, it appears as if this administration is content to tout the creation of new low-paying jobs as stimulus, comparable to the 2.6 million manufacturing jobs that were lost since this President took office. West Virginia alone has lost about 9,800 manufacturing jobs over the last few years.

Congress must recognize the urgency of this problem. We must move quickly to reinstate this program, not only to assist the unemployed, but also because in doing so we will provide our home states with additional resources that will immediately infuse economies across the country with more spending power.

We can afford to help our fellow Americans. Every worker contributes

to the Unemployment Insurance Trust Funds so that in times of need benefits are available. Failure to act would send a very negative message to the large number of Americans struggling to make their way in this difficult job climate. Not extending benefits is harsh on the unemployed and their families.

Mr. LIEBERMAN. Mr. President, for working families in the State of Connecticut and across the country, these are hard economic times. Millions have lost their jobs, and millions more fear they might lose theirs soon. Outsourcing American service jobs overseas, as the President's economic advisors suggest, would only add to the unemployment rolls and to growing anxieties. What American needs is not a plan for creating jobs abroad, but a plan for creating jobs here at home.

Nearly all sectors have been affected by the national economy's sluggish performance during the past 3 years, with job losses across the board. The manufacturing sectors has been hit particularly hard. In the State of Connecticut, nearly 26,400 manufacturing jobs have been cut in the past 38 months, and 33,500 since January 2001. Most of these jobs have gone overseas.

In addition to manufacturing job loss, services and high-tech jobs are also being sourced outside the United States—to lower cost, lower wage countries. The employment trends in this sector are harder to quantify, but the impact is no less real. They threaten to put U.S. technological competitiveness and future economic growth at risk.

The Bush administration has done next to nothing to stop this hemorrhaging—relying instead on factory photo-ops, toothless trade missions and new organizational charts. The latest comment from President Bush's top economic advisers that the outsourcing of U.S. service jobs to workers overseas is good for the Nation's economy only underscores the administration's lack of understanding and leadership on this issue.

Instead of policies that shift jobs overseas, we need to create jobs in this country. We need to strengthen enforcement of trade agreements; provide tax credits to keep manufacturing jobs in the United States; promote innovation through Federal research and development policy; leverage Federal purchasing power; create tax incentives for investment in manufacturing modernization and expansion; and strengthen manufacturing and service workers' skills.

Today I join my Senate colleagues in sponsoring a resolution that tells President Bush—loudly and clearly—we will oppose efforts to encourage the outsourcing of American jobs overseas and instead provide a manufacturing tax incentive to encourage job creation in the United States.

Ms. SNOWE. Mr. President, I rise today in strong support for S. 1072, the Safe, Accountable, Flexible and Efficient Transportation Equity Act, the Senate version of the highway bill, also known as SAFETEA.

Few things that we in Congress do this year will have as great of an impact on our fellow citizens as enacting a 6-year successor to the 1998 Transportation Equity Act for the 21st Century, TEA–21. Simply put, enacting a highway bill this year will create jobs, reduce congestion and cut down on highway fatalities in every city and town across the country.

Debate on this bill is long overdue, as TEA–21 originally expired on September 30, 2003, and thus it has been necessary to extend these programs until the end of February. The primary reason for this delay was that the Senate was unable to come to an agreement on how to raise the necessary revenue to provide the $311 billion in funding for highways and transit over 6 years that 79 Senators—myself included—voted for as part of the fiscal year 2004 budget resolution.

As such, I was pleased to have been able to support, as a member of the Senate Finance Committee, a revenue package that I feel will break the logjam on this issue and allow us to move forward on enacting a comprehensive, 6 year surface transportation bill this year. The Finance Committee bill, which was adopted on February 2 by a vote of 17 to 4, generates the Senate 6-year funding level without raising the Federal gasoline tax, resorting to tax-credit bonds or negatively impacting the general fund.

Like many of my colleagues, I would have serious concerns about any financing proposals that would raise taxes on American consumers and small businesses, or that would require massive general fund transfers for transportation programs. I commend Chairman GRASSLEY and Senator BAUCUS for navigating through these challenges on highway financing and increasing the likelihood that Congress will get the job done this year.

We have a big job to do in a small amount of time. It is critically important to our State Departments of Transportation that we enact a 6-year bill as soon as possible. States are clamoring for a comprehensive highway bill because, in addition to the funding they stand to get, a full reauthorization allows them to plan for the future. Without such a long-term bill, major projects—including many in my home State—simply cannot go forward. It is regrettable that Congress did not complete its work in 2003 by reauthorizing these programs. Thus, we must seize this opportunity and fulfill our duty now—another 6-month delay is simply not acceptable.

As we debate the appropriate level of spending in this bill, let us not lose sight of the fact that our country's transportation funding needs are simply staggering. If we want to start improving—let alone maintaining—the current system of highways, bridges, and transit infrastructure in this country, overall Federal surface transportation spending must reach at least $75 billion annually by fiscal year 2009, according to a 2002 Department of Transportation's, DOT, Conditions and Performance report. The bill before us today provides $255 billion for highways and $56.5 billion transit over six years. To put those numbers into context, they translate into an average annual Federal investment of $51.8 billion per year through 2009 under SAFETEA—still far short of the figured cited by DOT needed to improve our country's transportation infrastructure.

While the DOT's 2002 report gives us an idea of the funding levels needed nationwide to enhance our transportation system, I wanted to speak for a moment on the funding needs of my home State of Maine. The Maine highway system is the most important facet of a transportation network that serves the largest State in the northeastern United States, and totals 22,612 road miles, which includes 367 miles of interstate highways. And as a State with an abundance of islands, rivers, lakes and streams, the State of Maine maintains an extraordinary number of bridges, including 3,564 highway bridges with at least a 10-foot span.

Today, Maine's highway system is carrying an ever-growing volume of vehicles. Highway use has increased from about 7.5 billion vehicle miles in 1980 to more than 13 billion vehicle miles traveled, VMT, in 2000. The Maine Department of Transportation's, MDOT, Twenty Year Transportation Plan projects that VMT will grow by 18 percent, to about 16 billion VMT, by the year 2020.

Put simply, the most pressing issue facing this extensive transportation system is its age. As MDOT's Twenty Year Plan puts it:

> Our most dramatic challenge is that our infrastructure is aging. Roads, bridges . . . and other facilities that were built decades ago are now reaching, or have surpassed, their life expectancies. In many cases, this translates into the reality that repairs and rehabilitation are no longer appropriate; the time has come for many replacement and reconstruction projects. This is especially true for a significant number of major bridges around the State, some of which offer the only practical and cost-effective method for crossing rivers and other bodies of water.

Given the challenges facing the State in maintaining its transportation infrastructure, and given that a good road system is absolutely critical to economic development and job creation in both rural and urban areas of Maine, I am pleased with the projected funding for Maine in the formula section of S. 1072. Over the 6-year life of the Senate bill, Maine will receive $1.169 billion in highway funding, an increase of $292 million, or 33.4 percent, from Maine's 1998 TEA–21 funding. This funding increase is particularly critical when considering that during the last reauthorization in 1998, when the average State increase was 40 percent, Maine received only a 17 percent increase.

I commend Chairmen INHOFE and BOND, and Senators JEFFORDS and REID

for their careful consideration and hard work on these formulas. In doing so, they have recognized that Maine, as the largest State in New England in terms of landmass, but with a relatively low population density, simply needs all the help it can get from the Federal Government with the costs of maintaining the national highway system

While I am certainly optimistic about the funding Maine will receive under the EPW Committee's proposed formulas, I also intend to fight for ''high priority project'' funding for several Maine road and bridge projects that are in dire need of Federal support. These important projects include the replacement of the 72-year-old Waldo-Hancock Bridge over the Penobscot River; the Aroostook North-South Highway project to connect the northern part of my State with the terminus of I–95 at Houlton; an East-West Highway running from Calais, ME, to the New Hampshire border that will address the woeful state of east-west connectivity in Maine; and the Gorham bypass, a vital congestion mitigation project in southern Maine.

While first-class roads are important for economic development, safe roads are just as essential to the quality of life of our citizens. As such, during the reauthorization process I intend to raise an issue of utmost importance to Maine: that of keeping heavy trucks off of our local roads. Safety must be the No. 1 priority on our roads and highways, and I have long been concerned that the existing interstate weight limits in my State have the perverse impact of forcing trucks onto State and local secondary roads that were never designed to handle heavy commercial trucks safely. These State and local routes are narrow roads with narrow lanes, and rotaries, with frequent pedestrian crossings and school zones.

Federal law attempts to provide uniform truck weight limits—80,000 pounds—on the interstate system, but the fact is there are a myriad of exemptions and grandfathering provisions. Furthermore, interstate highways have safety features specifically designed for heavy truck traffic, whereas the narrow, winding State and local roads do not.

Because of these long-standing safety concerns, MDOT has spent the last several years studying the potential impacts of waiving the Federal weight limits throughout the State. The preliminary results of their study clearly show the wisdom of allowing heavy trucks to travel on the interstate system rather than local roads. Specifically, MDOT estimates that waiving Federal weight limits would result in three fewer truck crashes in Maine every year. In addition to the safety benefits, waiving weight limits would save MDOT between $1 million and $1.65 million every year on pavement costs, and approximately $300,000 per year on bridge rehabilitation costs. Overall, when considering safety and road construction costs, the economic benefit to the State and Maine citizens would be between $1.6 million and $2.3 million annually.

The safety and economic benefits of getting heavy trucks off of Maine local roads and onto the interstate are enormous. As such, I have filed an amendment to the highway bill that would simply direct the Secretary of Transportation to establish a 3-year pilot program to improve commercial motor vehicle safety in the State of Maine. Specifically, the measure would direct the Secretary, during this period, to waive Federal vehicle weight limitations on certain commercial vehicles weighing over 80,000 pounds using the interstate system within Maine, permitting the State to set the weight limit. In addition, it would provide for the waiver to become permanent unless the Secretary determines it has resulted in an adverse impact on highway safety. I believe this is a measured, responsible approach to a very serious public safety issue.

I am aware that the current truck weight limit impacts different States in different ways, but for Maine, at the heart of the issue is a simple question: Do we want heavy trucks on the highway, where they belong, or on local roads running right through the heart of our communities? I hope to work with the chair and ranking member of the EPW Committee to address this issue as we consider the highway bill.

Another priority of mine during TEA–21 reauthorization process, as a member of the Senate Committee on Commerce, Science and Transportation, is the issue of our country's intercity passenger rail system. Until December 2001, Maine was one of only a handful of States in the continental United States not served by passenger rail service. I am proud that after a decade of hard work and negotiations, Maine has become a member of the Amtrak family—with service from Boston to Portland, Maine. The State of Maine is also working on plans to upgrade the Boston-Portland line to a high-speed rail service, and also may extend the line even further north in the future.

In June 2003, the Commerce Committee—with my support—voted to consider Amtrak reauthorization and TEA–21 reauthorization together. Since then, I have been working with a bipartisan coalition of Senators to make that proposition a reality, including Senators HUTCHISON, HOLLINGS, and CARPER. Rail is a part of our surface transportation system, and I will fight to make sure that a rail title is included in the final highway legislation sent to the President. Simply put, including a passenger and freight rail title in this bill will build on the existing foundation of passenger rail in Maine and further connect my State to the Nation's transportation system—a prospect about which I am very excited.

I conclude by saying that another reason I support the legislation we are considering today is because it is not just a roads bill, or a transit bill, or a safety bill, it is also a jobs bill. The Department of Transportation estimates that every $1 billion in new Federal investment creates more than 47,500 jobs. The funding in the Senate EPW comprehensive 6-year bill of $255 billion will create approximately 2 million new jobs nationwide, and will create or sustain almost 57,000 highway-related jobs in my home State of Maine. The economic stimulus this bill will provide is reason alone to enact it as soon as possible.

I am pleased that the Senate is poised to complete consideration of this legislation. I look forward to working my colleagues with a sense of urgency over the next few days on enacting a comprehensive 6-year surface transportation bill this year.

BUDGET PROCESS REFORM

Mr. CONRAD. Mr. President, this amendment contains provisions that are within the jurisdiction of the Budget Committee, on which I serve as ranking member. Specifically, it amends the Budget Enforcement Act, establishing spending levels for highways and mass transit for fiscal years 2004 through 2009. It also expresses the sense of the Senate that comprehensive budget enforcement measures should be enacted this year, addressing discretionary spending, mandatory spending, revenues, and all areas of the Federal budget.

This bill is not the proper vehicle for considering budget process reform. All of the members of the Budget Committee—including those who will not be conferees on the bill pending before us—deserve the opportunity to weigh in on discretionary spending caps, pay-as-you-go, and other budget enforcement. Those issues should not be presented to the Senate without having been considered by the Budget Committee. They therefore have no place on this bill.

Mr. NICKLES. I agree that the pending transportation bill is not the place to consider budget enforcement provisions within the Budget Committee's jurisdiction. Even though the budget enforcement provisions in this bill are meaningless in the absence of other process measures, I did not support their inclusion. Enacting statutory budget enforcement this year will require bipartisan cooperation, and the most appropriate way to ensure that is to consider these issues through the regular order. I will work closely with the Senator from North Dakota to make sure all Senate Budget Committee members have an opportunity to provide input on these issues.

Mr. FRIST. I concur with the chairman of the Budget Committee and agree with the sentiments expressed by the Committee's Ranking Member. Indeed the provisions in this legislation establishing transportation spending categories are somewhat meaningless unless we enact broader enforcement tools. Those broader enforcement tools

should be addressed separate and apart from this legislation.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. COLEMAN). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate now proceed to a period of morning business with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

HONORING OUR ARMED FORCES

CORPORAL JUAN C. CABRALBANUELOS

Mr. HATCH. Mr. President, these truly are ''the times that try men's souls'' and challenge our resolve as a Nation. Today, it is with profound regret that I stand to pay tribute to a true patriot of liberty who gave his life so that others may live in freedom. His name was Juan C. Cabralbanuelos and he was a soldier in the U.S. Army.

Many have stood in this chamber to reflect on the loss that our Nation has felt and the price that it has paid to remain free. Today, I stand to remember one who was a citizen of another nation, one who loved the United States and freedom so much, he was willing to give his life to preserve an idea: freedom. He truly deserves the honor of being called an American patriot.

Coporal Cabralbanuelos leaves behind a wife Anita and two sons ages seven and one. To them, I know that nothing that I say here will temper your grief. But know this: your loss will not go unnoticed and unrecognized, your fellow Americans now and always will stand behind you and support you through the trying times ahead.

And so another name has been added to Utah's List of Honor: Corporal Juan Carlos Cabralbanuelos. He joins an illustrious list that includes Specialist David J. Goldberg, US Army Reserve; Captain Nathan S. Dalley, West Point graduate and a member of the Army's 1st Armored Division; staff Sergeant James W. Cawley, United States Marine Corps Reserve; Staff Sergeant Nino D. Livaudais of the Army's Ranger Regiment; Randall S. Rehn, of the Army's 3rd Infantry Division; Sergeant Mason D. Whetstone of the United States Army; and former Special Forces soldier Brett Thorpe.

Their names and the service they performed is something that I shall never forget. I shall always honor them and their families.

SPECIALIST JUSTIN A. SCOTT

Mr. BUNNING. Mr. President, today I will take the opportunity to honor the service of Spec. Justin A. Scott of Bellevue, KY. His death while performing his duty to this country is a great loss to us all.

On January 29, 2004, Justin and 11 other soldiers were investigating a cache of weapons about a hundred miles short of Bagram Air Base in Afghanistan. Suddenly, there was an explosion and Justin and seven other soldiers were killed. I offer my sincerest condolences to Spec. Scott's family and loved ones.

His service with the 87th Infantry Regiment of the 10th Mountain Division at Ft. Drum, NY, was exemplary and duly appreciated. As one of the U.S. Senators from Kentucky, I know that Spec. Scott served as a fine example of what it means to be a true patriot and an American of the highest caliber.

We are humbled and honored by the sacrifice Spec. Scott has made. His loss reminds us of the heavy cost exacted for our freedom. We must remember that the American way of life has been made possible by the bravery of men and women like Spec. Scott. When freedom has been challenged many like him have answered the call to arms. We must never forget that.

DAVID KAY'S SENATE TESTIMONY

Mr. KYL. Mr. President, there has been a great deal of focus on the recent Senate testimony of David Kay, the former head of the Iraq Survey Group. Unfortunately, most media reports have highlighted only those statements by Dr. Kay that might be used to criticize the administration. They have largely ignored Dr. Kay's assertions that Iraq was more dangerous than we even realized prior to the war, that Saddam Hussein clearly intended to continue developing weapons of mass destruction, and other statements which contradict the false notion that the administration ''hyped'' intelligence on Iraq.

I thought it would be beneficial for the American people to have a chance to read Dr. Kay's entire testimony, including his edifying exchanges with members of the Senate Armed Services Committee.

I therefore ask unanimous consent that his entire testimony be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

HEARING, SENATE ARMED SERVICES COMMITTEE, JANUARY 28, 2004

(Joined in progress due to committee hearing room audio system).

WARNER: . . . a further report—and I stress a further report—from Dr. David Kay on his efforts and the efforts of the team which he was privileged to work with, known as ISG. He served as the special adviser to the director of Central Intelligence in determining the status of weapons of mass destruction and related programs in Iraq.

After assuming this position last July, Dr. Kay made his initial interim official report to this committee on October 3rd. As members of the committee are aware, Dr. Kay has stepped down from this position and has been succeeded by Mr. Charles A. Duelfer, a former colleague and member of the U.N. Special Commission with Dr. Kay, who has been appointed by Director Tenet to continue this important mission.

I met with Mr. Duelfer the day before yesterday and we just momentarily met with him in the Intel Committee room.

Dr. Kay volunteered—and I emphasize that—volunteered to resume his public service, worked diligently for six months in Iraq under difficult and often dangerous conditions, and just concluded his work last week and reported to the director of Central Intelligence.

I thank you and I thank your wife for public service.

Working with General Dayton and the Iraq Survey Group, ISG, your mission was to search for all facts—repeat, all facts—relevant to the many issues about Iraq weapons of mass destruction and related programs. You initiated what was and continues—I emphasize continues—to be a very difficult, complex mission that, in you own words, is yet to be completed.

As you cautioned us when you took up this post in July, patience is required to ensure we complete a thorough assessment of this important issue.

In this hearing today we hope to receive your assessment of what has been accomplished to date—I repeat, to date—and what in your professional judgment remains to be done by the ISG. It is far too early to reach any final judgments or conclusions.

In recent days, I mentioned, I met with both General Dayton, I've met extensively with your over the recess period, and Mr. Duelfer, and received the assurance of Dayton and Duelfer that they will be prepared to present to the Congress a second official interim report of the ISG group in the time frame of late March.

WARNER: It is crucial that the important work of the ISG group go on. Thus far the findings have been significant.

Dr. Kay has stated that, although we have not found evidence of large stockpiles of WMD, or forward-deployed weapons, the ISG group have made the following evidence as a part of their record that will be forthcoming: first, evidence of Saddam Hussein's intent to pursue WMD programs on a large scale; actual ongoing chemical and biological research programs; an active program to use the deadly chemical ricin as a weapon, a program that was interrupted only by the start of the war in March; and evidence of missile programs; and evidence that in all probability they were going to build those weapons to incorporate in the warheads, what we know not for sure, but certainly the possibility of weapons of mass destruction; evidence that Saddam Hussein was attempting to reconstitute his fledgling nuclear program as late as 2001; and, most important, evidence that clearly indicates Saddam Hussein was conducting a wide range of activities in clear contravention of the United Nations resolutions.

As you recently stated, Dr. Kay—and I quote you—''It was reasonable to conclude that Iraq posed an imminent threat. What we learned during the inspection made Iraq a more dangerous place potentially than, in fact, we thought it was even before the war,'' end quote.

WARNER: Further, you said on NBC's ''Today Show'' on Tuesday that it was, quote, ''absolutely prudent for the U.S. to go to war.''

Dr. Kay, I concur in those conclusions. I believe a real and growing threat has been eliminated and a coalition of nations acted prudently in the cause of freedom. I'd be interested if you concur in my conclusions.

While some have asserted that the president and his senior advisers may have exaggerated or manipulated prewar intelligence on Iraq's WMD programs, Dr. Kay reached the following conclusion, which I think is different.

As you stated recently, quote, ''We have to remember that this view of Iraq (prewar assessment of WMD capabilities) was held during the Clinton administration and did not change in the Bush administration. It is not a political got-you issue. Often estimates are different than reality. The important thing is when they differ to understand why,'' end quote.

That's precisely why I called this meeting, Dr. Kay, to continue the work of this committee in developing a body of fact from which reasonable people, at the conclusion of that collection of facts, can reach their own objective thoughts and conclusions. It's been a difficult process but the ISG work is not completed.

Now, you have stated that you believe there did not exist large stockpiles of biological and chemical weapons. But I hope that you will, in your testimony, indicate that since work is not completed, since Iraq is as big as California and Baghdad approximates the sprawling territory of Los Angeles, that we could find caches and reserves of weapons of mass destruction, chemical or biological or even further evidence about their nuclear program.

WARNER: We also would hope that you'd address the question of whether or not Saddam Hussein had some kind of, quote, ''breakout capability'' for quickly producing chemical or biological weapons, and was this not a basis for constituting a conclusion that there was an imminent threat from Saddam Hussein and his military?

Why were the Iraq WMD records systemically looted or destroyed? And why do scientists in custody today continue not to be forthcoming if there was nothing to hide or nothing substantial existed?

The work of the Iraq Survey Group has shown that Saddam Hussein had WMD intentions, had WMD programs that did survive, and did outwit for 12 years the United National Security Council and the resolutions—indeed, the inspections, in large measure.

If ultimately, the findings of the Iraq Survey Group do differ from the prewar assessments of our intelligence community, differ from assessments of the United Nations, differ from assessments of intelligence services of many other nations, indeed that is cause for concern. But we are not there yet in terms of the totality of fact on which to draw such serious conclusions.

Today and tomorrow, our policy-makers must be able to rely on the intelligence they are provided. The safety and security of the men and women of the armed forces are dependent on intelligence and, indeed, the security of our Nation.

So collectively, all of us—the Congress, the executive branch and other nations—we must vigorously continue to pursue the collection of the facts, as the ISC is doing, and upon that completion, then draw our conclusions and take such corrective measures as may be necessary.

WARNER: As we speak, over 1,400 individuals—military and civilian—are on the ground in Iraq seeking the facts about Iraq's WMD programs. I have confidence in the commitment and the ability of General Dayton, Mr. Duelfer, your successor, and representatives from our coalition partners to complete this mission. They have some of the best and brightest of our military and our intelligence community to complete this task. And Congress has provided the necessary means, a very substantial appropriation of recent.

We remain committed to providing the resources that are necessary for the completion of the ISG work.

Dr. Kay, I thank you for your public service once again.

BELARUSIAN AUTHORITIES CONTINUE TO STIFLE DEMOCRACY

Mr. CAMPBELL. Mr. President, as co-chairman of the Commission on Security and Cooperation in Europe, I want to update colleagues on developments in the Republic of Belarus, a country with the poorest human rights record of any country in Europe today. In the last year, Belarusian dictator Lukashenka's assault on civil society has steadily intensified, with the liquidation of NGOs, violence against opposition activists, and repression of the independent media and trade unions. The situation in Belarus continues its downward spiral with daily reports of growing repression and new human rights violations.

Since the beginning of the still relatively new year, NGOs such as the Belarusian Language Society and the Belarusian Helsinki Committee have stepped up harassment. The Minsk City Court has ordered the liquidation of the Independent Association of Legal Research. Leaders of the opposition ''Five Plus'' bloc, who are in Washington this week, were recently detained and searched by customs officials at the Polish-Belarusian border. The officials were reportedly looking for printed, audio or video materials that could ''damage the political and economic interests of the country.'' Human rights activists or independent journalists such as Natalya Kolyada, Nina Davydowskaya, Iryna Makavetskaya, Aksana Novikava and Aleksandr Silitsky continue to be subjected to threats, detentions or heavy fines. Others, including activists of the youth group ZUBR, have been arrested for holding an unauthorized picket demanding a thorough investigation of the disappearances of three democratic opposition members Yuri Zakharenka, Victor Gonchar, Anatoly Krasovsky, and journalist Dmitri Zavadsky.

Independent media outlets also continue to feel the wrath of the powers that be, including libel proceedings against Narodnaya Volya, Belarus' largest independent daily; the confiscation of Asambleya, a bulletin of the Assembly of the Belarusian Democratic NGOs; the refusal by the Belarusian Postal Service to distribute the independent newspaper Regionalniye Novosti; the confiscation of copies, in the town of Smorgon, of the independent newspaper, Mestnaya Gazeta; and the censoring of the independent newspaper Volnaya Hlybokaye in the Vitebsk region. Several Jewish cemeteries are being destroyed, Baptist congregations are being fined and Krishna followers detained.

In an unusual step, the International Labor Organization, ILO, has established a commission of inquiry—only the eleventh time in the body's 84-year history—to examine violations of trade union rights in Belarus. Meanwhile, the Parliamentary Assembly of the Council of Europe's Committee on Legal Affairs and Human Rights unanimously ratified a report on political disappearances in Belarus. The just-released report severely criticizes the Belarusian authorities, stating that ''steps were taken at the highest level of the State actively to cover up the . . . disappearances'' of several high-profile members of the opposition in 1999 to 2000 and that senior Belarusian officials may be involved.

Last year I introduced the Belarus Democracy Act of 2003, S. 700, which is designed to help promote democratic development, human rights and rule of law in the Republic of Belarus, as well as encourage the consolidation and strengthening of Belarus' sovereignty and independence.

While some might be tempted to dismiss Belarus as an anomaly, the stakes are too high and the costs too great to ignore. It is important for us to stay the course and support Belarus in becoming a genuine European state, in which respect for human rights and democracy is the norm and in which the long-suffering Belarusian people are able to overcome the legacy of dictatorship—past and present. The Belarus Democracy Act—which enjoys bipartisan support—is an important, concrete way to exhibit our support. I urge colleagues to support this measure and look forward to timely consideration of the Belarus Democracy Act.

AMERICAN HOSTAGES IN COLOMBIA

Mr. DODD. Mr. President, it has been almost a year since three Americans—Marc Gonsalves, Keith Stansell, and Thomas Howes—were taken hostage by the Revolutionary Armed Forces of Colombia, FARC. The presence of American hostages in Colombia is deeply troubling, and one can only imagine the struggles and trials that these three brave individuals have had to endure since their plane crashed in the Colombian jungle last year on February 13. I rise today to again call attention to their plight and urge the Bush administration and Colombian Government to do everything possible to gain their release.

There is no higher priority than finding a way to bring these three Americans home safely, and I know that all of our prayers remain with them and their families during these difficult times. For the families of Marc, Keith, and Tom, this past year has been a heart wrenching experience. I have a special interest in the fate of Marc Gonsalves, whose mother, Jo Rosano, is a Connecticut resident. Marc's father, George Gonsavales, is also a resident of our State.

At every opportunity, I have worked to bring about the release of these three Americans. Indeed, over the last

8 months whenever I have met with Colombian President Uribe or other Colombian officials, I have urged them to make every effort to gain their release. President Uribe indicated to me that the Colombian military continues every day to search for them and that these efforts will not cease until they are found.

In addition, during a hearing last fall of the Senate Foreign Relations Committee, I urged the now-serving United States Ambassador to Colombia, William Wood, to make their rescue his highest priority. He pledged to do so and has kept me informed of developments in this matter. I have also continually urged the Bush administration to provide all means of assistance, including technological assistance, to bring about the safe rescue of Marc, Keith, and Tom. It is my understanding that the administration continues to work with Colombian authorities to locate them.

Certainly, their rescue will not be easy. However, I have to believe that more can be done. This must be the highest of priorities. The airing last year of the videotape showing them in captivity only further highlights the importance of this effort.

The families of Marc, Keith, and Tom will find no rest until their sons, husbands, fathers, and brothers return home safely. I will be meeting with Jo Rosano tomorrow, when she, along with other family members of the hostages, come to Washington, DC on the anniversary of this tragic incident to urge United States policymakers not to forget their family members in captivity.

And I will tell her what I have said here today: that we must make every effort and we must leave no stone unturned in our search. As Americans, Marc, Keith, and Tom are also our sons—they are members of our extended American family. For my part, I pledge to continue to do everything possible to ensure their speedy release and safe return. I urge the Bush administration and Colombian Government to do the same. We must not rest until they are all home safely.

LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

One such crime occurred in Honolulu, HI, in August 1998. A heterosexual man was found dead in a public shower. He had been brutally killed by a group of teenagers because they thought he was gay.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

ADDITIONAL STATEMENTS

CELEBRATING THE ''SEUSSENTENNIAL''

• Mrs. BOXER. Mr. President, each year on March 2 thousands of schools and millions of children take part in Read Across America, the National Education Association's annual celebration of reading and literacy. The date is no accident: March 2 is the birthday of Theodor Seuss Geisel, better known as Dr. Seuss.

As much as anyone in the past century, Dr. Seuss helped children learn to love reading by making it fun and exciting. In my frequent visits to classrooms and afterschool programs, I often read to young children, and I have found that Dr. Seuss is their favorite author.

His books are read and treasured everywhere—particularly in California, where he spent most of his adult life. In 1948, he bought an old observation tower in La Jolla, CA. For the rest of his life, The Tower was his residence and workshop. Every morning, Ted Geisel would walk into his studio, lock the door, and become Dr. Seuss. Drawing on his extensive collection of hats—inspired by ''The 500 Hats of Bartholomew Cubbins''—Dr. Seuss would put on a ''thinking cap'' and get to work.

The books that came out of The Tower—including ''The Cat in the Hat,'' ''Green Eggs and Ham,'' ''If I Ran the Zoo,'' ''Horton Hears a Who,'' ''And to Think That I Saw It on Mulberry Street,'' ''How the Grinch Stole Christmas,'' and ''Oh, the Places You'll Go!''—are among the best-known and best-loved classics of children's literature.

Dr. Seuss inspired Read Across America because he opened the door to literacy for generations of children by engaging them with gentle humor and fantasy.

The 2004 Read Across America is extra-special because it is the ''Seussentennial''—Dr. Seuss's 100th birthday. The celebration has already begun in schools and community centers across America, where kids are making giant birthday cards, collecting hats, and, of course, reading lots of good books.

As we approach the ''Seussentennial,'' I invite children and grownups everywhere to celebrate the joy of reading by honoring a great American author and educator, Theodor Seuss Geisel.•

HONORING R. LEWIS SHAW

• Mr. GRAHAM of South Carolina. Mr. President, I wish to recognize the accomplishments of one of my constituents, R. Lewis Shaw and to commend him for his tenure as deputy commissioner for environmental quality control at the South Carolina Department of Health and Environmental Control as he leaves after 33 years of service.

Lewis began his career with the department as the district director for the Wateree district office, and later served as chief of the Bureau of Water Supply. Lewis was promoted to deputy commissioner of environmental quality control in 1984 and has provided exemplary leadership since that time. Under Lewis's leadership, the environmental quality control programs have grown to keep pace with national and State initiatives and are considered by the United States Environmental Protection Agency to be among the best State environmental programs in the Nation.

Lewis has also been active in shaping national environmental policy over the past two decades by serving on numerous national committees, often as chairman, which advise both the Environmental Protection Agency and the United States Congress. He has on several occasions presented testimony to both House and Senate committees regarding the impact of proposed Federal environmental legislation on individual States. Lewis has earned the respect of his counterparts in other States and has served as president of their national association known as the Environmental Council of the States. Lewis is currently the longest serving State environmental program director in the Nation.

A graduate of the University of South Carolina with a degree in chemical engineering, Lewis also earned a graduate degree in environmental engineering from Clemson University, and is a registered professional engineer in South Carolina. Lewis is married to the former Judy Brown and has two children, Jason Shaw and April Shaw McCaskill.

I invite you to join me in thanking R. Lewis Shaw for his service and dedication to the natural resources and the citizens of the State of South Carolina.•

A LIVING LEGACY

• Mr. SMITH. Mr. President, I rise today to honor one of Oregon's unsung heroes, Jim Willis. For many years, Mr. Willis has dedicated his life to assisting and enriching the lives of countless Oregonians. His story should serve as an inspiration to us all as we try to make our country a better place.

He was raised in California and attended the University of California at Santa Cruz. Upon graduation he was accepted for graduate school of the prestigious University of California at Berkeley, yet he never had the opportunity to complete his degree when his father became ill. Willis returned to be with his father in Bishop, CA, where he worked as the Education Department director for the Owens Valley Paiute Tribes. The experience set the tone for

a long career in tribal and educational organizations.

Willis arrived to Roseburg, OR, in the early 1980s, continuing his work at Umpqua Community College in the Student Services department, and later at Rogue Community College as a financial aid officer, helping hundreds of young adults explore their career opportunities. After leaving his mark on the education arena, he decided to serve local American Indian tribes in their quest of cultural restoration and economic self-sufficiency.

In 1982, Willis began working with the Confederated Tribes of Siletz Indians, ultimately becoming general manager of the Confederated Tribes of Grand Ronde. His long and distinguished career in Oregon tribal government was illustrious and renowned throughout the State. He is well respected in tribal and State government circles. Willis was appointed to the Oregon State Board of Higher Education in 1993, where he served an important role until he stepped down in 2001. He was pivotal in the rise in prominence of our State Universities.

Currently, Willis is winning a hard-fought battle with cancer. I join with countless others in honoring his courage as he fights to overcome this devastating disease. We all look forward to the day that Jim Willis returns to help improve our great State of Oregon.●

IN MEMORY OF SCOTT HOFFMAN

● Mr. BEN NELSON. Mr. President, today I would like to share with my colleagues and the nation a tribute to a friend of mine from Nebraska.

On Sunday, February 8, 2004, Scott Hoffman of McCook, NE, passed away. His family lost a loving husband and father. I lost a friend and trusted member of my staff. And the State of Nebraska lost a proud native son and someone who embodied the attributes often used to describe our State—strong, hard working, caring and deeply invested in his community.

We are deeply saddened by the tragic loss of our coworker and friend. Our thoughts and prayers are with Scott's wife Darcey, their sons Christian and Stephen, his daughter Danae, and the entire Hoffman family.

Scott was a devoted family man, a dedicated public servant and a true friend. Scott seemed to always have his finger on the pulse of Southwest Nebraska. There isn't a community or a cause that isn't familiar with Scott's work advocating for the entire region.

Back when I was considering running in the 2000 Senate elections, I visited the local paper, the McCook Gazette, for an editorial board meeting. Scott was a member of the newspaper staff at the time. After the meeting he walked me out to the car and asked if he could join my campaign staff. We hired him and that was one of the best decisions I made.

Scott had a knack for working with people. He could as easily communicate with members of the press or a chamber of commerce as with elementary school students. He would walk into a room and be able to get disparate people to work together—a talent few have and fewer still can master. This ability made him an asset, not just to my office—and I am grateful he was a member of my team—but to the entire State of Nebraska. Scott always knew our primary concern is the welfare of Nebraska and he spent his time working on behalf of Nebraska's interests.

Scott's work on behalf of Nebraska was well respected and only recently did I learn that community officials sought out Scott to lead the McCook Economic Development Corporation. Scott, in his typical fashion, told the leaders that he was doing what he wanted to do and wasn't seeking a change. That loyalty was a defining characteristic of Scott Hoffman and he applied it to his job, his church, his family, his friends and his community.

His legacy can be measured in the outpouring of support his family has received in recent days. The community of McCook was there for Scott in the hours after he was reported missing. Over two hundred volunteers, including members of McCook Senior High's football and track teams, joined more than thirty first responders in the search for Scott. Although that search ultimately came to a tragic end, the dedication of these rescuers underscores Scott's connection to his community.

And the community of McCook was there again for Scott's family when news spread that he had passed. The letters, phone calls and testaments to Scott have poured in from Nebraskans across the State and as far away as Africa. It is overwhelming, but comforting, because we know that although Scott is gone, he will not be forgotten. In his 33 years, he has left his mark in McCook and his friends and neighbors will ensure that his memory lives on.

Scott was a good friend to many in the McCook area and across Nebraska, including me, Diane and everyone on my staff. He will be missed and remembered fondly by all who knew him, especially those of us who had the pleasure of working with him. Personally, I am going to miss his advice, his hard work on behalf of Nebraska, and most of all, the friendship I was so fortunate to share with him. He will be deeply missed by all of us.

A friend of Scott's at the McCook Gazette wrote this week of Scott that he "spent his time well." His activities on his last day with us bear that out. He took his sons Christian and Stephen sledding. He went grocery shopping for his family. He took his beloved dogs for a walk. In some ways it seems that he was called from this life at a moment of great peace, having fulfilled his duties to protect and provide for his family. His loss leaves us with unanswered questions but also fills us with the satisfaction of knowing Scott loved us, and was loved in return. And that is what makes life fulfilling.

I ask that two articles in tribute to Scott from his hometown paper the McCook Gazette be printed in their entirety in the RECORD.

The documents follow:

[From the McCook Daily Gazette, Feb. 10, 2004]

MONDAY BRINGS WORST FEARS, BEST MEMORIES

While the example of his life burns brightly in our minds, we need to find fitting ways to pay tribute to the memory of Scott Hoffman.

In some form—either through a monument, an award, a scholarship or another appropriate means—we need to come up with a lasting memorial to eulogize Scott and to create an inspiration for generations to come.

Because, in his 33 years of life, this dynamic young man showed us the importance of getting involved, staying involved and remaining faithful to your family, your church, your job and your community.

Scott Hoffman did all that . . . and much more. As you have already heard on radio and television and read on the front page of the newspaper, the search for Scott ended tragically Monday afternoon when his body was found by a diver in the Huck Finn Pond at Barnett Park.

With the discovery our worst fears were realized. While we mourn, we also give praise for the life Scott lived.

To give illustrations of how highly he was held in esteem, we offer two recent examples. First, following a recent speech which Scott gave on Sen. Ben Nelson's behalf, a member of the news media addressed Scott, "You are very well spoken and very focused on the issues. Would you consider running for office yourself?" Then, late in 2003, Scott was asked, privately, to consider entering his name in application for the director's position with the McCook Economic Development Corp.

In both cases, politely and humbly, Scott declined. "I'm where I want to be and I am doing what I want to do," is the best way to summarize his answers. He appreciated the opportunities, but remained dedicated, devoted and satisfied with the course his life was taking.

We don't find that kind of steadfast loyalty nearly enough in these times. You could see the love and respect for Scott shine through Monday evening in radio and television interviews with his good friend, Kerry Ferguson; the Gazette editor, Bruce Crosby; and Red Willow County Sheriff, Gene Mahon.

They were more than Scott's co-workers and officials with whom he worked. They were Scott's friends, as were so many others in this region, this State, and—increasingly through his work with Sen. Nelson—this Nation.

It is both important and appropriate that we remember Scott Hoffman. He served us and shared with us during his 33 years of life. In times to come, we need to cherish his memory and be uplifted by his example through a lasting memorial.

[From the McCook Daily Gazette, Feb. 10, 2004]

A GUY WHO SPENT HIS TIME WELL

(By Bruce Crosby)

Scott Hoffman took his two sons, Christian, 9, and Stephen, 6, sledding Sunday afternoon.

He went to the grocery store for his wife, Darcey, and carried the food into the kitchen.

''I guest I'll take the dogs for a run,'' he said, heading out the door with their three pets.

I've written before about my late stepmother, Alyce, who always said, ''I'd rather wear out, than rust out.''

She lived by that saying, spending her time caring for her family—offering advice to her often bewildered stepson—volunteering for her church and community, almost to the end, at the of 83.

I wish Scott would have had the same chance. As it was, he spent his last Sunday the way he spent most of his spare time—taking care of those he loved.

Scott deserved another 50 years, at least as much as any of us do. He was just hitting his stride when he was called from this life Sunday afternoon, at the age of 33.

Maybe his memory will help us make the right choices when it comes to how we spend our precious days on earth.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 1:23 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 264. Concurrent resolution authorizing and requesting the President to issue a proclamation to commemorate the 200th anniversary of the birth of Constantino Brumidi.

H. Con. Res. 357. Concurrent resolution permitting the use of the rotunda of the Capitol for a ceremony to award a Congressional Gold Medal to Dr. Dorothy Height.

H. Con. Res. 358. Concurrent resolution authorizing the printing of ''History of the United States Capitol'' as a House document.

H. Con. Res. 359. Concurrent resolution permitting the use of the rotunda of the Capitol for a ceremony as part of the commemoration of the days of remembrance of victims of the Holocaust.

At 7:02 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 361. Concurrent resolution providing for a conditional adjournment of the House of Representatives and a conditional recess or adjournment of the Senate.

MEASURES PLACED ON THE CALENDAR

The following bills were read the second time, and placed on the calendar:

S. 2061. A bill to improve women's health access to health care services and provide improved medical care by reducing the excessive burden the liability system places on the delivery of obstetrical and gynecological services.

S. 2062. A bill to amend the procedures that apply to consideration of interstate class actions to assure fairer outcomes for class members and defendants, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–6253. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report of D.C. Act 15–311, ''Distracted Driving Safety Act of 2004''; to the Committee on Governmental Affairs.

EC–6254. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report of D.C. Act 15–312, ''Police and Firemen's Service Longevity Amendment Act of 2004''; to the Committee on Governmental Affairs.

EC–6255. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report of D.C. Act 15–313, ''Henry Kennedy Memorial Tennis Courts Designation Act of 2004''; to the Committee on Governmental Affairs.

EC–6256. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report of D.C. Act 15–315, ''Closing of a Public Square 2848 and of a Portion of Kenyon Street, N.W., S.O. 03–411, Act of 2004''; to the Committee on Governmental Affairs.

EC–6257. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report of D.C. Act 15–314, ''Extension of the Time Period for Disposition of a Property Located at 2341 4th Street, NE., Amendment Act of 2004''; to the Committee on Governmental Affairs.

EC–6258. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report of D.C. Act 15–331, ''Medical Support Establishment and Enforcement Amendment Act of 2004''; to the Committee on Governmental Affairs.

EC–6259. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report of D.C. Act 15–332, ''Neighborhood Investment Act of 2004''; to the Committee on Governmental Affairs.

EC–6260. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report of D.C. Act 15–333, ''Water and Sewer Authority Collections Clarification Amendment Act of 2004''; to the Committee on Governmental Affairs.

EC–6261. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report of D.C. Act 15–334, ''Closing of a Public Alley in Square 316, S.O . 03–2973, Act of 2004''; to the Committee on Governmental Affairs .

EC–6262. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report of D.C. Act 15–336, ''Documents Administrative Cost Assessment Temporary Amendment Act of 2004''; to the Committee on Governmental Affairs.

EC–6263. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report of D.C. Act 15–335, ''Prevention of Premature Release of Mentally Incompetent Defendants Temporary Amendment Act of 2004''; to the Committee on Governmental Affairs.

EC–6264. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report of D.C. Act 15–294, ''Board of Veterinary Examiners Amendment Act of 2004''; to the Committee on Governmental Affairs.

EC–6265. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report of D.C. Act 15–296, ''Health Care Privatization Rulemaking Amendment Act of 2004''; to the Committee on Governmental Affairs.

EC–6266. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report of D.C. Act 15–295, ''Traffic Adjudication Appeal Fee Amendment Act of 2004''; to the Committee on Governmental Affairs.

EC–6267. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report of D.C. Act 15–297, ''Closing of a Portion of Jewett Street, NW., S.O. 98–272, Act of 2004''; to the Committee on Governmental Affairs.

EC–6268. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report of D.C. Act 15–298, ''Closing of Portions of the Alley System in Square 2868, S.O. 01–4094, Act of 2004''; to the Committee on Governmental Affairs.

EC–6269. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report of D.C. Act 15–299, ''Washington Convention Center Authority Term Limit Amendment Act of 2004''; to the Committee on Governmental Affairs.

EC–6270. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report of D.C. Act 15–300, ''Electric Standard Offer Service Amendment Act of 2004''; to the Committee on Governmental Affairs.

EC–6271. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report of D.C. Act 15–301, ''Closing of Public Alleys in Square 2672, S.O. 03–757, Act of 2004''; to the Committee on Governmental Affairs.

EC–6272. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report of D.C. Act 15–302, ''Office of Administrative Hearings Independence Preservation Temporary Amendment Act of 2004''; to the Committee on Governmental Affairs.

EC–6273. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report of D.C. Act 15–303, ''Interim Disability Assistance Temporary Amendment Act of 2004''; to the Committee on Governmental Affairs.

EC–6274. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report of D.C. Act 15–304, ''Child and Youth, Safety and Health Omnibus Temporary Amendment Act of 2004''; to the Committee on Governmental Affairs.

EC–6275. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report of D.C. Act 15–305, ''Bonus Depreciation Decoupling Temporary Act of 2004''; to the Committee on Governmental Affairs.

EC–6276. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report of D.C. Act 15–306, ''Estate and Inheritance Tax Clarification Temporary Act of 2004''; to the Committee on Governmental Affairs.

EC–6277. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report of D.C. Act 15–308, ''Crispus Attucks Development Corporation Real Property Tax Exemption and Equitable Real Property Tax Relief Assistance Temporary Act of 2004''; to the Committee on Governmental Affairs.

EC–6278. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report of D.C. Act 15–307, ''Help America Vote Temporary Amendment Act of 2004''; to the Committee on Governmental Affairs.

EC–6279. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report of D.C. Act 15–309, ''Washington Convention Center Authority Advisory Committee Continuity Temporary Act of 2004''; to the Committee on Governmental Affairs.

EC–6280. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report of D.C. Act 15–310, ''Southeast Neighborhood House Real Property Tax Exemption and Equitable Real Property Tax Relief Temporary Act of 2004''; to the Committee on Governmental Affairs.

EC–6281. A communication from the General Counsel, Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the report of a nomination for the position of Administrator, Office of Management and Budget, received on February 10, 2004; to the Committee on Governmental Affairs.

EC–6282. A communication from the Inspector General, Railroad Retirement Board, the budget justification for the Office of Inspector General, Railroad Retirement Board; to the Committee on Governmental Affairs.

EC–6283. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–316, ''Initiative Measure No. 62 Applicability and Fiscal Impact Temporary Amendment Act of 2004''; to the Committee on Governmental Affairs.

EC–6284. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Cold Treatment of Fruits'' (Doc. No. 02–071–2) received on February 10, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6285. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Befenazate; Pesticide Tolerances for Emergency Exemptions'' (FRL#7335–6) received on February 4, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6286. A communication from the Principal Deputy, Office of the Under Secretary of Defense for Personnel and Readiness, transmitting, pursuant to law, a report of the approval of the wearing of the insignia of major general; to the Committee on Armed Services.

EC–6287. A communication from the Principal Deputy, Office of the Under Secretary of Defense for Personnel and Readiness, transmitting, pursuant to law, a report of the approval of the wearing of the insignia of brigadier general for several officers; to the Committee on Armed Services.

EC–6288. A communication from the Principal Deputy Under Secretary of Defense for Policy, Department of Defense, transmitting, pursuant to law, the Department's Report on Activities and Assistance under Cooperative Threat Reduction Programs; to the Committee on Armed Services.

EC–6289. A communication from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Unique Item Identification and Valuation'' (DFARS Case 2003–D081) received on January 20, 2004; to the Committee on Armed Services.

EC–6290. A communication from the Under Secretary of Defense, Comptroller, Department of Defense, transmitting, pursuant to law, the report of a multiyear procurement for E–2C aircraft for fiscal year 2004 through 2007; to the Committee on Armed Services.

EC–6291. A communication from the Acting Chief Executive Officer, Corporation for National and Community Service, transmitting, pursuant to law, the report of a violation of the Antideficiency Act that occurred in Treasury Account 95X8267; to the Committee on Appropriations.

EC–6292. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Airbus Model A319, A320, A321 Series Airplanes Doc. No. 2001–NM–120'' (RIN2120–AA64) received on February 10, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6293. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Fokker F28 Mark 0070 and 0100 Series Airplanes Doc. No. 2002–NM–252'' (RIN2120–AA64) received on February 10, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6294. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Bombardier Model CL600–2B19 Airplanes Doc. No. 2002–NM–112'' (RIN2120–AA64) received on February 10, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6295. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Kidde Aerospace Part Number 898052 Hand Held Halon Fire Extinguishers; Doc. No. 2003–CE–19'' (RIN2120–AA64) received on February 10, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6296. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: BAE Systems Limited Model BAE 146 and Avro 146–RJ Series Airplanes Doc. No. 2002–NM–144'' (RIN2120–AA64) received on February 10, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6297. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Pratt and Whitney JT9D–7R4 Series Turbofan Engines Doc. No. 2003–NE–01'' (RIN2120–AA64) received on February 10, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6298. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 767–200, 300, and 300F Series Airplanes Doc. No. 2002–NM–152'' (RIN2120–AA64) received on February 10, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6299. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class W Airspace: Anthony, KS Doc. No. 03–ACE–92'' (RIN2120–AA66) received on February 10, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6300. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace: Fort Scott, KS Doc. No. 03–ACE–98'' (RIN2120–AA66) received on February 10, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6301. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace: Benton, KS Doc. No. 03–ACE–94'' (RIN2120–AA66) received on February 10, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6302. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace: Independence, IA Doc. No. 03–ACE–90'' (RIN2120–AA66) received on February 10, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6303. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace: Iowa Falls Doc. No. 03–ACE–09'' (RIN2120–AA66) received on February 10, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6304. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace: Marysville, KS Doc. No. 03–ACE–99'' (RIN2120–AA66) received on February 10, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6305. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace: Beloit, KS Doc. No. 03–ACE–93'' (RIN2120–AA66) received on February 10, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6306. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace: Chanute, KS Doc. No. 03–ACE–95'' (RIN2120–AA66) received on February 10, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6307. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace: Clay Center, KS Doc. No. 03–ACE–96'' (RIN2120–AA66) received on February 10, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6308. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation,

transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace: Colby, KS Doc. No. 03–ACE–97'' (RIN2120–AA66) received on February 10, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6309. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E2 Airspace; and Modification of Class E5 Airspace; Hutchinson, KS Doc. No. 03–ACE–79'' (RIN2120–AA66) received on February 10, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6310. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Eurocopter Deutschland Model MBB Bk 117 A–1, A–3, A–4, B–1, B–2, and C–1 Helicopters'' (RIN2120–AA66) received on February 10, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6311. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Eurocopter France Model AS344E, F, F1, F2, and N Helicopters; Doc. No. 2003–SW–24'' (RIN2120–AA66) received on February 10, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6312. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures; Miscellaneous Amendments (3); Amdt. No. 3087'' (RIN2120–AA65) received on February 10, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6313. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Bombardier Model C1 600–2B19 Airplanes Doc. No. 2003–NM–0262'' (RIN2120–AA66) received on February 10, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6314. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Empresa Brasileira de Aeronautica Model EMB135, and 145 Series Airplanes Doc. No. 2002–NM–330'' (RIN2120–AA66) received on February 10, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6315. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Gulfstream Model G–V Series Airplanes Doc. No. 2003–NM–275'' (RIN2120–AA66) received on February 10, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6316. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Dassault Model Falcon 900EX Series Airplanes Doc. No. 2003–NM–276'' (RIN2120–AA66) received on February 10, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6317. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Augusta SpA Model A109E Helicopters; Doc. No. 2003–SW–28'' (RIN2120–AA66) received on February 10, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6318. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Bombardier Model CL 600 JA11 (CL–600), CL–600 2A12 (CL601), and CL–600 2B16 (CL601–3A, CL 601–3R, and CL–604) Series Airplanes Doc. No. 2001–NM–267'' (RIN2120–AA66) received on February 10, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6319. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Dassault Model Falcon 2000 and 900 EX and Dassault Model Mystere-Falcon 900 Series Airplanes Doc. No. 2002–NM–231'' (RIN2120–AA66) received on February 10, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6320. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: McDonnell Douglas Model 717–200 Airplanes; Doc. No. 2003–NM–55'' (RIN2120–AA66) received on February 10, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6321. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Empresa Brasileira de Aeronautica Model EMB 120 Series Airplanes Doc. No. 2002–NM–87'' (RIN2120–AA66) received on February 10, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6322. A communication from the Director, Fish and Wildlife Service, Department of the Interior, and the Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, a report relative to the Atlantic Striped Bass Conservation Act; to the Committee on Commerce, Science, and Transportation.

EC–6323. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled ''Weighted Average Interest Rate Update Notice'' (Notice 2004–14) received on February 10, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6324. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report relative to a study on the effects of Motor Carrier Safety Assistance Program grant reductions; to the Committee on Commerce, Science, and Transportation.

EC–6325. A communication from the Assistant Secretary of the Interior, Bureau of Land Management, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Permits for Recreation on Public Lands'' (RIN1004–AD45) received on February 10, 2004; to the Committee on Energy and Natural Resources.

EC–6326. A communication from the Administrator, Energy Information Administration, Department of Energy, transmitting, a copy of the Administration's report relative to greenhouse gas emissions; to the Committee on Energy and Natural Resources.

EC–6327. A communication from the Assistant General Counsel for Regulatory Law, Office of Procurement and Assistance Policy, Department of Energy, transmitting, pursuant to law, the report of a rule entitled ''Acquisition Regulations; Conditional Payment of Fee, Profit, and Other Incentives'' (RIN1991–AB54) received on January 20, 2004; to the Committee on Energy and Natural Resources.

EC–6328. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Montana; Thompson Falls PM10 Nonattainment Area Control Plan Final Rule'' (FRL#7609–1) received on February 4, 2004; to the Committee on Environment and Public Works.

EC–6329. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Revisions to Update the 1-Hour Ozone Maintenance Plan for the Reading Area (Berks County) Final Rule'' (FRL#7616–6) received on February 4, 2004; to the Committee on Environment and Public Works.

EC–6330. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; West Virginia; MOBILE6-Based Motor Vehicle Emission Budgets for Greenbrier County and the Charleston, Huntington, and Parkersburg 1-Hour Ozone Maintenance Areas Direct Final Rule'' (FRL#7612–9) received on February 4, 2004; to the Committee on Environment and Public Works.

EC–6331. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans Tennessee: Knox County Maintenance Plan Update Direct Final Rule'' (FRL#7616–2) received on February 4, 2004; to the Committee on Environment and Public Works.

EC–6332. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans; Connecticut; Motor Vehicle Emissions Budgets for 2005 and 2007 Using MOBILE6.2 for the Connecticut Portion of the New York-Northern New Jersey-Long Island Nonattainment Area and for 2007 for the Greater Connecticut Nonattainment Area Final Rule'' (FRL#7618–8) received on February 4, 2004; to the Committee on Environment and Public Works.

EC–6333. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of State Implementation Plans; Michigan'' (FRL#7617–7) received on February 4, 2004; to the Committee on Environment and Public Works.

EC–6334. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Redesignation and Approval of Ohio Implementation Plan'' (FRL#7616–4) received on February 4, 2004; to the Committee on Environment and Public Works.

EC–6335. A communication from the Chair, Environmental Protection Agency, transmitting, pursuant to law, a report entitled ''Superfund Five Year Review Report to Congress''; to the Committee on Environment and Public Works.

EC–6336. A communication from the Secretary of the Interior, transmitting, pursuant to law, a report relative to the Perkins County Rural Water System; to the Committee on Environment and Public Works.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. VOINOVICH:

S. 2064. A bill to increase the minimum and maximum rates of basic pay payable to administrative law judges, and for other purposes; to the Committee on Governmental Affairs.

By Mr. JOHNSON (for himself and Mr. MCCAIN):

S. 2065. A bill to restore health care coverage to retired members of the uniformed services, and for other purposes; to the Committee on Armed Services.

By Ms. SNOWE:

S. 2066. A bill to authorize appropriations to the Secretary of Commerce for the Magnuson-Stevens Fishery Conservation and Management Act for fiscal years 2004, 2005, 2006, 2007, and 2008, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mrs. BOXER (for herself and Mrs. FEINSTEIN):

S. 2067. A bill to withdraw the Los Padres National Forest in California from location, entry, and patent under mining laws, and for other purposes; to the Committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. CAMPBELL (for himself, Ms. MURKOWSKI, Mrs. LINCOLN, Mrs. MURRAY, Ms. LANDRIEU, Mr. BIDEN, Mr. BUNNING, Mr. DORGAN, Mr. JOHNSON, and Mr. FITZGERALD):

S. Res. 298. A resolution designating May 2004 as ''National Cystic Fibrosis Awareness Month''; to the Committee on the Judiciary.

By Mr. CAMPBELL (for himself, Mr. SPECTER, Mr. DEWINE, Ms. MURKOWSKI, Mr. AKAKA, Mr. INHOFE, Mr. ALLEN, and Mr. DORGAN):

S. Res. 299. A resolution recognizing, and supporting efforts to enhance the public awareness of, the social problem of child abuse and neglect; to the Committee on the Judiciary.

By Mr. GRAHAM of Florida (for himself and Mr. MCCAIN):

S. Res. 300. A resolution expressing the sense of the Senate on project earmarking in surface transportation Acts; to the Committee on Environment and Public Works.

By Mr. SPECTER:

S. Res. 301. A resolution honoring the 30th anniversary of Congressman Murtha's service; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 596

At the request of Mr. ENSIGN, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 596, a bill to amend the Internal Revenue Code of 1986 to encourage the investment of foreign earnings within the United States for productive business investments and job creation.

S. 846

At the request of Mr. SMITH, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 846, a bill to amend the Internal Revenue Code of 1986 to allow a deduction for premiums on mortgage insurance, and for other purposes.

S. 884

At the request of Ms. LANDRIEU, the name of the Senator from Missouri (Mr. BOND) was added as a cosponsor of S. 884, a bill to amend the Consumer Credit Protection Act to assure meaningful disclosures of the terms of rental-purchase agreements, including disclosures of all costs to consumers under such agreements, to provide certain substantive rights to consumers under such agreements, and for other purposes.

S. 1010

At the request of Mr. HARKIN, the names of the Senator from Washington (Mrs. MURRAY) and the Senator from Louisiana (Ms. LANDRIEU) were added as cosponsors of S. 1010, a bill to enhance and further research into paralysis and to improve rehabilitation and the quality of life for persons living with paralysis and other physical disabilities.

S. 1277

At the request of Mr. BIDEN, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 1277, a bill to amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to provide standards and procedures to guide both State and local law enforcement agencies and law enforcement officers during internal investigations, interrogation of law enforcement officers, and administrative disciplinary hearings, to ensure accountability of law enforcement officers, to guarantee the due process rights of law enforcement discipline, accountability, and due process laws.

At the request of Mr. GRAHAM of South Carolina, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 1277, supra.

S. 1298

At the request of Mr. AKAKA, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 1298, a bill to amend the Farm Security and Rural Investment Act of 2002 to ensure the humane slaughter of non-ambulatory livestock, and for other purposes.

S. 1630

At the request of Mrs. CLINTON, the names of the Senator from Connecticut (Mr. DODD) and the Senator from Michigan (Mr. LEVIN) were added as cosponsors of S. 1630, a bill to facilitate nationwide availability of 2–1–1 telephone service for information and referral services, and for other purposes.

S. 1703

At the request of Mr. SMITH, the names of the Senator from Arkansas (Mrs. LINCOLN) and the Senator from Indiana (Mr. BAYH) were added as cosponsors of S. 1703, a bill to amend the Internal Revenue Code of 1986 to provide a credit against income tax for expenditures for the maintenance of railroad tracks of Class II and Class III railroads.

S. 2016

At the request of Mrs. FEINSTEIN, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 2016, a bill to provide for infant crib safety, and for other purposes.

S. 2035

At the request of Mr. GRAHAM of South Carolina, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of S. 2035, a bill to amend title 10, United States Code, to revise the age and service requirements for eligibility to receive retired pay for non-regular service; to expand certain authorities to provide health care benefits for Reserves and their families, and for other purposes.

S. 2056

At the request of Mr. BROWNBACK, the names of the Senator from Alaska (Mr. STEVENS), the Senator from Mississippi (Mr. LOTT), the Senator from Illinois (Mr. FITZGERALD) and the Senator from Oklahoma (Mr. INHOFE) were added as cosponsors of S. 2056, a bill to increase the penalties for violations by television and radio broadcasters of the prohibitions against transmission of obscene, indecent, and profane language.

S. CON. RES. 8

At the request of Ms. COLLINS, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. Con. Res. 8, a concurrent resolution designating the second week in May each year as ''National Visiting Nurse Association Week''.

S. CON. RES. 81

At the request of Mrs. FEINSTEIN, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. Con. Res. 81, a concurrent resolution expressing the deep concern of Congress regarding the failure of the Islamic Republic of Iran to adhere to its obligations under a safeguards agreement with the International Atomic Energy Agency and the engagement by Iran in activities that appear to be designed to develop nuclear weapons.

S. RES. 294

At the request of Mr. MCCAIN, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. Res. 294, a resolution designating January 2004 as '' National Mentoring Month''.

AMENDMENT NO. 2286

At the request of Mrs. CLINTON, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of amendment No. 2286 proposed to S. 1072, a bill to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

AMENDMENT NO. 2296

At the request of Mr. FITZGERALD, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of amendment No. 2296 intended to be

proposed to S. 1072, a bill to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Ms. SNOWE:

S. 2066. A bill to authorize appropriations to the Secretary of Commerce for the Magnuson-Stevens Fishery Conservation and Management Act for fiscal years 2004, 2005, 2006, 2007, and 2008, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Ms. SNOWE. Mr. President, I rise today to introduce the Fishery Conservation and Management Act Amendments of 2004. This bill would reauthorize the Magnuson-Stevens Fisheries Conservation and Management Act, as amended by the 1996 Sustainable Fisheries Act, and update fisheries policy to better satisfy the ever-changing needs of our Nation's fish stocks and fishing communities.

In 1976, the year in which the Magnuson-Stevens Act was written, our commercial fisheries were in grave danger of being exploited beyond their ability to recover. Passage of the Act has provided a more balanced approach in fulfilling our economic needs by also promoting responsible conservation and stewardship of our resources. Even as it sought to provide better management for the Nation's resources as a whole, this law recognized that our fisheries have vastly different regional problems. The result was the creation of a regional management council in each of the country's eight major marine fisheries. These councils, with substantial input from the local community, are responsible for creating the management plans by which their fish stocks are regulated by the National Marine Fisheries Services. This structure has been vital in allowing the active stakeholders in each region to provide meaningful input to the management process.

Since the enactment of this legislation, domestic offshore catches have increased so dramatically that our fisheries now add billions of dollars to the Nation's economy every year, according to the National Marine Fisheries Service. Because of this increase in fishing harvests and the pressure to fish more than could be sustained, in 1996 Congress passed the Sustainable Fisheries Act to amend and enhance the Magnuson-Stevens Act. The new amendments included new guidelines for conservation of both targeted fisheries and bycatch, or incidentally-caught fish and other marine life. The Act required that overfished stocks be rebuilt within a 10 year timeframe. In addition, the provisions added a requirement for the protection of all essential fish habitat for each fishery.

The overarching goal of the Sustainable Fisheries Act was to ensure prosperity for all United States fisheries by ending overfishing and rebuilding depleted stocks. This goal, and the means for achieving it, are as important today as they were in 1996. I supported the Act, because I saw in it great potential for sustaining fishing communities and the stocks upon which they depend.

In the nearly 8 years since we last renewed and reauthorized the Magnuson-Stevens Act, however, we have witnessed both prosperity and degradation in different fisheries affected by this law. According to the National Marine Fisheries Service's Annual Report in 2003, certain fisheries have thrived; for example, sea scallops on Georges Bank have increased 20-fold from 1994 to 2002, silver hake in the Northeast was declared fully rebuilt in 2002, and recovery of dozens of other stocks is well underway. The National Marine Fisheries Services' most recent survey of young Georges Bank haddock indicates a population boom with the potential to be the largest ever recorded, putting that fishery well on the road to its recovery goal. Conversely, other fisheries have not fared as well, as demonstrated by the fact that overfishing commenced in 13 U.S. fisheries between 1997 and 2002.

As Chair of the Oceans, Fisheries, and Coast Guard Subcommittee of the Commerce Committee, I have sought answers as to why the Magnuson-Stevens Act has apparently worked well for some fisheries, but not others. Representing a state with scores of fishing communities and thousands of fisheries workers, I understand the great importance of making sure that our federal fisheries laws are working for all of our Nation's fisheries.

In seeking these answers, during the 106th Congress I traveled across the country and held a series of hearings on the Magnuson-Stevens Act. In Washington, D.C. Maine, Louisiana, Alaska, Washington, and Massachusetts, I heard official testimony from over 70 witnesses. Our subcommittee received hundreds of comments, views, and recommendations from federal and state officials, regional council chairmen and members, other fisheries managers, commercial and recreational fishermen, members of the conservation community, and many others interested in fisheries management.

What the subcommittee learned during these hearing—and which continues to be reinforced by more recent fisheries events, comments, and recommendations—is that most of the shortcomings in our federal fisheries policy are products of how the Magnuson-Stevens Act has been interpreted and applied to real-life fisheries problems. While the underpinnings of the Act are sound, it has become clear that implementation of the Act has often been inconsistent with Congressional intent. That is the primary challenge before us today: to clarify how the goals of conservation and management can be achieved for our Nation's fisheries, and ensure effective implementation of the Act.

What we need is a federal fisheries policy that can be interpreted and applied in ways that recognize and respond to the unique conditions facing each individual fishery. Of the hundreds of fisheries occurring around our Nation's coastline, no two are exactly alike. The conservation measures that work in one fishery cannot always be transferred to another. The Magnuson-Stevens act must express enough flexibility to accommodate these variations, so that managers can craft unique, innovative solutions based on the conditions and needs of the fish stocks and fishing communities in question.

I first attempted to address these issues when I introduced S. 2832, the Magnuson-Stevens Reauthorization Act of 2000, as well as bills authorizing national standards for fishing quota systems. During the last several years, the need for these amendments—as well as new amendments to meet evolving fisheries needs—has only intensified. It is this fact that underlies the bill I introduce today, the Fishery Conservation and Management Act Amendments of 2004.

This bill contains several specific measures for enhancing management flexibility. First and foremost, this bill would repeal the 10-year timeline for rebuilding fish stocks and the unnecessarily-rigid measures that stem from it. This provision of the Sustainable Fisheries Act is not based on fish population dynamics, but instead imposes a stringent and arbitrary time-frame inappropriate for the diverse needs of each individual fishery. This bill would replace it with a system that allows a more adaptive approach for determining harvest rates. I am proposing that fishing mortality rates simply be limited to the maximum sustainable yield that a stock can produce in any given year. This fishing rate would not permit overfishing; it would allow stocks to rebuild over time to a level that achieves ecosystem balance.

Another new proposal in this bill would improve managers' ability to fairly distribute access to distant-water fish stocks. As is now occurring in the New England groundfishery, fishermen from different states are unevenly impacted by management measures that treat them as if they are all from the same state. Currently, fishermen who live farther away from healthy fish stocks need to expend their extremely limited number of permitted days-at-sea simply steaming to and from these stocks, while those who live closer to the stocks can spend more of their days-at-sea actually fishing. I am proposing that regional fishery management councils analyze these impacts and, if necessary, take action to eliminate such inequities.

Other key features of this Magnuson-Stevens Act reauthorization would address essential fish habitat and areas of particular concern; authorizations for cooperative research, capacity reduction, and fishing quota systems; and

language to improve social and ecological impact assessments, data and information management, public meeting notices, and scientific peer reviews. Individually and collectively, the provisions in this bill present a way forward in improving federal fisheries management. This bill preserves the goal and intent of the Magnuson-Stevens Act, yet it enhances the abilities of managers and fishermen to apply it in a way that can better achieve the Act's objectives and actually achieve sustainability in our fisheries.

Finally, I would like to thank all those fishermen, managers, scientists, and special interest groups that contributed ideas and information to the long process of developing this reauthorization bill. Their countless contributions serve as invaluable pieces to a very complex puzzle, and I am confident that our efforts will improve the state of federal fisheries management.

I look forward to receiving additional fisheries policy comments and recommendations in the weeks and months ahead, including those from the U.S. Commission on Ocean Policy, and I encourage my colleagues throughout Congress to take action in support of this Magnuson-Stevens reauthorization effort. Through our collective efforts, sustainable fisheries in the United States can and will become a reality.

By Mrs. BOXER (for herself and Mrs. FEINSTEIN):

S. 2067. A bill to withdraw the Los Padres National Forest in California from location, entry, and patent under mining laws, and for other purposes; to the Committee on Energy and Natural Resources.

Mrs. BOXER. Mr. President, I am introducing legislation today that would ban oil and gas drilling in the Los Padres National Forest. Congresswoman CAPPS is introducing this legislation in the House of Representatives.

Despite strong local opposition to drilling in the forest, the Forest Service released a Draft Environmental Impact Statement in October 2001 that recommended opening up additional lands in the forest to oil and gas exploration. By failing to consider the irreparable harm these activities would cause to the forest's resources and the recreational opportunities available to both nearby residents and tourists, the Forest Service's proposal is shortsighted and misguided.

The opening of the spectacular, unspoiled lands in Los Padres National Forest to oil and gas drilling threatens one of California's most pristine places. Los Padres National Forest provides habitat for various threatened and endangered wildlife species, including the endangered California condor. Also within the Los Padres National Forest are unexplored archeological sites that contain Native American historical artifacts. These could be damaged or destroyed by oil and gas development.

Los Padres National Forest provides a variety of recreational opportunities, such as fishing, hiking, hunting, and backpacking. These activities would be hindered by new oil and gas exploration and development, as streams and trails are contaminated by runoff and sedimentation and as air pollution is increased.

This legislation is a critical step toward protecting the irreplaceable natural and cultural resources of the Los Padres National Forest. I encourage my colleagues to support this legislation.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 298—DESIGNATING MAY 2004 AS ''NATIONAL CYSTIC FIBROSIS AWARENESS MONTH''

Mr. CAMPBELL (for himself, Ms. MURKOWSKI, Mrs. LINCOLN, Mrs. MURRAY, Ms. LANDRIEU, Mr. BIDEN, Mr. BUNNING, Mr. DORGAN, Mr. JOHNSON, and Mr. FITZGERALD) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 298

Whereas cystic fibrosis, characterized by chronic lung infections and digestive disorders, is a fatal lung disease;

Whereas cystic fibrosis is 1 of the most common genetic diseases in the United States and 1 for which there is no known cure;

Whereas more than 10,000,000 Americans are unknowing carriers of the cystic fibrosis gene;

Whereas 1 of every 3,500 babies born in the United States is born with cystic fibrosis;

Whereas newborn screening for cystic fibrosis has been implemented by 11 States and facilitates early diagnosis and treatment which improves health and longevity;

Whereas approximately 30,000 people in the United States have cystic fibrosis, many of them children;

Whereas the average life expectancy of an individual with cystic fibrosis is in the early thirties, an improvement from a life expectancy of 10 years in the 1960s, but still unacceptably short;

Whereas prompt, aggressive treatment of the symptoms of cystic fibrosis can extend the lives of people who have the disease;

Whereas recent advances in cystic fibrosis research have produced promising leads in gene, protein, and drug therapies beneficial to people who have the disease;

Whereas this innovative research is progressing faster and is being conducted more aggressively than ever before, due in part to the establishment of a model clinical trials network by the Cystic Fibrosis Foundation; and

Whereas education of the public on cystic fibrosis, including the symptoms of the disease, increases knowledge and understanding of cystic fibrosis and promotes early diagnosis: Now, therefore, be it

Resolved, That the Senate—

(1) designates May 2004 as ''National Cystic Fibrosis Awareness Month'';

(2) requests that the President issue a proclamation—

(A) designating the month of May 2004 as ''National Cystic Fibrosis Awareness Month''; and

(B) calling on the people of the United States to promote awareness of cystic fibrosis and actively participate in support of research to control or cure cystic fibrosis, by observing the month with appropriate ceremonies and activities; and

(3) supports the goals of—

(A) increasing the quality of life for individuals with cystic fibrosis by promoting public knowledge and understanding in a manner that will result in earlier diagnoses;

(B) encouraging increased resources for research; and

(C) increasing levels of support for people who have cystic fibrosis and their families.

Mr. CAMPBELL. Mr. President, today I am submitting a resolution recognizing the month of May, 2004, as National Cystic Fibrosis Awareness Month. I am pleased to be joined by nine of my colleagues who are original cosponsors of the resolution. We are hopeful that greater awareness of cystic fibrosis (CF) will lead to a cure.

The resolution is similar to one which I submitted last year, S. Res. 98, declaring a National Cystic Fibrosis Awareness Week, which was agreed to by unanimous consent on September 25, 2003. Since then, I have received input from the National Cystic Fibrosis Foundation (CFF) and the National Cystic Fibrosis Awareness Committee and have updated the information accordingly.

Cystic fibrosis is one of the most common fatal genetic diseases in the United States and there is no known cure. It affects approximately 30,000 children and adults in the United States. As recently as 25 years ago, most children born with cystic fibrosis died in early childhood and few survived to their teenage years.

Today, the average life expectancy of an individual with cystic fibrosis is in the early thirties, an improvement from a life expectancy of 10 years in the 1960s, but still unacceptably short. The difference stems from productive research which has led to an understanding of the way cystic fibrosis causes life-threatening damage and to the development of preventive techniques and treatments.

While there is no cure, early detection and prompt treatment can significantly improve and extend the lives of those with CF. My home state of Colorado was one of the first States to require CF screening for newborns. Happily, many more States are now performing this simple test.

And, since the discovery of the defective CF gene in 1989, CF research has greatly accelerated. I am proud that Colorado is home to the University of Colorado Health Sciences Center, including the Children's Hospital, the National Jewish Medical and Research Center and the Anschutz Centers for Advanced Medicine, all of which are actively involved in CF research and care. The Children's Hospital is one of a number of innovative Therapeutics Development Centers nationwide performing cutting edge clinical research to develop new treatments for CF.

Currently, the CF Foundation oversees potential CF products in its drug development pipeline, including those

in clinical trials. In addition, small pilot trials and large clinical studies are carried out in the CF Foundation-accredited care centers across the United States. Organizations such as the Cystic Fibrosis Research, Inc. also sponsor studies for treatment of the disease. Efforts such as these throughout the nation are providing a greater quality of life for those who have CF. We applaud these efforts.

While I am encouraged by the CF research in Colorado and elsewhere, more needs to be done. I believe we can increase the quality of life for individuals with Cystic Fibrosis by promoting public knowledge and understanding of the disease in a manner that will result in earlier diagnoses, more fund raising efforts for research, and increased levels of support for those who have CF and their families.

Therefore, I urge my colleagues to act on this resolution so we can move another step closer to eradicating this disease.

SENATE RESOLUTION 299—RECOGNIZING, AND SUPPORTING EFFORTS TO ENHANCE THE PUBLIC AWARENESS OF, THE SOCIAL PROBLEM OF CHILD ABUSE AND NEGLECT

Mr. CAMPBELL (for himself, Mr. SPECTER, Mr. DEWINE, Ms. MURKOWSKI, Mr. AKAKA, Mr. INHOFE, Mr. ALLEN, and Mr. DORGAN) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 299

Whereas each year in the United States approximately 3,000,000 reports of suspected or known child abuse and neglect, involving 5,000,000 children, are made to child protective service agencies;

Whereas 588,000 children are unable to live safely with their families and are placed in foster homes and institutions;

Whereas it is estimated that every year in the United States more than 1,200 children, 85 percent of whom are under the age of 6 years, of whom 44 percent are under the age of 1 year, lose their lives as a direct result of abuse and neglect;

Whereas this tragic social problem results in human and economic costs through crime and delinquency, drug and alcohol abuse, domestic violence, and welfare dependency; and

Whereas Childhelp USA has initiated a Day of Hope to be observed on Wednesday, April 7, 2004, during Child Abuse Prevention Month, to focus public awareness on child abuse and neglect: Now, therefore, be it

Resolved, That—

(1) it is the sense of the Senate that—

(A) all Americans should keep the victims of child abuse and neglect in their thoughts and prayers;

(B) all Americans should seek to break the cycle of child abuse and neglect and to give victimized children hope for the future; and

(C) the faith community, nonprofit organizations, and volunteers across America should recommit themselves and mobilize their resources to assist abused and neglected children; and

(2) the Senate—

(A) supports the goals and ideas of the Day of Hope, which will be observed on April 7, 2004, as part of Child Abuse Prevention Month; and

(B) commends the individuals working on behalf of abused and neglected children throughout the United States.

Mr. CAMPBELL. Mr. President, today I am submitting a resolution declaring Wednesday, April 7, 2004, as a National Day of Hope dedicated to remembering the victims of child abuse and neglect and recognizing Childhelp USA for initiating such a day. I am pleased to be joined in this effort by my colleagues Senators SPECTER, DEWINE, MURKOWSKI, INHOFE, ALLEN, DORGAN, and AKAKA who are original cosponsors of the resolution.

This resolution is similar to one I submitted last year, S. Res. 52, which passed the Senate by unanimous consent on March 26, 2004. It expresses the sense of Congress that we must break the cycle of child abuse and neglect by mobilizing all our resources including the faith community, non-profit organizations and volunteers.

The resolution also recognizes Childhelp USA, one of our oldest national organizations dedicated to meeting the needs of abused and neglected children. Childhelp and many other non-profits or faith-based organizations nationwide are performing a vital service to these children that they would not have otherwise, and they are to be commended for their efforts.

More than 3 million children are reported as suspected victims of child abuse and neglect each year. That is 3 million children too many. And, it is estimated that more than 1,200 children lose their lives as a direct result of abuse and neglect every year. That is not acceptable. We must do something to change these disturbing statistics.

I know first-hand the importance of having help when it is needed. The National Day of Hope Resolution calls on each of us to renew our duty and responsibility to the vulnerable children and families caught in the cycle of child abuse and neglect.

While we are encouraged by the efforts of many organizations nationwide, more needs to be done. That is why we urge our colleagues to act quickly on this resolution so we can move another step closer to erasing the horror of child abuse from our nation's history.

SENATE RESOLUTION 300—EXPRESSING THE SENSE OF THE SENATE ON PROJECT EARMARKING IN SURFACE TRANSPORTATION ACTS

Mr. GRAHAM of Florida (for himself and Mr. MCCAIN) submitted the following resolution; which was referred to the Committee on Environment and Public Works:

S. RES. 300

Whereas the House of Representatives adopted a rule in 1914 stating that it shall not be in order for any bill providing general legislation in relation to roads to contain any provision for any specific road;

Whereas diverting funds to low-priority earmarks diminishes the ability of States and local communities to set their own priorities and address their own mobility problems;

Whereas the General Accounting Office has reported that demonstration projects reviewed were not considered by State and regional transportation officials as critical to their transportation needs and that over half of the projects reviewed were not included in State and local transportation plans;

Whereas some earmarks have nothing to do with transportation and may worsen congestion by diverting scarce resources from higher priorities;

Whereas the Surface Transportation Assistance Act of 1982 (96 Stat. 2097) contained 10 earmarks at a cost of $385,925,000;

Whereas the Surface Transportation and Uniform Relocation Assistance Act of 1987 (101 Stat. 132) contained 157 projects at a cost of $1,416,000,000;

Whereas the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 1914) contained 538 projects at a cost of $6,082,873,000;

Whereas the Transportation Equity Act for the 21st Century (112 Stat. 107) contained 1,851 projects at a cost of $9,359,850,000;

Whereas annual transportation appropriations acts show the same trend in increasing earmarking of projects;

Whereas the funding earmarked for many projects does not cover the full cost of the project and requires State and local communities to cover the unfunded costs; and

Whereas funding of earmarked projects can have a dramatic effect on the rate of return that a State receives on its contributions to the Federal Highway Trust Fund: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 should not include project earmarks;

(2) if earmarked projects are included, the projects should be included within the funding that a State would otherwise receive so as not to penalize other States; and

(3) any earmarked projects should be included in the funding equity provisions of the next surface transportation Act so that the projects do not adversely affect the rate of return that a State receives from its contributions to the Highway Trust Fund.

SEANTE RESOLUTION 301—HONORING THE 30TH ANNIVERSARY OF CONGRESSMAN MURTHA'S SERVICE

Mr. SPECTER submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 301

Whereas John ''Jack'' Murtha, during 5 decades of service to our Nation, has been an exemplar of dedication, drive, sacrifice, and patriotism;

Whereas John Murtha left Washington and Jefferson College after only 1 year of study to join the Marine Corps during the Korean War out of a sense of obligation to his country;

Whereas John Murtha ran a small business in Johnstown, Pennsylvania while starting a family with his wife, Joyce, and attending the University of Pittsburgh on the GI Bill;

Whereas he volunteered in Vietnam in 1966–67, already in his mid-30s;

Whereas in 1974, he became the first combat Vietnam veteran elected to Congress, representing the 12th Congressional District of Pennsylvania;

Whereas he continuously works to attract and keep jobs in and around his District and

to develop essential sewer, water, and transportation infrastructure;

Whereas in his position as a senior member of the House Appropriations Committee, he is a national leader on defense, health care, and social issues and uses his position to benefit Pennsylvania, the region, and the people;

Whereas he founded the House Steel Caucus and regularly defends our steel industry from unfair imports; and

Whereas he has been 1 of the strongest advocates for children, seniors, and veterans: Now, therefore, be it

Resolved,

SECTION 1. CONGRATULATION AND COMMENDATION.

The Senate—

(1) honors the lifelong commitment of John Murtha to the ideals of our Nation;

(2) recognizes John Murtha's exceptional dedication to his constituents, to the State of Pennsylvania, and to the United States; and

(3) congratulates John Murtha on 30 years of superior service in the United States Congress.

SEC. 2. TRANSMISSION OF ENROLLED RESOLUTION.

The Secretary of the Senate shall transmit an enrolled copy of this resolution to Congressman John Murtha.

Mr. SPECTER. Mr. President, I rise to honor one of our most dedicated and patriotic colleagues—and a fellow Pennsylvanian—Congressman JOHN MURTHA, on the 30th anniversary of his service in the United States House of Representatives.

JACK MURTHA, during five decades of service to our Nation, has been an exemplar of dedication, drive, sacrifice and patriotism. He left Washington and Jefferson College after only one year of study to join the Marine Corps during the Korean War. Returning home, he ran a small business in Johnstown while starting a family with his wife, Joyce, and attending the University of Pittsburgh on the GI Bill. But his country called again and JACK MURTHA volunteered in Vietnam in 1966–67, already in his mid-30s.

In 1974, he became the first combat Vietnam veteran elected to Congress, representing the 12th Congressional District of Pennsylvania.

JACK MURTHA has worked tirelessly to attract and keep jobs in and around his District and to develop essential sewer, water and transportation infrastructure. As a senior member of the House Appropriations Committee, he has established himself as a national leader on defense, health-care and social issues. He founded the House Steel Caucus and regularly defends our steel industry from unfair imports, and has been one of the strongest advocates in Congress for children, seniors and veterans.

I hope my colleagues will join me in honoring JACK MURTHA for his lifelong commitment to the ideals of our Nation; for his exceptional dedication to his constituents, to the State of Pennsylvania and to our country; and for 30 years of superior service in the United States Congress.

AMENDMENTS SUBMITTED AND PROPOSED

SA 2297. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table.

SA 2298. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2299. Mr. BINGAMAN (for himself and Mr. CRAIG) submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2300. Mr. BINGAMAN (for himself, Mr. ROBERTS, and Mr. DOMENICI) submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2301. Mrs. MURRAY (for herself, Ms. COLLINS, Mrs. BOXER, Ms. CANTWELL, Mrs. CLINTON, Mr. COCHRAN, Mr. CORZINE, Mr. EDWARDS, Mr. KENNEDY, Ms. MIKULSKI, Ms. MURKOWSKI, Mr. SCHUMER, Ms. SNOWE, and Mr. STEVENS) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2302. Mr. BAYH (for himself, Mr. DURBIN, Mr. LUGAR, Mr. KOHL, and Mr. FITZGERALD) submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2303. Mr. LAUTENBERG submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2304. Mr. LAUTENBERG submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2305. Mr. LAUTENBERG (for himself, Mr. DEWINE, Mr. DORGAN, and Mr. CORZINE) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2306. Mr. LAUTENBERG (for himself, Mr. DEWINE, and Mr. CORZINE) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2307. Ms. LANDRIEU submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2308. Mr. CORZINE submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2309. Mr. CORZINE (for himself and Mr. LAUTENBERG) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2310. Mr. CORZINE submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2311. Mrs. CLINTON (for herself, Mr. BINGAMAN, Mr. BYRD, Mr. DODD, Mr. SARBANES, Mr. CORZINE, Mr. LIEBERMAN, Mr. ROCKEFELLER, Mr. HARKIN, and Ms. STABENOW) proposed an amendment to the bill S. 1072, supra.

SA 2312. Mr. CORZINE submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2313. Mr. ALLARD submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2314. Mr. CAMPBELL (for himself and Mr. INOUYE) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2315. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2316. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2317. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2318. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2319. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2320. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2321. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2322. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2323. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2324. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2325. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2326. Mr. BINGAMAN (for himself and Mr. DOMENICI) submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2327. Mr. BOND proposed an amendment to amendment SA 2311 proposed by Mrs. CLINTON (for herself, Mr. BINGAMAN, Mr. BYRD, Mr. DODD, Mr. SARBANES, Mr. CORZINE, Mr. LIEBERMAN, Mr. ROCKEFELLER, Mr. HARKIN, and Ms. STABENOW) to the bill S. 1072, supra.

SA 2328. Mr. DEWINE submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2329. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2330. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2331. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2332. Mr. HARKIN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2333. Mr. HARKIN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2334. Mrs. CLINTON submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2335. Mrs. DOLE submitted an amendment intended to be proposed by her to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2336. Mr. COLEMAN (for himself and Mr. DAYTON) submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2337. Mr. COLEMAN (for himself and Mr. DAYTON) submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2338. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2339. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2340. Mr. TALENT (for himself, Mr. WYDEN, Mr. CORZINE, and Mr. COLEMAN) submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2341. Mr. TALENT (for himself and Mr. WYDEN) submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2342. Mr. TALENT (for himself, Mr. ALLEN, and Mr. BURNS) submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2343. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2344. Mr. DAYTON submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2345. Mr. DAYTON submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2346. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2347. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2348. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2349. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2350. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2351. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2352. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2353. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2354. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2355. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2356. Mr. CORNYN (for himself and Mrs. HUTCHISON) submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2357. Mr. CORNYN (for himself and Mrs. HUTCHISON) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2358. Mr. CORNYN (for himself and Mrs. HUTCHISON) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2359. Mr. CORNYN (for himself and Mrs. HUTCHISON) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2360. Mr. CORNYN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2361. Mr. CORNYN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2362. Mr. CORNYN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2363. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2364. Mr. SCHUMER submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2365. Mr. DORGAN submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2366. Mr. DORGAN submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2367. Mr. AKAKA submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2368. Mr. GRASSLEY (for himself and Mr. BAUCUS) submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2369. Mr. GRASSLEY (for himself and Mr. BAUCUS) submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2370. Ms. SNOWE (for herself and Ms. COLLINS) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2371. Ms. SNOWE (for herself and Ms. COLLINS) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2372. Ms. SNOWE submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2373. Ms. SNOWE submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2374. Ms. SNOWE (for herself, Mr. NELSON, of Florida, Ms. COLLINS, Mr. GRAHAM, of Florida, and Mr. JOHNSON) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2375. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2376. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2377. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2378. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2379. Mr. MCCAIN (for himself and Mr. HOLLINGS) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2380. Mr. MCCAIN (for himself and Mr. HOLLINGS) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2381. Mr. MCCAIN (for himself and Mr. HOLLINGS) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2382. Mr. MCCAIN (for himself and Mr. HOLLINGS) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2383. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2384. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2385. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2386. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2387. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2388. Mrs. HUTCHISON (for herself, Mr. KYL, Mr. LEVIN, Mr. GRAHAM, of Florida, Mr. MCCAIN, Ms. STABENOW, and Mrs. FEINSTEIN) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2389. Mrs. HUTCHISON submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2390. Mrs. HUTCHISON submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2391. Mrs. HUTCHISON submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2392. Mr. BURNS submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2393. Mr. BURNS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2394. Mr. DAYTON submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2395. Mr. MCCAIN (for himself and Mr. HOLLINGS) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2396. Mr. DEWINE submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2397. Mr. CAMPBELL (for himself and Mr. INOUYE) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2398. Mr. CAMPBELL (for himself and Mr. INOUYE) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2399. Mr. GRASSLEY (for himself and Mr. BAUCUS) submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2400. Mr. GRASSLEY (for himself and Mr. BAUCUS) submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2401. Mr. STEVENS (for himself and Mr. INOUYE) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2402. Mr. THOMAS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2403. Mr. HOLLINGS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2404. Mr. HOLLINGS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2405. Mr. HOLLINGS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2406. Mr. INHOFE submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2407. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2408. Mr. FITZGERALD (for himself and Mr. DURBIN) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2409. Mrs. BOXER (for herself, Mr. DODD, and Mrs. FEINSTEIN) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2410. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2411. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2412. Mr. INHOFE submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2413. Mr. INHOFE submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2414. Mr. NICKLES submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2415. Mr. BURNS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2416. Mr. BAYH (for himself, Mr. LUGAR, and Mrs. CLINTON) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2417. Mr. HARKIN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2418. Mr. CARPER submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2419. Mr. CARPER submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2420. Mr. CARPER submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2421. Mr. CARPER submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2422. Mr. CARPER submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2423. Mr. CARPER submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2424. Mr. ROCKEFELLER submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2425. Mr. LOTT submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2426. Mr. DASCHLE submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2427. Mr. DASCHLE submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2428. Mr. DASCHLE submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2429. Mr. DASCHLE submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2430. Mr. DORGAN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2431. Mr. GRAHAM, of Florida submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2432. Mr. GRAHAM, of Florida submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2433. Mr. GRAHAM, of Florida submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2434. Mr. GRAHAM, of Florida submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2435. Mr. GRAHAM, of Florida submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2436. Mr. GRAHAM, of Florida submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2437. Mr. GRAHAM, of Florida submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2438. Mr. GRAHAM, of Florida submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2439. Mr. GRAHAM, of Florida submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2440. Mr. GRAHAM, of Florida submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2441. Ms. STABENOW (for herself and Mr. LEVIN) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2442. Mr. SARBANES (for himself, Ms. MIKULSKI, and Mr. ALLEN) submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2443. Mr. DODD (for himself and Mr. LIEBERMAN) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2444. Mr. DODD (for himself and Mr. LIEBERMAN) submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2445. Mr. DODD (for himself and Mr. LIEBERMAN) submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2446. Mr. STEVENS (for himself and Mr. INOUYE) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2447. Mr. BURNS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2448. Mr. BURNS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2449. Mr. BURNS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2450. Mr. BURNS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2451. Mr. BURNS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2452. Mr. CONRAD submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2453. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2454. Mr. LEVIN (for himself and Ms. STABENOW) submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2455. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2456. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2457. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2458. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2459. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2460. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2461. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2462. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2463. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2464. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2465. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2466. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2467. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2468. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2469. Mr. BOND submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2470. Mr. BYRD submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2471. Mr. BYRD submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2472. Mr. CHAFEE submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2473. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2474. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2475. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2476. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2477. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2478. Mr. BOND submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2479. Mr. REED submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2480. Mrs. LINCOLN (for herself and Mr. MILLER) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2481. Mr. CARPER submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2482. Mr. TALENT (for himself and Mr. WYDEN) submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2483. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2484. Mr. LIEBERMAN (for himself and Mr. DODD) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2485. Mr. HOLLINGS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2486. Mr. LIEBERMAN (for himself and Mr. DODD) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2487. Mr. SPECTER submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2488. Mr. SPECTER submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2489. Mr. WARNER submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2490. Mr. WARNER submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2491. Mrs. MURRAY (for herself, Ms. COLLINS, Mrs. BOXER, Ms. CANTWELL, Mrs. CLINTON, Mr. COCHRAN, Mr. CORZINE, Mr. EDWARDS, Mrs. FEINSTEIN, Mr. KENNEDY, Mr. LAUTENBERG, Ms. MIKULSKI, Ms. MURKOWSKI, Mr. SCHUMER, Ms. SNOWE, and Mr. STEVENS) submitted an amendment intended to be proposed by her to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2492. Mrs. MURRAY (for herself, Ms. COLLINS, Mrs. BOXER, Ms. CANTWELL, Mrs. CLINTON, Mr. COCHRAN, Mr. CORZINE, Mr. EDWARDS, Mrs. FEINSTEIN, Mr. KENNEDY, Mr. LAUTENBERG, Ms. MIKULSKI, Ms. MURKOWSKI, Mr. SCHUMER, Ms. SNOWE, and Mr. STEVENS) submitted an amendment intended to be proposed by her to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2493. Mr. CARPER submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2494. Mr. REED submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2495. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2496. Mr. LIEBERMAN submitted an amendment intended to be proposed to

amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2497. Mr. LIEBERMAN (for himself and Mr. DODD) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2498. Ms. MURKOWSKI (for herself and Mr. STEVENS) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2499. Ms. MURKOWSKI (for herself and Mr. STEVENS) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2500. Ms. MURKOWSKI (for herself, Mr. INHOFE, Mr. STEVENS, and Mr. CAMPBELL) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2501. Mr. SPECTER submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2502. Mr. BOND submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2503. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2504. Ms. MURKOWSKI submitted an amendment intended to be proposed by her to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2505. Mr. BUNNING submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2506. Mr. BUNNING submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2507. Mr. PRYOR (for himself and Mrs. LINCOLN) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2508. Mr. SMITH submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2509. Mr. SMITH submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2510. Mr. GRAHAM, of Florida (for himself and Mr. NELSON, of Florida) submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2511. Mr. DASCHLE submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2512. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2513. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2514. Mr. GRASSLEY (for himself and Mr. BAUCUS) submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2515. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2516. Mr. MILLER submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2517. Mr. MILLER submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2518. Mr. MILLER submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2519. Mr. MILLER submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2520. Mr. MILLER submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2521. Mr. MILLER submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2522. Mr. KOHL submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2523. Mr. LEAHY submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2524. Mr. LEAHY submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2525. Mr. LEAHY submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2526. Mr. JOHNSON submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2527. Mr. HOLLINGS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2528. Mr. HOLLINGS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2529. Mr. HOLLINGS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2530. Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2531. Mr. CRAPO (for himself, Mr. THOMAS, and Mr. ENZI) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2532. Mr. SHELBY submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2533. Mr. SHELBY submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2534. Mr. SHELBY submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2535. Ms. CANTWELL submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2536. Ms. CANTWELL submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2537. Ms. CANTWELL submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2538. Ms. CANTWELL submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2539. Ms. CANTWELL submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2540. Ms. CANTWELL submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2541. Mr. SMITH submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2542. Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2543. Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2544. Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2545. Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2546. Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2547. Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2548. Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2549. Mr. GRASSLEY (for himself and Mr. BAUCUS) submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2550. Mr. THOMAS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2551. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2552. Mr. WYDEN (for himself and Mr. TALENT) submitted an amendment intended to be proposed to amendment SA 2341 submitted by Mr. TALENT (for himself and Mr. WYDEN) and intended to be proposed to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2553. Mr. WYDEN (for himself and Mr. TALENT) submitted an amendment intended to be proposed to amendment SA 2340 submitted by Mr. TALENT (for himself, Mr. WYDEN, Mr. CORZINE , and Mr. COLEMAN) and intended to be proposed to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2554. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2555. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2556. Mr. KOHL submitted an amendment intended to be proposed to amendment SA 2302 submitted by Mr. BAYH (for himself, Mr. DURBIN, Mr. LUGAR, Mr. KOHL, and Mr. FITZGERALD) and intended to be proposed to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2557. Ms. STABENOW (for herself and Mr. LEVIN) submitted an amendment intended to be proposed to amendment SA 2441 submitted by Ms. STABENOW (for herself and Mr. LEVIN) and intended to be proposed to the amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 2297. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. LIMITATION ON THE APPLICATION OF THE DAVIS-BACON ACT.

The provisions of subchapter IV of chapter 31 of title 40, United States Code (40 U.S.C. 3141 et seq.), commonly known as the Davis-Bacon Act, shall not apply to projects that receive funding under this Act (or an amendment made by this Act).

SA 2298. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

In the blank in the appropriate clause in section 510(a)(4)(B) of title 23, United States Code (as added by section 2101(a)), insert ''the Southwest Bridge Research Center, comprising New Mexico State University and the Oklahoma Transportation Center''.

SA 2299. Mr. BINGAMAN (for himself and Mr. CRAIG) submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 733, strike lines 6 through 10 and insert the following:

wildlife;

''(xvii) installation and maintenance of signs (including fluorescent, yellow-green signs) at pedestrian-bicycle crossings and in school zones; or

''(xviii) if the State in which the lanes are located certifies to the Secretary that the upgrading of the lanes will provide a safety benefit, upgrading to 4 lanes portions of rural, 2-lane highways that have high accident rates and that are on—

''(I) the National Highway System; or

''(II) a high priority corridor identified under section 1105(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2032).

SA 2297. Mr. BINGAMAN (for himself, Mr. ROBERTS, and Mr. DOMENICI) submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. SOUTHWEST PASSAGE INITIATIVE FOR REGIONAL AND INTERSTATE TRANSPORTATION.

Section 1105(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2032) is amended by adding at the end the following:

''(45) The corridor extending from the point on the border between the United States and Mexico in the State of Texas at which United States Route 54 begins, along United States Route 54 through the States of Texas, New Mexico, Oklahoma, and Kansas, and ending in Wichita, Kansas, to be known as the 'Southwest Passage Initiative for Regional and Interstate Transportation Corridor' or 'SPIRIT Corridor'.''.

SA 2301. Mrs. MURRAY (for herself and Ms. COLLINS, Mrs. BOXER, Ms. CANTWELL, Mrs. CLINTON, Mr. COCHRAN, Mr. CORZINE, Mr. EDWARDS, Mr. KENNEDY, Ms. MIKULSKI, Ms. MURKOWSKI, Mr. SCHUMER, Ms. SNOWE, and Mr. STEVENS) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 39, line 1, strike ''$2,000,000,000'' and insert ''$1,328,000,000''.

On page 39, line 6, strike ''$38,000,000'' and insert ''$150,000,000''.

Beginning on page 80, strike line 7 and all that follows through page 81, line 3, and insert the following:

SEC. 1204. CONSTRUCTION OF FERRY BOATS AND FERRY TERMINAL AND MAINTENANCE FACILITIES; COORDINATION OF FERRY CONSTRUCTION, MAINTENANCE, AND OPERATION.

(a) IN GENERAL.—Section 147 of title 23, United States Code, is amended to read as follows:

''§ 147. Construction of ferry boats and ferry terminal and maintenance facilities; coordination of ferry construction, maintenance, and operation

''(a) DEFINITIONS.—In this section:

''(1) INSTITUTE.—The term 'Institute' means the National Ferry Transportation Institute established under subsection (d).

''(2) OFFICE.—The term 'Office' means the Ferry Joint Program Office established under subsection (c).

''(b) CONSTRUCTION OF FERRY BOATS AND FERRY TERMINAL AND MAINTENANCE FACILITIES.—

''(1) IN GENERAL.—The Secretary shall carry out a program for construction of ferry boats and ferry terminal and maintenance facilities in accordance with section 129(c).

''(2) FEDERAL SHARE.—The Federal share of the cost of construction of ferry boats and ferry terminals and maintenance facilities under this subsection shall be 80 percent.

''(3) ALLOCATION OF FUNDS.—The Secretary shall give priority in the allocation of funds under this subsection to those ferry systems, and public entities responsible for developing ferries, that—

''(A) carry the greatest number of passengers and vehicles;

''(B) carry the greatest number of passengers in passenger-only service; or

''(C) provide critical access to areas that are not well-served by other modes of surface transportation.

''(c) FERRY JOINT PROGRAM OFFICE.—

''(1) ESTABLISHMENT.—The Secretary shall establish an office, to be known as the 'Ferry Joint Program Office'—

''(A) to coordinate Federal programs affecting ferry boat and ferry facility construction, maintenance, and operations; and

''(B) to promote ferry service as a component of the transportation system of the United States.

''(2) RESPONSIBILITIES.—The Office shall—

''(A) coordinate ferry and ferry-related programs (including policy)—

''(i) within the Department of Transportation (including the Federal Highway Administration, the Federal Transit Administration, the Maritime Administration, and the Bureau of Transportation Statistics); and

''(ii) with the Department of Homeland Security and other Federal and State agencies, as appropriate; and

''(B) with respect to the administration of ferry and ferry-related programs—

''(i) ensure resource accountability;

''(ii) provide strategic leadership for ferry research, development, testing, and deployment; and

''(iii) promote ferry transportation as a means to reduce social, economic, and environmental costs associated with traffic congestion.

''(d) NATIONAL FERRY DATABASE.—

''(1) IN GENERAL.—Using the results of the study under section 1207(c) of the Transportation Equity Act for the 21st Century (23 U.S.C. 129 note; 112 Stat. 185), the Secretary shall—

''(A) maintain a national ferry database, which shall contain current information regarding—

''(i) ferry systems, routes, and vessels;

''(ii) passengers and vehicles carried;

''(iii) funding sources; and

''(iv) such other matters as the Secretary determines to be appropriate; and

''(B) in accordance with paragraph (2), update the database and results of the study, as appropriate.

''(2) UPDATED DATABASE.—The Secretary shall update the national ferry database—

''(A) with respect to the initial updated version, not later than 1 year after the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003; and

''(B) with respect to subsequent updated versions, every 2 years thereafter.

''(3) PUBLIC ACCESSIBILITY.—The Secretary shall ensure that the national ferry database is easily accessible to the public.

''(e) NATIONAL FERRY TRANSPORTATION INSTITUTE.—

''(1) ESTABLISHMENT.—Not later than 1 year after the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003, the Secretary shall

make grants to an institution of higher education to establish an institute to be known as the 'National Ferry Transportation Institute'.

''(2) ADMINISTRATION.—The Secretary shall develop and administer the Institute in cooperation with—

''(A) the Department of Transportation;

''(B) State transportation departments and State agencies;

''(C) public ferry transportation authorities;

''(D) private ferry operators;

''(E) ferry boat builders;

''(F) ferry employees;

''(G) other institutions of higher education; and

''(H) research institutes.

''(3) FUNCTIONS.—The Institute shall—

''(A) conduct research and recommend development activities on methods of improving ferry transportation programs in the United States, including methods of reducing wake and providing alternative propulsion;

''(B) develop and conduct training programs for ferry system employees, Federal employees, and other individuals, as appropriate, on recent developments, techniques, and procedures pertaining to the construction and operation of ferries;

''(C) encourage and assist collaborative efforts by public and private entities to preserve, improve, and expand the use of ferries as a mode of transportation; and

''(D) preserve, use, and display historical information about the use of ferries in the United States and in foreign countries.

''(4) LOCATION.—In selecting the location for the Institute, the Secretary shall consider, with respect to the region in which the Institute is to be located—

''(A) the importance of public and private ferries to the transportation system of the region, including both regional travel and long-range travel and service to isolated communities;

''(B) the historical importance of ferry transportation to the region;

''(C) the history and diversity of the maritime community of the region, including ferry construction and repair and other shipbuilding activities;

''(D) the anticipated growth of ferry service and ferry boat building in the region;

''(E) the availability of public-private collaboration in the region; and

''(F) the presence of nationally recognized research colleges and universities in the region.

''(5) REPORT.—Not later than 1 year after the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003, and annually thereafter, the Secretary shall submit to Congress a report that describes the activities of the Institute under, and the progress in carrying out, this section.

''(6) FUNDING.—The Secretary may authorize the acceptance and expenditure of funding provided to the Institute by public and private entities.

''(f) SET-ASIDE.—Of the amounts made available under section 1101(a)(14) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003, $112,000,000 for each of fiscal years 2004 through 2009 shall be made available to carry out this section.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 129(c) of title 23, United States Code, is amended—

(A) in the matter preceding paragraph (1), by inserting ''and maintenance'' after ''terminal''; and

(B) in paragraph (3), by inserting ''or maintenance'' after ''terminal'' each place it appears.

(2) The analysis for subchapter I of chapter 1 of title 23, United States Code, is amended by striking the item relating to section 147 and inserting the following:

''147. Construction of ferry boats and ferry terminal and maintenance facilities.''.

(3) Section 1064 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2005) is repealed.

SA 2302. Mr. BAYH (for himself, Mr. DURBIN, Mr. LUGAR, Mr. KOHL, and Mr. FITZGERALD) submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. ADJUSTMENT OF EQUITY BONUS PROGRAM TO REFLECT TAX PAYMENTS RELATING TO ETHANOL.

(a) IN GENERAL.—Subsection (d) of section 105 of title 23, United States Code, (as amended by section 1104) is amended to read as follows:

''(d) LIMITATION ON ADJUSTMENTS.—

''(1) IN GENERAL.—Except as provided in paragraphs (2) and (3) of subsection (c), no State shall receive, for any fiscal year, additional amounts under subsection (a)(1) if—

''(A) the total apportionments of the State for the fiscal year for the programs specified in subsection (a)(2); exceeds

''(B) the sum of—

''(i) the percentage of the average, for the period of fiscal years 1998 through 2003, of the annual apportionments of the State for all programs specified in subsection (b)(2), as specified in paragraph (2); and

''(ii) an amount which is equivalent to—

''(I) the amount equal to the number of gallons of gasohol sold within the State during fiscal years 1996 through 2001 multiplied by the excess of the tax rate applicable for a gallon of gasoline over the tax rate applicable for a gallon of gasohol for such years; plus

''(II) an amount equal to the number of gallons of gasohol sold within the State during fiscal years 1996 through 2001 multiplied by the amount of the tax rate applicable to a gallon of gasohol which is not deposited into the Highway Trust Fund with respect to each such year.

''(2) PERCENTAGES.—The percentages referred to in paragraph (1)(B)(i) are—

''(A) for fiscal year 2004, 120 percent;

''(B) for fiscal year 2005, 130 percent;

''(C) for fiscal year 2006, 134 percent;

''(D) for fiscal year 2007, 137 percent;

''(E) for fiscal year 2008, 145 percent; and

''(F) for fiscal year 2009, 250 percent.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply as if made by section 1104 of this Act.

SA 2303. Mr. LAUTENBERG submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 175, strike line 18 and all that follows through page 179, line 13, and insert the following:

''(4) EFFECT ON OTHER REVIEWS.—

''(A) IN GENERAL.—For the purpose of compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and any other law requiring an agency that is not the lead agency to determine or consider a project purpose or project need, such an agency acting, permitting, or approving under, or otherwise applying, Federal law with respect to a project shall adopt the determination of purpose and need for the project made by the lead agency.

''(B) CONFLICT.—

''(i) IN GENERAL.—In the case of a conflict described in clause (ii), the Governor of a State, the lead agency, the project sponsor, or the cooperating agency shall promptly convene a meeting with representatives of the relevant cooperating agencies, the lead agency, the project sponsor, and the Governor to resolve the conflict.

''(ii) CONFLICT SITUATIONS.—A conflict in clause (i) is a situation in which—

''(I) after the cooperating agency has commented, a conflict arises between a cooperating agency and the lead agency regarding the objectives in the statement of purpose of, and need for, a project; and

''(II) the cooperating agency demonstrates that the ability of the cooperating agency to enforce a law (including a regulation) would be impaired if the objectives were not modified.

''(5) SAVINGS.—Nothing in this subsection preempts or interferes with any power, jurisdiction, responsibility, or authority of an agency under applicable law (including regulations) with respect to a project.

''(6) CONTENTS.—

''(A) IN GENERAL.—The statement of purpose and need shall include a clear statement of the objectives that the proposed project is intended to achieve.

''(B) EFFECT ON EXISTING STANDARDS.—Nothing in this subsection shall alter existing standards for defining the purpose and need of a project.

''(7) FACTORS TO CONSIDER.—The lead agency shall ensure that the following factors and documents are considered in determining the purpose of, and need for, a project:

''(A) Transportation plans and related planning documents developed through the statewide and metropolitan transportation planning process under sections 134 and 135.

''(B) Land use plans adopted by units of State, local, or tribal government (or, in the case of Federal land, by the applicable Federal land management agencies).

''(C) Economic development plans adopted by—

''(i) units of State, local, or tribal government; or

''(ii) established economic development planning organizations or authorities.

''(D) Environmental protection plans, including plans for the protection or treatment of—

''(i) air quality;

''(ii) water quality and runoff;

''(iii) habitat needs of plants and animals;

''(iv) threatened and endangered species;

''(v) invasive species;

''(vi) historic properties; and

''(vii) other environmental resources.

''(E) Any publicly available plans or policies relating to the national defense, national security, or foreign policy of the United States.

''(g) DEVELOPMENT OF PROJECT ALTERNATIVES.—

''(1) IN GENERAL.—With respect to the environmental review process for a project, the alternatives shall be determined in accordance with this subsection.

''(2) AUTHORITY.—The lead agency shall determine the alternatives to be considered for a project.

''(3) INVOLVEMENT OF COOPERATING AGENCIES AND THE PUBLIC.—

''(A) IN GENERAL.—Before determining the alternatives for a project, the lead agency shall solicit for 30 days and consider any relevant comments on the proposed alternatives received from the public and cooperating agencies.

''(B) ALTERNATIVES.—The lead agency shall consider—

''(i) alternatives that meet the objectives in the purpose and need statement for the project;

''(ii) alternatives that satisfy most of the objectives in the purpose and need statement for the project but that are more protective of public health and the environment than other alternatives; and

''(iii) the alternative of no action.

''(C) EFFECT ON EXISTING STANDARDS.—Nothing in this subsection shall alter the existing standards for determining the range of alternatives.

''(4) EFFECT ON OTHER REVIEWS.—

''(A) IN GENERAL.—Any other agency acting under or applying Federal law with respect to a project shall consider only the alternatives determined by the lead agency.

''(B) CONFLICT.—

''(i) IN GENERAL.—In the case of a conflict described in clause (ii), the Governor of a State, the lead agency, the project sponsor, or the cooperating agency shall promptly convene a meeting with representatives of the relevant cooperating agencies, the lead agency, the project sponsor, and the Governor to resolve the conflict.

''(ii) CONFLICT SITUATIONS.—A conflict in clause (i) is a situation in which—

''(I) after the cooperating agency has commented, a conflict arises between a cooperating agency and the lead agency regarding the objectives in the statement of purpose of, and need for, a project; and

''(II) the cooperating agency demonstrates that the ability of the cooperating agency to enforce a law (including a regulation) would be impaired if the objectives were not modified.

''(5) SAVINGS.—Nothing in this subsection preempts or interferes with any power, jurisdiction, responsibility, or authority of an agency under applicable law (including regulations) with respect to a project.

''(6) FACTORS TO CONSIDER.—The lead agency shall ensure that the following factors and documents are considered in determining the purpose of, and need for, a project:

SA 2304. Mr. LAUTENBERG submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following new section:

SEC. . MULTI-STATE INTELLIGENT TRANSPORTATION SYSTEM OPERATIONS.

(a) IN GENERAL.—The Secretary shall encourage regional operating organizations, in multi-state, metropolitan areas having multiple metropolitan planning organizations, to promote regional coordination and cooperation in the efficient, safe, and secure operation of regional transportation systems; and, to implement these regional programs in a manner consistent with the needs of the public safety community.

(b) TRANSCOM'S INTELLIGENT TRANSPORTATION SYSTEM PROJECTS.—The Secretary shall make annual grants of $9 million to TRANSCOM for funding the capital costs as well as the annual operations and maintenance costs of intelligent transportation system (ITS) projects, in the New Jersey/New York/Connecticut metropolitan region. These ITS projects shall also assist the public safety community by providing comprehensive transportation for responding to major regional incidents and by supporting evacuation planning for natural and man-made emergencies.

SA 2305. Mr. LAUTENBERG (for himself, Mr. DEWINE, Mr. DORGAN, and Mr. CORZINE) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 137, strike line 10 and insert the following:

SEC. 1403. HIGHER-RISK IMPAIRED DRIVERS.

On page 137, line 11, insert ''(a) LICENSE SUSPENSION DEFINITION.—'' before ''Section''.

On page 138, between lines 2 and 3, insert the following:

(b) OTHER DEFINITIONS.—Section 164 of title 23, United States Code, is further amended—

(1) by striking subsection (a)(5) and inserting the following:

''(5) HIGHER-RISK IMPAIRED DRIVER LAW.—

''(A) IN GENERAL.—The term 'higher-risk impaired driver law' means a State law that provides, as a minimum penalty, that an individual described in subparagraph (B) shall—

''(i) receive a driver's license suspension for not less than 1 year;

''(ii) have the motor vehicle driven at the time of arrest impounded or immobilized for not less than 90 days and for the remainder of the license suspension period require the installation of a certified alcohol ignition interlock device on the vehicle;

''(iii) be subject to an assessment by a certified substance abuse official of the State that assesses the individual's degree of abuse of alcohol and assigned to a treatment program or impaired driving education program as determined by the assessment;

''(iv) be imprisoned for not less than 10 days, have an electronic monitoring device for not less than 100 days, or be assigned to a DUI/DWI specialty facility for not less than 30 days;

''(v) be fined a minimum of $1,000, with the proceeds of such funds to be used by the State or local jurisdiction for impaired driving related prevention, enforcement, and prosecution programs, or for the development or maintenance of a tracking system of offenders driving while impaired;

''(vi) if the arrest resulted from involvement in a crash, pay court-mandated restitution to the victims of the crash;

''(vii) be placed on probation by the court for a period of not less than 2 years;

''(viii) if diagnosed with a substance abuse problem, during the first year of the probation period referred to in clause (vii), attend a treatment program for a period of 12 consecutive months sponsored by a State certified substance abuse treatment agency and meet with a case manager at least once each month; and

''(ix) be required by the court to attend a victim impact panel, if such a panel is available.

''(B) INDIVIDUALS TO WHOM PENALTIES APPLY.—An individual is described in this subparagraph if that individual—

''(i) is convicted of a second or subsequent offense for driving while intoxicated or driving under the influence within a minimum of 10 consecutive years;

''(ii) is convicted of driving while intoxicated or driving under the influence with a blood alcohol concentration of 0.15 percent or greater; or

''(iii) is convicted of a driving-while-suspended offense if the suspension was the result of a conviction for driving under the influence.'';

(2) by adding at the end of subsection (a) the following:

''(6) SPECIAL DUI/DWI FACILITY.—The term 'special DUI/DWI facility' means a facility that houses and treats offenders arrested for driving while impaired and allows such offenders to work or attend school.

''(7) VICTIM IMPACT PANEL.—The term 'victim impact panel' means a group of impaired driving victims who speak to offenders about impaired driving for the purpose of trying to change attitudes and behaviors in order to deter impaired driving recidivism,''; and

(3) by striking subsection (b) and inserting the following:

''(b) IMPOSITION OF HIGHER-RISK IMPAIRED DRIVING LAW REQUIREMENT.—

''(1) IN GENERAL.—Notwithstanding any provision of section 104 to the contrary, as a condition of receiving the full amount of funds apportioned to a State under paragraphs (1), (3), and (4) of section 104(b), a State shall enact and enforce a higher-risk impaired driver law.

''(2) ENFORCEMENT BY WITHHOLDING FUNDS.—On October 1st of the following fiscal years, the Secretary shall withhold the applicable percentage of the amount required to be apportioned for Federal-aid highways to a State on that date under each of paragraphs (1), (3), and (4) of section 104(b) if the State has not enacted or is not enforcing a higher-risk impaired driver law:

''(A) For fiscal year 2008, the applicable percentage is 2 percent.

''(B) For fiscal year 2009, the applicable percentage is 4 percent.

''(C) For fiscal year 2010, the applicable percentage is 6 percent.

''(D) For fiscal year 2011, the applicable percentage is 8 percent.''.

SA 2306. Mr. LAUTENBERG (for himself, Mr. DEWINE, and Mr. CORZINE) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. TERMINATION OF DETERMINATIONS OF GRANDFATHER RIGHTS.

(a) IN GENERAL.—Section 127 of title 23, United States Code, is amended by adding at the end the following:

''(h) GRANDFATHER RIGHTS.—

''(1) GENERAL RULE.—After the 270th day following the date of enactment of this subsection, a State may not allow, on a segment of the Interstate System, the operation of a vehicle or combination (other than a longer combination vehicle) exceeding an Interstate weight limit unless the operation is specified on the list published under paragraph (2).

''(2) LIST OF VEHICLES AND COMBINATIONS.—

''(A) PROCEEDING.—Not later than 60 days after the date of enactment of this subsection, the Secretary shall initiate a proceeding to determine and publish a list of vehicles and combinations (other than longer combination vehicles), otherwise exceeding an Interstate weight limit, that the Department of Transportation, any other Federal agency, or a State has determined on or before June 1, 2003, could be lawfully operated within such State—

''(i) on July 1, 1956;

''(ii) in the case of the overall gross weight of any group of 2 or more consecutive axles, on the date of enactment of the Federal-Aid Highway Amendments of 1974; or

''(iii) under a special rule applicable to a State under subsection (a).

''(B) LIMITATIONS.—

''(i) ACTUAL AND LAWFUL OPERATIONS REQUIRED.—An operation of a vehicle or combination may be included on the list published under subparagraph (A) only if the vehicle or combination was in actual and lawful operation in the State on a regular or periodic basis on or before June 1, 2003.

''(ii) STATE AUTHORITY NOT SUFFICIENT.—An operation of a vehicle or combination may not be included on the list published under subparagraph (A) on the basis that a State law or regulation could have authorized the operation of the vehicle or combination at some prior date by permit or otherwise.

''(C) PUBLICATION OF FINAL LIST.—Not later than 270 days after the date of enactment of this subsection, the Secretary shall publish a final list of vehicles and combinations described in subparagraph (A).

''(3) LIMITATION ON STATUTORY CONSTRUCTION.—This subsection does not prevent a State from reducing the gross vehicle weight limitation, the single and tandem axle weight limitations, or the overall maximum gross weight on a group of 2 or more consecutive axles applicable to portions of the Interstate System in the State for operations on the list published under paragraph (2)(C) but in no event may any such reduction result in a limitation that is less than an Interstate weight limit.

''(4) APPLICABILITY OF EXISTING REQUIREMENTS.—All vehicles and combinations included on the list published under paragraph (2) shall be subject to all routing-specific, commodity-specific, and weight-specific designations in force in a State on June 1, 2003.

''(5) INTERSTATE WEIGHT LIMIT DEFINED.—In this subsection, the term 'Interstate weight limit' means the 80,000 pound gross vehicle weight limitation, the 20,000 pound single axle weight limitation (including enforcement tolerances), the 34,000 pound tandem axle weight limitation (including enforcement tolerances), and the overall maximum gross weight (including enforcement tolerances) on a group of 2 or more consecutive axles produced by application of the formula in subsection (a).''.

(b) CONFORMING AMENDMENT.—The fourth sentence of section 127(a) of title 23, United States Code, is amended by striking ''the State determines''.

SEC. ___. NONDIVISIBLE LOAD PROCEEDING.

Section 127 of title 23, United States Code, is further amended by adding at the end the following:

''(i) NONDIVISIBLE LOADS.—

''(1) PROCEEDING.—Not later than 60 days after the date of enactment of this subsection, the Secretary shall initiate a proceeding to define the term 'vehicles and loads which cannot be easily dismantled or divided' as used in subsection (a) and section 31112 of title 49.

''(2) LIST OF COMMODITIES.—

''(A) IN GENERAL.—The definition developed under paragraph (1) shall include a list of commodities (or classes or types of commodities) that do not qualify as nondivisible loads.

''(B) LIMITATION.—The list of commodities developed under paragraph (1) shall not be interpreted to be a comprehensive list of commodities that do not qualify as nondivisible loads.

''(3) REGULATIONS.—Not later than 270 days after the date of enactment of this subsection, the Secretary shall issue final regulations setting forth the determination of the Secretary made under paragraph (1). The Secretary shall update the regulations as necessary.

''(4) APPLICABILITY.—Regulations issued under paragraph (2) shall apply to all vehicles and loads operating on the National Highway System.

''(5) STATE REQUIREMENTS.—A State may establish any requirement that is not inconsistent with regulations issued under paragraph (2).

''(6) STATEMENT OF POLICY.—The purpose of this subsection is to promote conformity with Interstate weight limits to preserve publicly funded infrastructure and protect motorists by limiting maximum vehicle weight on key portions of the Federal-aid highway system.''.

SEC. ___. WAIVERS OF WEIGHT LIMITATIONS DURING PERIODS OF NATIONAL EMERGENCY.

Section 127 of title 23, United States Code, is further amended by adding at the end the following:

''(j) WAIVERS DURING PERIODS OF NATIONAL EMERGENCY.—

''(1) IN GENERAL.—Notwithstanding any other provision of this section or section 126, the Secretary, in consultation with the Secretary of Defense, may waive or limit the application of any vehicle weight limit established under this section or section 126 with respect to a highway route during a period of national emergency in order to respond to the effects of the national emergency.

''(2) APPLICABILITY.—Emergency limits established under paragraph (1) shall preempt any inconsistent State vehicle weight limits.''.

SEC. ___. VEHICLE WEIGHT LIMITATIONS—NATIONAL HIGHWAY SYSTEM.

(a) IN GENERAL.—Title 23, United States Code, is amended by inserting after section 125 the following:

''§ 126. Vehicle weight limitations—National Highway System

''(a) NON-INTERSTATE HIGHWAYS ON NHS.—

''(1) IN GENERAL.—After the 270th day following the date of enactment of this section, any Interstate weight limit that applies to vehicles and combinations (other than longer combination vehicles) operating on the Interstate System in a State under section 127 shall also apply to vehicles and combinations (other than longer combination vehicles) operating on non-Interstate segments of the National Highway System in such State, unless such segments are subject to lower State weight limits as provided for in subsection (d).

''(2) EXISTING HIGHWAYS.—

''(A) IN GENERAL.—Notwithstanding paragraph (1), in the case of a non-Interstate segment of the National Highway System that is open to traffic on June 1, 2003, a State may allow the operation of any vehicle or combination (other than a longer combination vehicle) on such segment that the Secretary determines under subsection (b) could be lawfully operated on such segment on June 1, 2003.

''(B) APPLICABILITY OF STATE LAWS AND REGULATIONS.—All operations described in subparagraph (A) shall continue to be subject to all State statutes, regulations, limitations and conditions, including routing-specific, commodity-specific, and configuration-specific designations and all other restrictions, in force on June 1, 2003.

''(3) NEW HIGHWAYS.—Subject to subsection (d)(1), the gross vehicle weight limitations and axle loading limitations applicable to all vehicles and combinations (other than longer combination vehicles) on a non-Interstate segment of the National Highway System that is not open to traffic on June 1, 2003, shall be the Interstate weight limit.

''(b) LISTING OF VEHICLES AND COMBINATIONS.—

''(1) IN GENERAL.—The Secretary shall initiate a proceeding to determine and publish a list of vehicles and combinations (other than longer combination vehicles), otherwise exceeding an Interstate weight limit, that could be lawfully operated on a non-Interstate segment of the National Highway System on June 1, 2003.

''(2) REQUIREMENTS.—In publishing a list of vehicles and combinations under paragraph (1), the Secretary shall identify—

''(A) the gross vehicle weight limitations and axle loading limitations in each State applicable, on June 1, 2003, to vehicles and combinations (other than longer combination vehicles) on non-Interstate segments of the National Highway System; and

''(B) operations of vehicles and combinations (other than longer combination vehicles), exceeding State gross vehicle weight limitations and axle loading limitations identified under subparagraph (A), which were in actual and lawful operation on a regular or periodic basis (including seasonal operations) on June 1, 2003.

''(3) LIMITATION.—An operation of a vehicle or combination may not be included on the list published under paragraph (1) on the basis that a State law or regulation could have authorized such operation at some prior date by permit or otherwise.

''(4) PUBLICATION OF FINAL LIST.—Not later than 270 days after the date of enactment of this section, the Secretary shall publish a final list of vehicles and combinations described in paragraph (1).

''(5) UPDATES.—The Secretary shall update the list published under paragraph (1) as necessary to reflect new designations made to the National Highway System.

''(c) APPLICABILITY OF LIMITATIONS.—The limitations established by subsection (a) shall apply to any new designation made to the National Highway System and remain in effect on those non-Interstate highways that cease to be designated as part of the National Highway System.

''(d) LIMITATIONS ON STATUTORY CONSTRUCTION.—

''(1) STATE ENFORCEMENT OF MORE RESTRICTIVE WEIGHT LIMITS.—This section does not prevent a State from maintaining or imposing a weight limitation that is more restrictive than the Interstate weight limit on vehicles or combinations (other than longer combination vehicles) operating on a non-Interstate segment of the National Highway System.

''(2) STATE ACTIONS TO REDUCE WEIGHT LIMITS.—This section does not prevent a State from reducing the State's gross vehicle weight limitation, single or tandem axle weight limitations, or the overall maximum gross weight on 2 or more consecutive axles on any non-Interstate segment of the National Highway System.

''(e) LONGER COMBINATION VEHICLES.—

''(1) PROHIBITION.—

''(A) IN GENERAL.—After the 270th day following the date of enactment of this section, a longer combination vehicle may continue to operate on a non-Interstate segment of the National Highway System only if the operation of the longer combination vehicle configuration type was authorized by State officials pursuant to State statute or regulation on June 1, 2003, and in actual and lawful operation on a regular or periodic basis (including seasonal operations) on or before June 1, 2003.

''(B) APPLICABILITY OF STATE LAWS AND REGULATIONS.—All operations described in subparagraph (A) shall continue to be subject to all State statutes, regulations, limitations and conditions, including routing-specific, commodity-specific, and configuration-specific designations and all other restrictions, in force on June 1, 2003.

''(2) LISTING OF VEHICLES AND COMBINATIONS.—

''(A) IN GENERAL.—Not later than 60 days after the date of enactment of this section, the Secretary shall initiate a proceeding to determine and publish a list of longer combination vehicles that could be lawfully operated on non-Interstate segments of the National Highway System on June 1, 2003.

''(B) LIMITATION.—A longer combination vehicle may not be included on the list published under subparagraph (A) on the basis that a State law or regulation could have authorized the operation of such vehicle at some prior date by permit or otherwise.

''(C) PUBLICATION OF FINAL LIST.—Not later than 270 days after the date of enactment of this section, the Secretary shall publish a final list of longer combination vehicles described in subparagraph (A).

''(D) UPDATES.—The Secretary shall update the list published under subparagraph (A) as necessary to reflect new designations made to the National Highway System.

''(3) LIMITATION ON STATUTORY CONSTRUCTION.—This subsection does not prevent a State from further restricting in any manner or prohibiting the operation of a longer combination vehicle; except that such restrictions or prohibitions shall be consistent with the requirements of section 127 of this title and sections 31112 through 31114 of title 49, United States Code.

''(f) MODEL SCHEDULE OF FINES.—

''(1) IN GENERAL.—The Secretary, in consultation with the States, shall establish a model schedule of fines to be assessed for violations of this section.

''(2) PURPOSE.—The purpose of the schedule of fines shall be to ensure that fines are sufficient to deter violations of the requirements of this section and to permit States to recover costs associated with damages caused to the National Highway System by the operation of such vehicles.

''(3) ADOPTION BY STATES.—The Secretary shall encourage but not require States to adopt the schedule of fines.

''(g) DEFINITIONS.—In this section, the following definitions apply:

''(1) INTERSTATE WEIGHT LIMIT.—The term 'Interstate weight limit' has the meaning given such term in section 127(h).

''(2) LONGER COMBINATION VEHICLE.—The term 'longer combination vehicle' has the meaning given such term in section 127(d).''.

(b) ENFORCEMENT OF REQUIREMENTS.—Section 141(a) of title 23, United States Code, is amended—

(1) by striking ''the Federal-aid primary system, the Federal-aid urban system, and the Federal-aid secondary system, including the Interstate System'' and inserting ''the National Highway System, including the Interstate System,''; and

(2) by striking ''section 127'' and inserting ''sections 126 and 127''.

(c) CONFORMING AMENDMENT.—The analysis for title 23, United States Code, is amended by inserting after the item relating to section 125 the following:

''126. Vehicle weight limitations—National Highway System.''.

SA 2307. Ms. LANDRIEU submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE VII—MEASURES TO CONSERVE PETROLEUM

SEC. 7001. REDUCTION OF DEPENDENCE ON IMPORTED PETROLEUM.

(a) REPORT.—

(1) IN GENERAL.—Not later than February 1, 2005, and annually thereafter, the President shall submit to Congress a report, based on the most recent edition of the Annual Energy Outlook published by the Energy Information Administration, assessing the progress made by the United States toward the goal of reducing dependence on imported petroleum sources by 2014.

(2) CONTENTS.—The report under subsection (a) shall—

(A) include a description of the implementation, during the previous fiscal year, of provisions under existing law relating to domestic crude petroleum production;

(B) assess the effectiveness of those provisions in meeting the goal described in paragraph (1); and

(C) describe the progress in developing and implementing measures under subsection (b).

(b) MEASURES TO REDUCE IMPORT DEPENDENCE THROUGH INCREASED DOMESTIC PETROLEUM CONSERVATION.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the President shall develop and implement measures to conserve petroleum in end-uses throughout the economy of the United States sufficient to reduce total demand for petroleum in the United States by 1,000,000 barrels per day from the amount projected for calendar year 2014 in the reference case contained in the report of the Energy Information Administration entitled ''Annual Energy Outlook 2004''.

(2) CONTENTS.—The measures under paragraph (1) shall be designed to ensure continued reliable and affordable energy for consumers.

(3) IMPLEMENTATION.—The measures under paragraph (1) shall be implemented under existing authorities of appropriate Federal executive agencies identified by the President.

SA 2308. Mr. CORZINE submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 762, between lines 12 and 13 insert the following new paragraph:

''(6) The costs of operating programs that impound the vehicle of an individual arrested as an impaired operator of a motor vehicle for not less than 12 hours after the operator is arrested.

SA 2309. Mr. CORZINE (for himself and Mr. LAUTENBERG) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 389, between lines 15 and 16, insert the following:

SEC. 18____. IMPOUNDING VEHICLES OF INTOXICATED ARRESTEES.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1814(a)), is amended by adding at the end the following:

''§ 176. Impounding vehicles of intoxicated arrestees

''(a) DEFINITION OF MOTOR VEHICLE.—In this section, the term 'motor vehicle' means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public highways, but does not include a vehicle operated only on a rail.

''(b) WITHHOLDING OF APPORTIONMENTS FOR NONCOMPLIANCE.—

''(1) FISCAL YEAR 2005.—The Secretary shall withhold 5 percent of the amount required to be apportioned to any State under each of paragraphs (1), (3), and (4) of section 104(b) on October 1, 2004, if the State does not meet the requirements of paragraph (3) on that date.

''(2) SUBSEQUENT FISCAL YEARS.—The Secretary shall withhold 10 percent of the amount required to be apportioned to any State under each of paragraphs (1), (3), and (4) of section 104(b) on October 1, 2005, and on October 1 of each fiscal year thereafter, if the State does not meet the requirements of paragraph (3) on that date.

''(3) REQUIREMENTS.—A State meets the requirements of this paragraph if the State has enacted and is enforcing a law that is substantially provides for each of the following:

''(A) If a person has been arrested for public intoxication, the arresting law enforcement agency shall impound the vehicle that the person was operating at the time of arrest.

''(B) A vehicle impounded pursuant to this subparagraph shall be impounded for a period of 12 hours after the time of arrest or until such later time as the arrestee claiming the vehicle meets the conditions for release under subparagraph (D).

''(C) A vehicle impounded pursuant to this subparagraph may be released to a person other than the arrestee prior to the end of the impoundment period only if—

''(i) the vehicle is not owned or leased by the person under arrest and the person who owns or leases the vehicle claims the vehicle and meets the conditions for release under subparagraph (D); or

''(ii) the vehicle is owned or leased by the arrestee, the arrestee gives permission to another person, who has acknowledged in writing receipt of the statement to operate the vehicle and the conditions for release under subparagraph (D).

''(D) A vehicle impounded pursuant to this subparagraph shall not be released unless the person claiming the vehicle—

''(i) presents a valid operator's license, proof of ownership or lawful authority to operate the vehicle, and proof of valid motor vehicle insurance for that vehicle;

''(ii) is able to operate the vehicle in a safe manner and would not be in violation driving while intoxicated laws; and

''(iii) meets any other conditions for release established by the law enforcement agency.

''(E) A law enforcement agency impounding a vehicle pursuant to this subparagraph is authorized to charge a reasonable fee for towing and storage of the vehicle. The law enforcement agency is further authorized to retain custody of the vehicle until that fee is paid.

''(c) PERIOD OF AVAILABILITY; EFFECT OF COMPLIANCE AND NONCOMPLIANCE.—

''(1) PERIOD OF AVAILABILITY OF WITHHELD FUNDS.—Any funds withheld under subsection (b) from apportionment to any State shall remain available until the end of the fourth fiscal year following the fiscal year for which the funds are authorized to be appropriated.

''(2) APPORTIONMENT OF WITHHELD FUNDS AFTER COMPLIANCE.—If, before the last day of the period for which funds withheld under subsection (b) from apportionment are to remain available for apportionment to a State under paragraph (1), the State meets the requirements of subsection (a)(3), the Secretary shall, on the first day on which the State meets the requirements, apportion to

the State the funds withheld under subsection (b) that remain available for apportionment to the State.

''(3) PERIOD OF AVAILABILITY OF SUBSEQUENTLY APPORTIONED FUNDS.—

''(A) IN GENERAL.—Any funds apportioned under paragraph (2) shall remain available for expenditure until the end of the third fiscal year following the fiscal year in which the funds are so apportioned.

''(B) TREATMENT OF CERTAIN FUNDS.—Any funds apportioned under paragraph (2) that are not obligated at the end of the period referred to in subparagraph (A) shall be allocated equally among the States that meet the requirements of subsection (a)(3).

''(4) EFFECT OF NONCOMPLIANCE.—If, at the end of the period for which funds withheld under subsection (b) from apportionment are available for apportionment to a State under paragraph (1), the State does not meet the requirements of subsection (a)(3), the funds shall be allocated equally among the States that meet the requirements of subsection (a)(3).''.

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1814(c)), is amended by adding at the end the following:

''176. Impounding vehicles of impounded arrestees.''.

SA 2310. Mr. CORZINE submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 389, between lines 15 and 16, insert the following:

SEC. 18___. MOBILE TELEPHONE USE WHILE OPERATING MOTOR VEHICLES.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1814(a)), is amended by adding at the end the following:

''§ 176. Mobile telephone use while operating motor vehicles

''(a) DEFINITION OF MOTOR VEHICLE.—In this section, the term 'motor vehicle' means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public highways, but does not include a vehicle operated only on a rail.

''(b) WITHHOLDING OF APPORTIONMENTS FOR NONCOMPLIANCE.—

''(1) FISCAL YEAR 2005.—The Secretary shall withhold 5 percent of the amount required to be apportioned to any State under each of paragraphs (1), (3), and (4) of section 104(b) on October 1, 2004, if the State does not meet the requirements of paragraph (3) on that date.

''(2) SUBSEQUENT FISCAL YEARS.—The Secretary shall withhold 10 percent of the amount required to be apportioned to any State under each of paragraphs (1), (3), and (4) of section 104(b) on October 1, 2005, and on October 1 of each fiscal year thereafter, if the State does not meet the requirements of paragraph (3) on that date.

''(3) REQUIREMENTS.—

''(A) IN GENERAL.—A State meets the requirements of this paragraph if the State has enacted and is enforcing a law that prohibits an individual from using a mobile telephone (other than a mobile telephone used as described in subparagraph (B)) while operating a motor vehicle, except in the case of an emergency or other exceptional circumstance (as determined by the State).

''(B) HANDS-FREE DEVICES.—A State law described in subparagraph (A) may permit an individual operating a motor vehicle to use a mobile telephone with a device that permits hands-free operation of the telephone if the State determines that such use does not pose a threat to public safety.

''(c) PERIOD OF AVAILABILITY; EFFECT OF COMPLIANCE AND NONCOMPLIANCE.—

''(1) PERIOD OF AVAILABILITY OF WITHHELD FUNDS.—Any funds withheld under subsection (b) from apportionment to any State shall remain available until the end of the fourth fiscal year following the fiscal year for which the funds are authorized to be appropriated.

''(2) APPORTIONMENT OF WITHHELD FUNDS AFTER COMPLIANCE.—If, before the last day of the period for which funds withheld under subsection (b) from apportionment are to remain available for apportionment to a State under paragraph (1), the State meets the requirements of subsection (a)(3), the Secretary shall, on the first day on which the State meets the requirements, apportion to the State the funds withheld under subsection (b) that remain available for apportionment to the State.

''(3) PERIOD OF AVAILABILITY OF SUBSEQUENTLY APPORTIONED FUNDS.—

''(A) IN GENERAL.—Any funds apportioned under paragraph (2) shall remain available for expenditure until the end of the third fiscal year following the fiscal year in which the funds are so apportioned.

''(B) TREATMENT OF CERTAIN FUNDS.—Any funds apportioned under paragraph (2) that are not obligated at the end of the period referred to in subparagraph (A) shall be allocated equally among the States that meet the requirements of subsection (a)(3).

''(4) EFFECT OF NONCOMPLIANCE.—If, at the end of the period for which funds withheld under subsection (b) from apportionment are available for apportionment to a State under paragraph (1), the State does not meet the requirements of subsection (a)(3), the funds shall be allocated equally among the States that meet the requirements of subsection (a)(3).''.

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1814(c)), is amended by adding at the end the following:

''176. Mobile telephone use while operating motor vehicles.''.

SA 2311. Mrs. CLINTON (for herself, Mr. BINGAMAN, Mr. BYRD, Mr. DODD, Mr. SARBANES, Mr. CORZINE, Mr. LIEBERMAN, Mr. ROCKEFELLER, Mr. HARKIN, and Ms. STABENOW) proposed an amendment to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. ___. SENSE OF THE SENATE CONCERNING THE OUTSOURCING OF AMERICAN JOBS.

(a) FINDINGS.—The Senate finds that—

(1) the President's Chairman of the Council of Economic Advisors recently described the outsourcing of American jobs overseas ''as a good thing'' and said, ''outsourcing is just a new way of doing international trade'';

(2) the President's economic policies have either failed to address or exacerbated the loss of manufacturing jobs that our country has experienced over the last 3 years;

(3) American families are facing an economy with the fewest jobs created since the Great Depression;

(4) 2,900,000 private sector jobs have been lost since January 2001, including 2,800,000 manufacturing jobs;

(5) on several occasions the Senate has supported reforming our tax laws to eliminate policies that make it cheaper to move jobs overseas; and

(6) job creation is essential to the economic stability of the United States and the Administration should pursue policies that serve as an engine for economic growth, higher wage jobs, and increased productivity.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the Senate should—

(1) oppose any efforts to encourage the outsourcing of American jobs overseas; and

(2) adopt legislation providing for a manufacturing tax incentive to encourage job creation in the United States and oppose efforts to make it cheaper to send jobs overseas.

SA 2312. Mr. CORZINE submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 724, strike line 19 and all that follows through page 725, line 2, and insert the following:

(A) by redesignating clause (6) as clause (8);

(B) by inserting after ''involving school buses,'' at the end of clause (5) the following: ''(6) to reduce aggressive driving and to educate drivers about defensive driving, (7) to reduce accidents resulting from fatigued and distracted drivers, including distractions arising from the use of electronic devices in vehicles,''; and

(C) by inserting ''aggressive driving, distracted driving,'' after ''school bus accidents,''.

On page 731, between lines 12 and 13, insert the following:

''(5) RESEARCH ON DISTRACTED, INATTENTIVE, AND FATIGUED DRIVERS.—In conducting research under subsection (a)(3), the Secretary shall carry out not less than 10 demonstration projects to evaluate new and innovative means of combatting traffic system problems caused by distracted, inattentive, or fatigued drivers. The demonstration projects shall be in addition to any other research carried out under this subsection.

On page 770, between lines 7 and 8, insert the following:

''(2) DATA ON USE OF ELECTRONIC DEVICES.—The model data elements required under paragraph (1) shall include data elements, as determined appropriate by the Secretary in consultation with the States and with appropriate elements of the law enforcement community, on the impact on traffic safety of the use of electronic devices while driving.

On page 770, line 8, strike ''(2)'' and insert ''(3)''.

On page 770, line 19, strike ''(3)'' and insert ''(4)''.

On page 770, line 23, strike ''(4)'' and insert ''(5)''.

SA 2313. Mr. ALLARD submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of section 3032 insert the following:

SEC. 3032. EMPLOYEE PROTECTIVE ARRANGEMENTS.

Section 5333 is amended—

(1) in subsection (a), by striking ''(a) PREVAILING WAGES REQUIREMENT.—''; and

(2) by striking subsection (b).

SA 2314. Mr. CAMPBELL (for himself and Mr. INOUYE) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 20, between lines 6 and 7, insert the following:

''(____) INDIAN LAND.—The term 'Indian land' means—

''(A) any land located within the boundaries of an Indian reservation, pueblo, or rancheria;

''(B) any land not located within the boundaries of an Indian reservation, pueblo, or rancheria, the title to which is held—

''(i) in trust by the United States for the benefit of an Indian tribe;

''(ii) by an Indian tribe, subject to restriction by the United States against alienation; or

''(iii) by a dependent Indian community; and

''(C) land conveyed as part of an original conveyance to a Native Corporation in accordance with the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).

''(____) INDIAN RESERVATION.—The term 'Indian reservation' includes—

''(A) an Indian reservation in existence as of the date of enactment of the Indian Tribal Surface Transportation Improvement Act of 2003;

''(B) a public domain Indian allotment;

''(C) a former reservation in the State of Oklahoma;

''(D) a parcel of land conveyed as part of an original conveyance to a Native Corporation in accordance with the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.); and

''(E) a dependent Indian community located within the borders of the United States, regardless of whether the community is located—

''(i) on original or acquired territory of the community; or

''(ii) within or outside the boundaries of any particular State.

On page 20, after line 25, add the following:

''(____) INDIAN TRIBE.—The term 'Indian tribe' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

On page 31, between lines 15 and 16, insert the following:

''(____) TRIBAL TRANSPORTATION FACILITY.—The term 'tribal transportation facility' means any transportation-related project, facility, or physical infrastructure for an Indian tribe that is funded under this title.

Beginning on page 321, strike line 14 and all that follows through page 323, line 10, and insert the following:

''(B) FUNDING.—

''(i) RESERVATION OF FUNDS.—Notwithstanding any other provision of law, there is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) $15,000,000 for each of fiscal years 2004 through 2009 to carry out planning, design, engineering, preconstruction, construction, and inspection of projects to replace,''; and

(B) by adding at the end the following:

''(ii) AVAILABILITY.—Funds made available to carry out this subparagraph—

''(I) shall be available for obligation in the same manner as if the funds were apportioned under chapter 1; and

''(II) shall not be available to the Bureau of Indian Affairs to pay administrative costs.''; and

(5) by adding at the end the following:

''(f) ADMINISTRATION OF INDIAN RESERVATION ROADS.—

''(1) CONTRACT AUTHORITY.—

''(A) IN GENERAL.—Notwithstanding any other provision of law, for any fiscal year, not more than 6 percent of the contract authority amounts made available from the Highway Trust Fund to the Bureau of Indian Affairs under this title shall be used to pay the administrative expenses of the Bureau for the Indian reservation roads program (including the administrative expenses relating to individual projects that are associated with the program).

''(B) AVAILABILITY.—Amounts made available to pay administrative expenses under subparagraph (A) shall be made available to an Indian tribal government, on the request of the government, to be used for the associated administrative functions assumed by the Indian tribe under contracts and agreements entered into under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b et seq.).

''(2) HEALTH AND SAFETY ASSURANCES.—Notwithstanding any other provision of law, an Indian tribe or tribal organization may commence road and bridge construction under the Transportation Equity Act for the 21st Century (Public Law 105–178) or its successor Act of Congress that is funded through a contract or agreement under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b et seq.) if the Indian tribe or tribal organization—

''(A) provides assurances in the contract or agreement that the construction will meet or exceed applicable health and safety standards;

''(B) obtains the advance review of the plans and specifications from a licensed professional that has certified that the plans and specifications meet or exceed the applicable health and safety standards; and

''(C) provides a copy of the certification under subparagraph (B) to the Assistant Secretary for Indian Affairs.''.

On page 389, between lines 15 and 16, insert the following:

SEC. 18____. INDIAN TRIBAL SURFACE TRANSPORTATION.

(a) FUNDING FOR INDIAN RESERVATION ROADS PROGRAM.—Section 1101(a)(8) of the Transportation Equity Act for the 21st Century (112 Stat. 112) is amended by striking subparagraph (A) and inserting the following:

''(A) INDIAN RESERVATION ROADS.—

''(i) IN GENERAL.—Subject to clause (ii), for Indian reservation roads under section 204 of that title—

''(I) $330,000,000 for each of fiscal years 2004 through 2005;

''(II) $425,000,000 for each of fiscal years 2006 through 2007; and

''(III) $550,000,000 for each of fiscal years 2008 through 2009.

''(ii) MAINTENANCE.—Of the amounts made available for each fiscal year under clause (i), not less than $50,000,000 shall be used—

''(I) to maintain roads on Indian land; and

''(II) to maintain tribal transportation facilities serving Indian communities.''.

(b) OBLIGATION CEILING.—Section 1102(c)(1) of the Transportation Equity Act for the 21st Century (23 U.S.C. 104 note; 112 Stat. 116) is amended—

(1) by striking ''distribute obligation'' and inserting the following: ''distribute—

''(A) obligation'';

(2) by inserting ''and'' after the semicolon at the end; and

(3) by adding at the end of the following:

''(B) for each of fiscal years 2004 through 2009, any amount of obligation authority made available for Indian reservation road bridges under section 202(d)(4), and for Indian reservation roads under section 204, of title 23, United States Code.''.

(c) TRIBAL CONTRACTING DEMONSTRATION PROJECT.—

(1) IN GENERAL.—Section 202(d)(3) of title 23, United States Code, is amended by adding at the end the following:

''(C) FEDERAL LANDS HIGHWAY PROGRAM DEMONSTRATION PROJECT.—

''(i) IN GENERAL.—The Secretary shall establish a demonstration project under which all funds made available under this chapter for Indian reservation roads and for highway bridges located on Indian reservation roads as provided for in subparagraph (A) shall be made available, on the request of an affected Indian tribal government, to the Indian tribal government for use in carrying out, in accordance with the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b et seq.), contracts and agreements for the planning, research, engineering, and construction described in that subparagraph.

''(ii) EXCLUSION OF AGENCY PARTICIPATION.—In accordance with subparagraph (B), all funds for Indian reservation roads and for highway bridges located on Indian reservation roads to which clause (i) applies shall be paid without regard to the organizational level at which the Federal lands highway program has previously carried out the programs, functions, services, or activities involved.

''(iii) SELECTION OF PARTICIPATING TRIBES.—

''(I) PARTICIPANTS.—

''(aa) IN GENERAL.—In addition to those Indian tribes or tribal organizations already contracting or compacting for any Indian reservation road function or program, for each fiscal year, the Secretary may select up to 15 Indian tribes from the applicant pool described in subclause (II) to participate in the demonstration project carried out under clause (i).

''(bb) CONSORTIA.—Two or more Indian tribes that are otherwise eligible to participate in a program or activity to which this title applies may form a consortium to be considered as a single Indian tribe for the purpose of becoming part of the applicant pool under subclause (II).

''(cc) FUNDING.—An Indian tribe participating in the pilot program under this subparagraph shall receive funding in an amount equal to the sum of the funding that the Indian tribe would otherwise receive in accordance with the funding formula established under the other provisions of this subsection, and an additional percentage of that amount equal to the percentage of funds withheld during the applicable fiscal year for the road program management costs of the Bureau of Indian Affairs under subsection (f)(1).

''(II) APPLICANT POOL.—The applicant pool described in this subclause shall consist of each Indian tribe (or consortium) that—

''(aa) has successfully completed the planning phase described in subclause (IV);

''(bb) has requested participation in the demonstration project under this subparagraph through the adoption of a resolution or other official action by the tribal governing body; and

''(cc) has demonstrated financial stability and financial management capability in accordance with subclause (III) during the 3-fiscal-year period immediately preceding the fiscal year for which participation under this subparagraph is being requested.

''(III) CRITERIA FOR DETERMINING FINANCIAL STABILITY AND FINANCIAL MANAGEMENT CAPACITY.—For the purpose of subclause (II), evidence that, during the 3-year period referred

to in subclause (II)(cc), an Indian tribe had no uncorrected significant and material audit exceptions in the required annual audit of the Indian tribe's self-determination contracts or self-governance funding agreements with any Federal agency shall be conclusive evidence of the required stability and capability.

''(IV) PLANNING PHASE.—

''(aa) IN GENERAL.—An Indian tribe (or consortium) requesting participation in the demonstration project under this subparagraph shall complete a planning phase that shall include legal and budgetary research and internal tribal government and organization preparation.

''(bb) ELIGIBILITY.—A tribe (or consortium) described in item (aa) shall be eligible to receive a grant under this subclause to plan and negotiate participation in a project described in that item.

''(V) REPORT TO CONGRESS.—Not later than September 30, 2006, the Secretary shall prepare and submit to Congress a report describing the implementation of the demonstration project and any recommendations for improving the project.''.

(2) CONFORMING AMENDMENTS.—

(A) Section 4 of the Indian Self-Determination andEducation Assistance Act (25 U.S.C. 450b(i)) is amended by striking subsection (i) and inserting the following:

''(i) SECRETARY.—Except as otherwise provided, the term 'Secretary' means any 1 or more of the following, as appropriate:

''(1) The Secretary of Health and Human Services.

''(2) The Secretary of the Interior.

''(3) The Secretary of Transportation.''

(B) Section 401 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 458aa) is amended—

(i) by striking ''The Secretary'' and inserting ''(a) IN GENERAL.—The Secretary''; and

(ii) by adding at the end the following:

''(b) SECRETARY OF TRANSPORTATION.—Notwithstanding any other provision of law, the Secretary of Transportation may enter into self-governance compacts and annual funding agreements with Indian tribes and tribal organizations to carry out tribal transportation programs (including transit programs) authorized under title 23 or 49, United States Code, in accordance with the terms, conditions, and procedures of this Act (including regulations promulgated under this Act (part 1000 of title 25 Code of Federal Regulations)).''.

(d) INDIAN RESERVATION ROAD PLANNING.—Section 204(j) of title 23, United States Code, is amended in the first sentence by striking ''2 percent'' and inserting ''5 percent''.

(e) ALASKA NATIVE VILLAGE TRANSPORTATION PROGRAM.—Section 204 of title 23, United States Code (as amended by section 1816), is amended by adding at the end the following:

''(p) ALASKA NATIVE VILLAGE TRANSPORTATION PROGRAM.—

''(1) DEFINITIONS.—In this subsection:

''(A) COMMISSION.—The term 'Commission' means the Alaska Native Transportation Commission established under paragraph (4)(A).

''(B) NATIVE.—The term 'Native' has the meaning given the term in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602).

''(C) NATIVE AUTHORITY.—The term 'Native authority' means a governing board of a Regional Corporation, a regional Native nonprofit entity, a tribal government, or an alternative regional entity that is designated by the Secretary as a Native regional transportation authority under paragraph (3)(A).

''(D) NATIVE VILLAGE.—The term 'Native village' has the meaning given the term in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602).

''(E) PROGRAM.—The term 'program' means the Alaska Native village transportation program established under paragraph (2).

''(F) REGION.—The term 'region' means a region in the State specified in section 11(b)(1) of the Alaska Native Claims Settlement Act (43 U.S.C 1610(b)(1)).

''(G) REGIONAL CORPORATION.—The term 'Regional Corporation' has the meaning given the term in section 2 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602).

''(H) STATE.—The term 'State' means the State of Alaska.

''(2) ESTABLISHMENT.—The Secretary shall establish an Alaska Native village transportation program to pay the costs of planning, design, construction, and maintenance of road and other surface transportation facilities identified in accordance with this section.

''(3) ALASKA NATIVE REGIONAL TRANSPORTATION AUTHORITIES.—

''(A) DESIGNATION.—The Secretary shall designate a Native authority for each region.

''(B) RESPONSIBILITIES.—A Native authority shall, with respect to each Native village or region, as appropriate, covered by the Native authority—

''(i) prepare—

''(I) a regional transportation plan for the Native village; and

''(II) a comprehensive transportation plan for the region;

''(ii) prioritize and select projects to be funded with amounts made available under this section for the region;

''(iii) coordinate transportation planning with other regions, the State, and other governmental entities; and

''(iv) ensure that transportation projects under this section are constructed and implemented.

''(4) ALASKA NATIVE TRANSPORTATION COMMISSION.—

''(A) ESTABLISHMENT.—As soon as practicable after the date of enactment of this subsection, the Secretary shall establish a commission, to be known as the 'Statewide Alaska Native Transportation Commission', consisting of 1 representative selected from each Native authority designated by the Secretary under paragraph (3)(A).

''(B) DUTIES.—The Commission shall—

''(i) allocate funds made available under this section among regions in accordance with paragraph (5);

''(ii) coordinate transportation planning among the regions, the State, and other governmental entities; and

''(iii) facilitate transportation projects involving 2 or more regions.

''(5) ALLOCATION OF FUNDING.—

''(A) FISCAL YEAR 2004.—Funds made available for the program for fiscal year 2004 shall be allocated to each region by the Secretary as follows:

''(i) 50 percent of the funds shall be allocated based on the proportion that—

''(I) the Native population of Native villages in the region; bears to

''(II) the Native population of all Native villages in the State.

''(ii) 50 percent of the funds shall be allocated as equally as practicable among all Native villages in the region.

''(B) FISCAL YEAR 2005 AND SUBSEQUENT FISCAL YEARS.—Funds made available for the program for fiscal year 2005 and each fiscal year thereafter shall be allocated among regions by the Commission, in accordance with a formula to be developed by the Commission after taking into consideration—

''(i) the health, safety, and economic needs of each region for transportation infrastructure, as identified through the regional planning process;

''(ii) the relative costs of construction in each region; and

''(iii) the extent to which transportation projects for each region are ready to proceed to design and construction.

''(6) TRIBAL CONTRACTING.—Funds allocated among regions under this subsection may be contracted or compacted in accordance with the Indian Self Determination and Education Assistance Act (25 U.S.C. 450b et seq.).

''(7) MATCHING FUNDS.—Notwithstanding any other provision of law, funds made available under this subsection may be used to pay a matching share required for receipt of any other Federal funds that would further a purpose for which allocations under this section are made.

''(8) MAINTENANCE.—

''(A) IN GENERAL.—At the request of a Native authority or Native village, the Secretary may increase an amount of funds provided under this subsection for a construction project by an additional amount equal to 100 percent of the total cost of construction of the project, as determined by the Secretary.

''(B) USE OF RETAINED FUNDS.—An increase in funds provided under subparagraph (A) for a construction project shall be retained, and used only, for future maintenance of the construction project.''.

(f) INDIAN RESERVATION ROAD SAFETY PROGRAM.—

(1) IN GENERAL.—Chapter 4 of title 23, United States Code, is amended by adding at the end the following:

''SEC. 412. INDIAN RESERVATION ROAD SAFETY PROGRAM.

''(a) PROGRAM.—

''(1) IN GENERAL.—The Secretary shall carry out a program to provide to eligible Indian tribes (as determined by the Secretary) competitive grants for use in establishing tribal transportation safety programs on—

''(A) Indian reservations; and

''(B) other land under the jurisdiction of an Indian tribe.

''(2) USE OF FUNDS.—Funds from a grant provided under paragraph (1) may be used to carry out a project or activity—

''(A) to prevent the operation of motor vehicles by intoxicated individuals;

''(B) to promote increased seat belt use rates;

''(C) to eliminate hazardous locations and conditions on, or hazardous sections or elements of—

''(i) a public road;

''(ii) a public surface transportation facility;

''(iii) a publicly-owned bicycle or pedestrian pathway or trail; or

''(iv) a traffic calming measure;

''(D) to eliminate hazards relating to railway-highway crossings; or

''(E) to increase transportation safety by any other means, as determined by the Secretary.

''(b) FEDERAL SHARE.—The Federal share of the cost of carrying out the program under this section shall be 100 percent.

''(c) FUNDING.—Notwithstanding any other provision of law, there are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section—

''(1) $6,000,000 for each of fiscal years 2004 and 2005; and

''(2) $9,000,000 for each of fiscal years 2006 through 2009.''.

(2) CONFORMING AMENDMENT.—The analysis for chapter 4 of title 23, United States Code, is amended by inserting after the item relating to section 411 the following:

''412. Indian reservation road safety program.''.

(g) INDIAN RESERVATION RURAL TRANSIT PROGRAM.—Section 5311 of title 49, United

States Code, is amended by adding at the end the following:

''(k) INDIAN RESERVATION RURAL TRANSIT PROGRAM.—

''(1) IN GENERAL.—The Secretary shall establish and carry out a program to provide competitive grants to Indian tribes to establish rural transit programs on reservations or other land under the jurisdiction of the Indian tribes.

''(2) AMOUNT OF GRANTS.—The amount of a grant provided to an Indian tribe under subparagraph (A) shall be based on the need of the Indian tribe, as determined by the Secretary of Transportation.

''(3) AUTHORIZATION OF FUNDING.—For each of fiscal years 2004 through 2009, of the amount made available under section 5338, $15,000,000 shall be made available to carry out this subsection.''.

(h) COMMERCIAL VEHICLE DRIVING TRAINING PROGRAM.—

(1) DEFINITIONS.—In this section:

(A) COMMERCIAL VEHICLE DRIVING.—The term ''commercial vehicle driving'' means the driving of—

(i) a vehicle that is a tractor-trailer truck; or

(ii) any other vehicle (such as a bus or a vehicle used for the purpose of construction) the driving of which requires a commercial license.

(B) SECRETARY.—The term ''Secretary'' means the Secretary of Labor.

(2) GRANTS.—The Secretary shall provide grants, on a competitive basis, to entities described in paragraph (3)(A) to support programs providing training and certificates leading to the licensing of Native Americans with respect to commercial vehicle driving.

(3) ELIGIBILITY.—To be eligible to receive a grant under paragraph (1), an entity shall—

(A) be a tribal college or university (as defined in section 316(b)(3) of the Higher Education Act (20 U.S.C. 1059(b)(3)); and

(B) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(4) PRIORITY.—In providing grants under paragraph (1), the Secretary shall give priority to grant applications that—

(A) propose training that exceeds proposed minimum standards for training tractor-trailer drivers of the Department of Transportation;

(B) propose training that exceeds the entry level truck driver certification standards set by the Professional Truck Driver Institute; and

(C) propose an education partnership with a private trucking firm, trucking association, or similar entity in order to ensure the effectiveness of the grant program under this section.

(5) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $5,000,000 for the period of fiscal years 2004 through 2009.

SA 2315. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Strike title V and insert the following:

TITLE V—HIGHWAY REAUTHORIZATION AND EXCISE TAX SIMPLIFICATION

SEC. 5000. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This title may be cited as the ''Highway Reauthorization and Excise Tax Simplification Act of 2004''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

Subtitle A—Trust Fund Reauthorization

SEC. 5101. EXTENSION OF AUTHORIZATION FOR USE OF TRUST FUNDS FOR OBLIGATIONS UNDER TEA-21.

(a) HIGHWAY TRUST FUND.—

(1) IN GENERAL.—Paragraph (1) of section 9503(c) is amended—

(A) in the matter before subparagraph (A), by striking ''2004'' and inserting ''2005'',

(B) by striking ''or'' at the end of subparagraph (E),

(C) by striking the period at the end of subparagraph (F) and inserting '', or'',

(D) by inserting after subparagraph (F), the following new subparagraph:

''(G) authorized to be paid out of the Highway Trust Fund under the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004.'', and

(E) in the matter after subparagraph (G), as added by subparagraph (D), by striking ''Surface Transportation Extension Act of 2003'' and inserting ''Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004''.

(2) MASS TRANSIT ACCOUNT.—Paragraph (3) of section 9503(e) is amended—

(A) in the matter before subparagraph (A), by striking ''2004'' and inserting ''2005'',

(B) by striking ''or'' at the end of subparagraph (C),

(C) by striking the period at the end of subparagraph (D) and inserting '', or'',

(D) by inserting after subparagraph (D), the following new subparagraph:

''(E) the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004,'', and

(E) in the matter after subparagraph (E), as added by subparagraph (D), by striking ''Surface Transportation Extension Act of 2003'' and inserting ''Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004''.

(3) EXCEPTION TO LIMITATION ON TRANSFERS.—Subparagraph (B) of section 9503(b)(5) is amended by striking ''2004'' and inserting ''2005''.

(b) AQUATIC RESOURCES TRUST FUND.—

(1) SPORT FISH RESTORATION ACCOUNT.—Paragraph (2) of section 9504(b) (relating to Sport Fish Restoration Account) is amended by striking ''Surface Transportation Extension Act of 2003'' each place it appears and inserting ''Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004''.

(2) BOAT SAFETY ACCOUNT.—Section 9504(c) (relating to expenditures from Boat Safety Account) is amended—

(A) by striking ''2004'' and inserting ''2005'', and

(B) by striking ''Surface Transportation Extension Act of 2003'' and inserting ''Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004''.

(3) EXCEPTION TO LIMITATION ON TRANSFERS.—Paragraph (2) of section 9504(d) (relating to limitation on transfers to Aquatic Resources Trust Fund) is amended by striking ''2004'' and inserting ''2005''.

(4) TECHNICAL CORRECTION.—The last sentence of paragraph (2) of section 9504(b) is amended by striking ''subparagraph (B)'', and inserting ''subparagraph (C)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

(d) TEMPORARY RULE REGARDING ADJUSTMENTS.—During the period beginning on the date of the enactment of this Act and ending on February 28, 2005, for purposes of making any estimate under section 9503(d) of the Internal Revenue Code of 1986 of receipts of the Highway Trust Fund, the Secretary of the Treasury shall treat—

(1) each expiring provision of paragraphs (1) through (4) of section 9503(b) of such Code which is related to appropriations or transfers to such Fund to have been extended through the end of the 24-month period referred to in section 9503(d)(1)(B) of such Code, and

(2) with respect to each tax imposed under the sections referred to in section 9503(b)(1) of such Code, the rate of such tax during the 24-month period referred to in section 9503(d)(1)(B) of such Code to be the same as the rate of such tax as in effect on the date of the enactment of this Act.

SEC. 5102. TRANSFER OF CERTAIN ETHANOL TAXES INTO THE HIGHWAY TRUST FUND.

(a) IN GENERAL.—Section 9503(b)(4) is amended—

(1) by adding ''or'' at the end of subparagraph (C),

(2) by striking the comma at the end of subparagraph (D)(iii) and inserting a period, and

(3) by striking subparagraphs (E) and (F).

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel sold or used after September 30, 2003.

SEC. 5103. DEDICATION OF GAS GUZZLER TAX TO HIGHWAY TRUST FUND.

(a) IN GENERAL.—Section 9503(b)(1) (relating to transfer to Highway Trust Fund of amounts equivalent to certain taxes) is amended by redesignating subparagraphs (C), (D), and (E) as subparagraphs (D), (E), and (F), respectively, and by inserting after subparagraph (B) the following new subparagraph:

''(C) section 4064 (relating to gas guzzler tax),''.

(b) UNIFORM APPLICATION OF TAX.—Subparagraph (A) of section 4064(b)(1) (defining automobile) is amended by striking the second sentence.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 5104. INTEREST ON UNEXPENDED BALANCES CREDITED TO TRUST FUND.

(a) IN GENERAL.—Section 9503 (relating to the Highway Trust Fund) is amended by striking subsection (f).

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

Subtitle B—Fuel Fraud Prevention

SEC. 5200. SHORT TITLE.

This subtitle may be cited as the ''Fuel Fraud Prevention Act of 2004''.

PART I—AVIATION JET FUEL

SEC. 5211. TAXATION OF AVIATION-GRADE KEROSENE.

(a) RATE OF TAX.—

(1) IN GENERAL.—Subparagraph (A) of section 4081(a)(2) is amended by striking ''and'' at the end of clause (ii), by striking the period at the end of clause (iii) and inserting '', and'', and by adding at the end the following new clause:

''(iv) in the case of aviation-grade kerosene, 21.8 cents per gallon.''.

(2) COMMERCIAL AVIATION.—Paragraph (2) of section 4081(a) is amended by adding at the end the following new subparagraph:

''(C) TAXES IMPOSED ON FUEL USED IN COMMERCIAL AVIATION.—In the case of aviation-grade kerosene which is removed from any refinery or terminal directly into the fuel tank of an aircraft for use in commercial aviation, the rate of tax under subparagraph (A)(iv) shall be 4.3 cents per gallon.''.

(3) NONTAXABLE USES.—

(A) IN GENERAL.—Section 4082 is amended by redesignating subsections (e) and (f) as subsections (f) and (g), respectively, and by inserting after subsection (d) the following new subsection:

''(e) AVIATION-GRADE KEROSENE.—In the case of aviation-grade kerosene which is exempt from the tax imposed by section 4041(c) (other than by reason of a prior imposition of tax) and which is removed from any refinery or terminal directly into the fuel tank of an aircraft, the rate of tax under section 4081(a)(2)(A)(iv) shall be zero.''.

(B) CONFORMING AMENDMENTS.—

(i) Subsection (b) of section 4082 is amended by adding at the end the following new flush sentence: ''The term 'nontaxable use' does not include the use of aviation-grade kerosene in an aircraft.''.

(ii) Section 4082(d) is amended by striking paragraph (1) and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(4) NONAIRCRAFT USE OF AVIATION-GRADE KEROSENE.—

(A) IN GENERAL.—Subparagraph (B) of section 4041(a)(1) is amended by adding at the end the following new sentence: ''This subparagraph shall not apply to aviation-grade kerosene.''.

(B) CONFORMING AMENDMENT.—The heading for paragraph (1) of section 4041(a) is amended by inserting ''AND KEROSENE'' after ''DIESEL FUEL''.

(b) COMMERCIAL AVIATION.—Section 4083 is amended redesignating subsections (b) and (c) as subsections (c) and (d), respectively, and by inserting after subsection (a) the following new subsection:

''(b) COMMERCIAL AVIATION.—For purposes of this subpart, the term 'commercial aviation' means any use of an aircraft in a business of transporting persons or property for compensation or hire by air, unless properly allocable to any transportation exempt from the taxes imposed by section 4261 and 4271 by reason of section 4281 or 4282 or by reason of section 4261(h).''.

(c) REFUNDS.—

(1) IN GENERAL.—Paragraph (4) of section 6427(l) is amended to read as follows:

''(4) REFUNDS FOR AVIATION-GRADE KEROSENE.—

''(A) NO REFUND OF CERTAIN TAXES ON FUEL USED IN COMMERCIAL AVIATION.—In the case of aviation-grade kerosene used in commercial aviation (as defined in section 4083(b)) (other than supplies for vessels or aircraft within the meaning of section 4221(d)(3)), paragraph (1) shall not apply to so much of the tax imposed by section 4081 as is attributable to—

''(i) the Leaking Underground Storage Tank Trust Fund financing rate imposed by such section, and

''(ii) so much of the rate of tax specified in section 4081(a)(2)(A)(iv) as does not exceed 4.3 cents per gallon.

''(B) PAYMENT TO ULTIMATE, REGISTERED VENDOR.—With respect to aviation-grade kerosene, if the ultimate purchaser of such kerosene waives (at such time and in such form and manner as the Secretary shall prescribe) the right to payment under paragraph (1) and assigns such right to the ultimate vendor, then the Secretary shall pay the amount which would be paid under paragraph (1) to such ultimate vendor, but only if such ultimate vendor—

''(i) is registered under section 4101, and

''(ii) meets the requirements of subparagraph (A), (B), or (D) of section 6416(a)(1).''.

(2) TIME FOR FILING CLAIMS.—Paragraph (4) of section 6427(i) is amended by striking ''subsection (l)(5)'' and inserting ''paragraph (4)(B) or (5) of subsection (l)''.

(3) CONFORMING AMENDMENT.—Subparagraph (B) of section 6427(l)(2) is amended to read as follows:

''(B) in the case of aviation-grade kerosene—

''(i) any use which is exempt from the tax imposed by section 4041(c) other than by reason of a prior imposition of tax, or

''(ii) any use in commercial aviation (within the meaning of section 4083(b)).''.

(d) REPEAL OF PRIOR TAXATION OF AVIATION FUEL.—

(1) IN GENERAL.—Part III of subchapter A of chapter 32 is amended by striking subpart B and by redesignating subpart C as subpart B.

(2) CONFORMING AMENDMENTS.—

(A) Section 4041(c) is amended to read as follows:

''(c) AVIATION-GRADE KEROSENE.—

''(1) IN GENERAL.—There is hereby imposed a tax upon aviation-grade kerosene—

''(A) sold by any person to an owner, lessee, or other operator of an aircraft for use in such aircraft, or

''(B) used by any person in an aircraft unless there was a taxable sale of such fuel under subparagraph (A).

''(2) EXEMPTION FOR PREVIOUSLY TAXED FUEL.—No tax shall be imposed by this subsection on the sale or use of any aviation-grade kerosene if tax was imposed on such liquid under section 4081 and the tax thereon was not credited or refunded.

''(3) RATE OF TAX.—The rate of tax imposed by this subsection shall be the rate of tax specified in section 4081(a)(2)(A)(iv) which is in effect at the time of such sale or use.''.

(B) Section 4041(d)(2) is amended by striking ''section 4091'' and inserting ''section 4081''.

(C) Section 4041 is amended by striking subsection (e).

(D) Section 4041 is amended by striking subsection (i).

(E) Section 4041(m)(1) is amended to read as follows:

''(1) IN GENERAL.—In the case of the sale or use of any partially exempt methanol or ethanol fuel, the rate of the tax imposed by subsection (a)(2) shall be—

''(A) after September 30, 1997, and before September 30, 2009—

''(i) in the case of fuel none of the alcohol in which consists of ethanol, 9.15 cents per gallon, and

''(ii) in any other case, 11.3 cents per gallon, and

''(B) after September 30, 2009—

''(i) in the case of fuel none of the alcohol in which consists of ethanol, 2.15 cents per gallon, and

''(ii) in any other case, 4.3 cents per gallon.''.

(F) Sections 4101(a), 4103, 4221(a), and 6206 are each amended by striking '', 4081, or 4091'' and inserting ''or 4081''.

(G) Section 6416(b)(2) is amended by striking ''4091 or''.

(H) Section 6416(b)(3) is amended by striking ''or 4091'' each place it appears.

(I) Section 6416(d) is amended by striking ''or to the tax imposed by section 4091 in the case of refunds described in section 4091(d)''.

(J) Section 6427(j)(1) is amended by striking '', 4081, and 4091'' and inserting ''and 4081''.

(K)(i) Section 6427(l)(1) is amended to read as follows:

''(1) IN GENERAL.—Except as otherwise provided in this subsection and in subsection (k), if any diesel fuel or kerosene on which tax has been imposed by section 4041 or 4081 is used by any person in a nontaxable use, the Secretary shall pay (without interest) to the ultimate purchaser of such fuel an amount equal to the aggregate amount of tax imposed on such fuel under section 4041 or 4081, as the case may be, reduced by any refund paid to the ultimate vendor under paragraph (4)(B).''.

(ii) Paragraph (5)(B) of section 6427(l) is amended by striking ''Paragraph (1)(A) shall not apply to kerosene'' and inserting ''Paragraph (1) shall not apply to kerosene (other than aviation-grade kerosene)''.

(L) Subparagraph (B) of section 6724(d)(1) is amended by striking clause (xv) and by redesignating the succeeding clauses accordingly.

(M) Paragraph (2) of section 6724(d) is amended by striking subparagraph (W) and by redesignating the succeeding subparagraphs accordingly.

(N) Paragraph (1) of section 9502(b) is amended by adding ''and'' at the end of subparagraph (B) and by striking subparagraphs (C) and (D) and inserting the following new subparagraph:

''(C) section 4081 with respect to aviation gasoline and aviation-grade kerosene, and''.

(O) The last sentence of section 9502(b) is amended to read as follows:

''There shall not be taken into account under paragraph (1) so much of the taxes imposed by section 4081 as are determined at the rate specified in section 4081(a)(2)(B).''.

(P) Subsection (b) of section 9508 is amended by striking paragraph (3) and by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

(Q) Section 9508(c)(2)(A) is amended by striking ''sections 4081 and 4091'' and inserting ''section 4081''.

(R) The table of subparts for part III of subchapter A of chapter 32 is amended to read as follows:

''Subpart A. Motor and aviation fuels.

''Subpart B. Special provisions applicable to fuels tax.''

(S) The heading for subpart A of part III of subchapter A of chapter 32 is amended to read as follows:

''Subpart A—Motor and Aviation Fuels''.

(T) The heading for subpart B of part III of subchapter A of chapter 32 is amended to read as follows:

''Subpart B—Special Provisions Applicable to Fuels Tax''.

(g) OTHER AMENDMENTS.—

(1) Section 4081(c) is amended by adding at the end the following new flush sentence:

''In the case of any taxable fuel which is aviation-grade kerosene, this subsection shall not apply and the rules of section 4091(c) (as in effect on the day before the date of the enactment of the Fuel Fraud Prevention Act of 2004) shall apply.''.

(2) For purposes of the Internal Revenue Code of 1986, any reference to section 4091(c) shall be treated as a reference to the rules of such section as in effect on the date before the date of the enactment of this Act.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to aviation-grade kerosene removed, entered, or sold after September 30, 2004.

(g) FLOOR STOCKS TAX.—

(1) IN GENERAL.—There is hereby imposed on aviation-grade kerosene held on October 1, 2004, by any person a tax equal to—

(A) the tax which would have been imposed before such date on such kerosene had the amendments made by this section been in effect at all times before such date, reduced by

(B) the tax imposed before such date under section 4091 of the Internal Revenue Code of 1986, as in effect on the day before the date of the enactment of this Act.

(2) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—The person holding the kerosene on October 1, 2004, to which the tax imposed by paragraph (1) applies shall be liable for such tax.

(B) METHOD AND TIME FOR PAYMENT.—The tax imposed by paragraph (1) shall be paid at such time and in such manner as the Secretary of the Treasury shall prescribe, including the nonapplication of such tax on de minimis amounts of kerosene.

(3) TRANSFER OF FLOOR STOCK TAX REVENUES TO TRUST FUNDS.—For purposes of determining the amount transferred to any trust fund, the tax imposed by this subsection shall be treated as imposed by section 4081 of the Internal Revenue Code of 1986—

(A) at the Leaking Underground Storage Tank Trust Fund financing rate under such section to the extent of 0.1 cents per gallon, and

(B) at the rate under section 4081(a)(2)(A)(iv) to the extent of the remainder.

(4) HELD BY A PERSON.—For purposes of this section, kerosene shall be considered as held by a person if title thereto has passed to such person (whether or not delivery to the person has been made).

(5) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the tax imposed by section 4081 of such Code shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply with respect to the floor stock tax imposed by paragraph (1) to the same extent as if such tax were imposed by such section.

SEC. 5212. TRANSFER OF CERTAIN AMOUNTS FROM THE AIRPORT AND AIRWAY TRUST FUND TO THE HIGHWAY TRUST FUND TO REFLECT HIGHWAY USE OF JET FUEL.

(a) IN GENERAL.—Section 9502(d) is amended by adding at the end the following new paragraph:

''(7) TRANSFERS FROM THE TRUST FUND TO THE HIGHWAY TRUST FUND TO REFLECT HIGHWAY USE OF JET FUEL.—

''(A) IN GENERAL.—The Secretary shall pay from the Airport and Airway Trust Fund into the Highway Trust Fund—

''(i) $395,000,000 in fiscal year 2005,

''(ii) $425,000,000 in fiscal year 2006,

''(iii) $429,000,000 in fiscal year 2007,

''(iv) $432,000,000 in fiscal year 2008, and

''(v) $435,000,000 in fiscal year 2009.

''(B) AMOUNTS TRANSFERRED TO MASS TRANSIT ACCOUNT.—The Secretary shall transfer 11 percent of the amounts paid into the Highway Trust Fund under subparagraph (A) to the Mass Transit Account established under section 9503(e).''.

(b) CONFORMING AMENDMENTS.—

(1) Subsection (a) of section 9503 is amended—

(A) by striking ''appropriated or credited'' and inserting ''paid, appropriated, or credited'', and

(B) by striking ''or section 9602(b)'' and inserting '', section 9502(d)(7), or section 9602(b)''.

(2) Subsection (e)(1) of section 9503 is amended by striking ''or section 9602(b)'' and inserting '', section 9502(d)(7), or section 9602(b)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

PART II—DYED FUEL

SEC. 5221. DYE INJECTION EQUIPMENT.

(a) IN GENERAL.—Section 4082(a)(2) (relating to exemptions for diesel fuel and kerosene) is amended by inserting ''by mechanical injection'' after ''indelibly dyed''.

(b) DYE INJECTOR SECURITY.—Not later than June 30, 2004, the Secretary of the Treasury shall issue regulations regarding mechanical dye injection systems described in the amendment made by subsection (a), and such regulations shall include standards for making such systems tamper resistant.

(c) PENALTY FOR TAMPERING WITH OR FAILING TO MAINTAIN SECURITY REQUIREMENTS FOR MECHANICAL DYE INJECTION SYSTEMS.—

(1) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by adding after section 6715 the following new section:

''SEC. 6715A. TAMPERING WITH OR FAILING TO MAINTAIN SECURITY REQUIREMENTS FOR MECHANICAL DYE INJECTION SYSTEMS.

''(a) IMPOSITION OF PENALTY—

''(1) TAMPERING.—If any person tampers with a mechanical dye injection system used to indelibly dye fuel for purposes of section 4082, then such person shall pay a penalty in addition to the tax (if any).

''(2) FAILURE TO MAINTAIN SECURITY REQUIREMENTS.—If any operator of a mechanical dye injection system used to indelibly dye fuel for purposes of section 4082 fails to maintain the security standards for such system as established by the Secretary, then such operator shall pay a penalty.

''(b) AMOUNT OF PENALTY.—The amount of the penalty under subsection (a) shall be—

''(1) for each violation described in paragraph (1), the greater of—

''(A) $25,000, or

''(B) $10 for each gallon of fuel involved, and

''(2) for each—

''(A) failure to maintain security standards described in paragraph (2), $1,000, and

''(B) failure to correct a violation described in paragraph (2), $1,000 per day for each day after which such violation was discovered or such person should have reasonably known of such violation.

''(c) JOINT AND SEVERAL LIABILITY.—

''(1) IN GENERAL.—If a penalty is imposed under this section on any business entity, each officer, employee, or agent of such entity or other contracting party who willfully participated in any act giving rise to such penalty shall be jointly and severally liable with such entity for such penalty.

''(2) AFFILIATED GROUPS.—If a business entity described in paragraph (1) is part of an affiliated group (as defined in section 1504(a)), the parent corporation of such entity shall be jointly and severally liable with such entity for the penalty imposed under this section.''.

(2) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by adding after the item related to section 6715 the following new item:

''Sec. 6715A. Tampering with or failing to maintain security requirements for mechanical dye injection systems.''.

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (c) shall take effect 180 days after the date on which the Secretary issues the regulations described in subsection (b).

SEC. 5222. ELIMINATION OF ADMINISTRATIVE REVIEW FOR TAXABLE USE OF DYED FUEL.

(a) IN GENERAL.—Section 6715 is amended by inserting at the end the following new subsection:

''(e) NO ADMINISTRATIVE APPEAL FOR THIRD AND SUBSEQUENT VIOLATIONS.—In the case of any person who is found to be subject to the penalty under this section after a chemical analysis of such fuel and who has been penalized under this section at least twice after the date of the enactment of this subsection, no administrative appeal or review shall be allowed with respect to such finding except in the case of a claim regarding—

''(1) fraud or mistake in the chemical analysis, or

''(2) mathematical calculation of the amount of the penalty.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to penalties assessed after the date of the enactment of this Act.

SEC. 5223. PENALTY ON UNTAXED CHEMICALLY ALTERED DYED FUEL MIXTURES.

(a) IN GENERAL.—Section 6715(a) (relating to dyed fuel sold for use or used in taxable use, etc.) is amended by striking ''or'' in paragraph (2), by inserting ''or'' at the end of paragraph (3), and by inserting after paragraph (3) the following new paragraph:

''(4) any person who has knowledge that a dyed fuel which has been altered as described in paragraph (3) sells or holds for sale such fuel for any use which the person knows or has reason to know is not a nontaxable use of such fuel,''.

(b) CONFORMING AMENDMENT.—Section 6715(a)(3) is amended by striking ''alters, or attempts to alter,'' and inserting ''alters, chemically or otherwise, or attempts to so alter,''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 5224. TERMINATION OF DYED DIESEL USE BY INTERCITY BUSES.

(a) IN GENERAL.—Paragraph (3) of section 4082(b) (relating to nontaxable use) is amended to read as follows:

''(3) any use described in section 4041(a)(1)(C)(iii)(II).''.

(b) ULTIMATE VENDOR REFUND.—Subsection (b) of section 6427 is amended by adding at the end the following new paragraph:

''(4) REFUNDS FOR USE OF DIESEL FUEL IN CERTAIN INTERCITY BUSES.—

''(A) IN GENERAL.—With respect to any fuel to which paragraph (2)(A) applies, if the ultimate purchaser of such fuel waives (at such time and in such form and manner as the Secretary shall prescribe) the right to payment under paragraph (1) and assigns such right to the ultimate vendor, then the Secretary shall pay the amount which would be paid under paragraph (1) to such ultimate vendor, but only if such ultimate vendor—

''(i) is registered under section 4101, and

''(ii) meets the requirements of subparagraph (A), (B), or (D) of section 6416(a)(1).

''(B) CREDIT CARDS.—For purposes of this paragraph, if the sale of such fuel is made by means of a credit card, the person extending credit to the ultimate purchaser shall be deemed to be the ultimate vendor.''.

(c) PAYMENT OF REFUNDS.—Subparagraph (A) of section 6427(i)(4), as amended by section 5211 of this Act, is amended by inserting ''subsections (b)(4) and'' after ''filed under''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel sold after September 30, 2004.

PART III—MODIFICATION OF INSPECTION OF RECORDS PROVISIONS

SEC. 5231. AUTHORITY TO INSPECT ON-SITE RECORDS.

(a) IN GENERAL.—Section 4083(d)(1)(A) (relating to administrative authority), as amended by section 5211 of this Act, is amended by striking ''and'' at the end of clause (i) and by inserting after clause (ii) the following new clause:

''(iii) inspecting any books and records and any shipping papers pertaining to such fuel, and''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 5232. ASSESSABLE PENALTY FOR REFUSAL OF ENTRY.

(a) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties), as amended by section 5221 of this Act, is amended by adding at the end the following new section:

"SEC. 6717. REFUSAL OF ENTRY.

''(a) IN GENERAL.—In addition to any other penalty provided by law, any person who refuses to admit entry or refuses to permit any other action by the Secretary authorized by section 4083(d)(1) shall pay a penalty of $1,000 for such refusal.

''(b) JOINT AND SEVERAL LIABILITY.—

''(1) IN GENERAL.—If a penalty is imposed under this section on any business entity, each officer, employee, or agent of such entity or other contracting party who willfully participated in any act giving rise to such penalty shall be jointly and severally liable with such entity for such penalty.

''(2) AFFILIATED GROUPS.—If a business entity described in paragraph (1) is part of an affiliated group (as defined in section 1504(a)), the parent corporation of such entity shall be jointly and severally liable with such entity for the penalty imposed under this section.

''(c) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 4083(d)(3), as amended by section 5211 of this Act, is amended—

(A) by striking ''ENTRY.—The penalty'' and inserting: ''ENTRY.—

''(A) FORFEITURE.—The penalty'', and

(B) by adding at the end the following new subparagraph:

''(B) ASSESSABLE PENALTY.—For additional assessable penalty for the refusal to admit entry or other refusal to permit an action by the Secretary authorized by paragraph (1), see section 6717.''.

(2) The table of sections for part I of subchapter B of chapter 68, as amended by section 5221 of this Act, is amended by adding at the end the following new item:

''Sec. 6717. Refusal of entry.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

PART IV—REGISTRATION AND REPORTING REQUIREMENTS

SEC. 5241. REGISTRATION OF PIPELINE OR VESSEL OPERATORS REQUIRED FOR EXEMPTION OF BULK TRANSFERS TO REGISTERED TERMINALS OR REFINERIES.

(a) IN GENERAL.—Section 4081(a)(1)(B) (relating to exemption for bulk transfers to registered terminals or refineries) is amended—

(1) by inserting ''by pipeline or vessel'' after ''transferred in bulk'', and

(2) by inserting '', the operator of such pipeline or vessel,'' after ''the taxable fuel''.

(b) CIVIL PENALTY FOR CARRYING TAXABLE FUELS BY NONREGISTERED PIPELINES OR VESSELS.—

(1) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties), as amended by section 5232 of this Act, is amended by adding at the end the following new section:

"SEC. 6718. CARRYING TAXABLE FUELS BY NONREGISTERED PIPELINES OR VESSELS.

''(a) IMPOSITION OF PENALTY.—If any person knowingly transfers any taxable fuel (as defined in section 4083(a)(1)) in bulk pursuant to section 4081(a)(1)(B) to an unregistered, such person shall pay a penalty in addition to the tax (if any).

''(b) AMOUNT OF PENALTY.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the amount of the penalty under subsection (a) on each act shall be an amount equal to the greater of—

''(A) $10,000, or

''(B) $1 per gallon.

''(2) MULTIPLE VIOLATIONS.—In determining the penalty under subsection (a) on any person, paragraph (1) shall be applied by increasing the amount in paragraph (1) by the product of such amount and the number of prior penalties (if any) imposed by this section on such person (or a related person or any predecessor of such person or related person).

''(c) JOINT AND SEVERAL LIABILITY.—

''(1) IN GENERAL.—If a penalty is imposed under this section on any business entity, each officer, employee, or agent of such entity or other contracting party who willfully participated in any act giving rise to such penalty shall be jointly and severally liable with such entity for such penalty.

''(2) AFFILIATED GROUPS.—If a business entity described in paragraph (1) is part of an affiliated group (as defined in section 1504(a)), the parent corporation of such entity shall be jointly and severally liable with such entity for the penalty imposed under this section.

''(d) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.''.

(2) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68, as amended by section 5232 of this Act, is amended by adding at the end the following new item:

''Sec. 6718. Carrying taxable fuels by nonregistered pipelines or vessels.''.

(c) PUBLICATION OF REGISTERED PERSONS.—Not later than June 30, 2004, the Secretary of the Treasury shall publish a list of persons required to be registered under section 4101 of the Internal Revenue Code of 1986.

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on October 1, 2004.

SEC. 5242. DISPLAY OF REGISTRATION.

(a) IN GENERAL.—Subsection (a) of section 4101 (relating to registration) is amended—

(1) by striking ''Every'' and inserting the following:

''(1) IN GENERAL.—Every'', and

(2) by adding at the end the following new paragraph:

''(2) DISPLAY OF REGISTRATION.—Every operator of a vessel required by the Secretary to register under this section shall display proof of registration through an electronic identification device prescribed by the Secretary on each vessel used by such operator to transport any taxable fuel.''.

(b) CIVIL PENALTY FOR FAILURE TO DISPLAY REGISTRATION.—

(1) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties), as amended by section 5241 of this Act, is amended by adding at the end the following new section:

"SEC. 6719. FAILURE TO DISPLAY REGISTRATION OF VESSEL.

''(a) FAILURE TO DISPLAY REGISTRATION.—Every operator of a vessel who fails to display proof of registration pursuant to section 4101(a)(2) shall pay a penalty of $500 for each such failure. With respect to any vessel, only one penalty shall be imposed by this section during any calendar month.

''(b) MULTIPLE VIOLATIONS.—In determining the penalty under subsection (a) on any person, subsection (a) shall be applied by increasing the amount in subsection (a) by the product of such amount and the number of prior penalties (if any) imposed by this section on such person (or a related person or any predecessor of such person or related person).

''(c) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.''.

(2) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68, as amended by section 5241 of this Act, is amended by adding at the end the following new item:

''Sec. 6719. Failure to display registration of vessel.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

SEC. 5243. REGISTRATION OF PERSONS WITHIN FOREIGN TRADE ZONES, ETC..

(a) IN GENERAL.—Section 4101(a), as amended by section 5242 of this Act, is amended by redesignating paragraph (2) as paragraph (3), and by inserting after paragraph (1) the following new paragraph:

''(2) REGISTRATION OF PERSONS WITHIN FOREIGN TRADE ZONES, ETC..—The Secretary shall require registration by any person which—

''(A) operates a terminal or refinery within a foreign trade zone or within a customs bonded storage facility, or

''(B) holds an inventory position with respect to a taxable fuel in such a terminal.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

SEC. 5244. PENALTIES FOR FAILURE TO REGISTER AND FAILURE TO REPORT.

(a) INCREASED PENALTY.—Subsection (a) of section 7272 (relating to penalty for failure to register) is amended by inserting ''($10,000 in the case of a failure to register under section 4101)'' after ''$50''.

(b) INCREASED CRIMINAL PENALTY.—Section 7232 (relating to failure to register under section 4101, false representations of registration status, etc.) is amended by striking ''$5,000'' and inserting ''$10,000''.

(c) ASSESSABLE PENALTY FOR FAILURE TO REGISTER.—

(1) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties), as amended by section 5242 of this Act, is amended by adding at the end the following new section:

"SEC. 6720. FAILURE TO REGISTER.

''(a) FAILURE TO REGISTER.—Every person who is required to register under section 4101 and fails to do so shall pay a penalty in addition to the tax (if any).

''(b) AMOUNT OF PENALTY.—The amount of the penalty under subsection (a) shall be—

''(1) $10,000 for each initial failure to register, and

''(2) $1,000 for each day thereafter such person fails to register.

''(c) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.''.

(2) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68, as amended by section 5242 of this Act, is amended by adding at the end the following new item:

''Sec. 6720. Failure to register.''.

(d) ASSESSABLE PENALTY FOR FAILURE TO REPORT.—

(1) IN GENERAL.—Part II of subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end the following new section:

"SEC. 6725. FAILURE TO REPORT INFORMATION UNDER SECTION 4101.

''(a) IN GENERAL.—In the case of each failure described in subsection (b) by any person with respect to a vessel or facility, such person shall pay a penalty of $10,000 in addition to the tax (if any).

''(b) FAILURES SUBJECT TO PENALTY.—For purposes of subsection (a), the failures described in this subsection are—

''(1) any failure to make a report under section 4101(d) on or before the date prescribed therefor, and

''(2) any failure to include all of the information required to be shown on such report or the inclusion of incorrect information.

''(c) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.''.

(2) CLERICAL AMENDMENT.—The table of sections for part II of subchapter B of chapter 68 is amended by adding at the end the following new item:

''Sec. 6725. Failure to report information under section 4101.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to failures pending or occurring after September 30, 2004.

SEC. 5245. INFORMATION REPORTING FOR PERSONS CLAIMING CERTAIN TAX BENEFITS.

(a) IN GENERAL.—Subpart C of part III of subchapter A of chapter 32 is amended by adding at the end the following new section:

''SEC. 4104. INFORMATION REPORTING FOR PERSONS CLAIMING CERTAIN TAX BENEFITS.

''(a) IN GENERAL.—The Secretary shall require any person claiming tax benefits—

''(1) under the provisions of section 34, 40, and 40A to file a return at the time such person claims such benefits (in such manner as the Secretary may prescribe), and

''(2) under the provisions of section 4041(b)(2), 6426, or 6427(e) to file a monthly return (in such manner as the Secretary may prescribe).

''(b) CONTENTS OF RETURN.—Any return filed under this section shall provide such information relating to such benefits and the coordination of such benefits as the Secretary may require to ensure the proper administration and use of such benefits.

''(c) ENFORCEMENT.—With respect to any person described in subsection (a) and subject to registration requirements under this title, rules similar to rules of section 4222(c) shall apply with respect to any requirement under this section.''.

(b) CONFORMING AMENDMENT.—The table of sections for subpart C of part III of subchapter A of chapter 32 is amended by adding at the end the following new item:

''Sec. 4104. Information reporting for persons claiming certain tax benefits.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

PART V—IMPORTS

SEC. 5251. TAX AT POINT OF ENTRY WHERE IMPORTER NOT REGISTERED.

(a) TAX AT POINT OF ENTRY WHERE IMPORTER NOT REGISTERED.—

(1) IN GENERAL.—Subpart C of part III of subchapter A of chapter 31, as amended by section 5245 of this Act, is amended by adding at the end the following new section:

''SEC. 4105. TAX AT ENTRY WHERE IMPORTER NOT REGISTERED.

''(a) IN GENERAL.—Any tax imposed under this part on any person not registered under section 4101 for the entry of a fuel into the United States shall be imposed at the time and point of entry.

''(b) ENFORCEMENT OF ASSESSMENT.—If any person liable for any tax described under subsection (a) has not paid the tax or posted a bond, the Secretary may—

''(1) seize the fuel on which the tax is due, or

''(2) detain any vehicle transporting such fuel,

until such tax is paid or such bond is filed.

''(c) LEVY OF FUEL.—If no tax has been paid or no bond has been filed within 5 days from the date the Secretary seized fuel pursuant to subsection (b), the Secretary may sell such fuel as provided under section 6336.''.

(2) CONFORMING AMENDMENT.—The table of sections for subpart C of part III of subchapter A of chapter 31 of the Internal Revenue Code of 1986, as amended by section 5245 of this Act, is amended by adding after the last item the following new item:

''Sec. 4105. Tax at entry where importer not registered.''.

(b) DENIAL OF ENTRY WHERE TAX NOT PAID.—The Secretary of Homeland Security is authorized to deny entry into the United States of any shipment of a fuel which is taxable under section 4081 of the Internal Revenue Code of 1986 if the person entering such shipment fails to pay the tax imposed under such section or post a bond in accordance with the provisions of section 4105 of such Code.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 5252. RECONCILIATION OF ON-LOADED CARGO TO ENTERED CARGO.

(a) IN GENERAL.—Subsection (a) of section 343 of the Trade Act of 2002 is amended by inserting at the end the following new paragraph:

''(4) IN GENERAL.—Subject to paragraphs (2) and (3), not later than 1 year after the enactment of this paragraph, the Secretary of Homeland Security, together with the Secretary of the Treasury, shall promulgate regulations providing for the transmission to the Internal Revenue Service, through an electronic data interchange system, of information pertaining to cargo of taxable fuels (as defined in section 4083 of the Internal Revenue Code of 1986) destined for importation into the United States prior to such importation.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

PART VI—MISCELLANEOUS PROVISIONS

SEC. 5261. TAX ON SALE OF DIESEL FUEL WHETHER SUITABLE FOR USE OR NOT IN A DIESEL-POWERED VEHICLE OR TRAIN.

(a) IN GENERAL.—Section 4083(a)(3) is amended—

(1) by striking ''The term'' and inserting the following:

''(A) IN GENERAL.—The term'', and

(2) by inserting at the end the following new subparagraph:

''(B) LIQUID SOLD AS DIESEL FUEL.—The term 'diesel fuel' includes any liquid which is sold as or offered for sale as a fuel in a diesel-powered highway vehicle or a diesel-powered train.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 5262. MODIFICATION OF ULTIMATE VENDOR REFUND CLAIMS WITH RESPECT TO FARMING.

(a) IN GENERAL.—

(1) REFUNDS.—Section 6427(l) is amended by adding at the end the following new paragraph:

''(6) REGISTERED VENDORS PERMITTED TO ADMINISTER CERTAIN CLAIMS FOR REFUND OF DIESEL FUEL AND KEROSENE SOLD TO FARMERS.—

''(A) IN GENERAL.—In the case of diesel fuel or kerosene used on a farm for farming purposes (within the meaning of section 6420(c)), paragraph (1) shall not apply to the aggregate amount of such diesel fuel or kerosene if such amount does not exceed 500 gallons (as determined under subsection (i)(5)(A)(iii)).

''(B) PAYMENT TO ULTIMATE VENDOR.—The amount which would (but for subparagraph (A)) have been paid under paragraph (1) with respect to any fuel shall be paid to the ultimate vendor of such fuel, if such vendor—

''(i) is registered under section 4101, and

''(ii) meets the requirements of subparagraph (A), (B), or (D) of section 6416(a)(1).''.

(2) FILING OF CLAIMS.—Section 6427(i) is amended by inserting at the end the following new paragraph:

''(5) SPECIAL RULE FOR VENDOR REFUNDS WITH RESPECT TO FARMERS.—

''(A) IN GENERAL.—A claim may be filed under subsection (l)(6) by any person with respect to fuel sold by such person for any period—

''(i) for which $200 or more ($100 or more in the case of kerosene) is payable under subsection (l)(6),

''(ii) which is not less than 1 week, and

''(iii) which is for not more than 500 gallons for each farmer for which there is a claim.

Notwithstanding subsection (l)(1), paragraph (3)(B) shall apply to claims filed under the preceding sentence.

''(B) TIME FOR FILING CLAIM.—No claim filed under this paragraph shall be allowed unless filed on or before the last day of the first quarter following the earliest quarter included in the claim.''.

(3) CONFORMING AMENDMENTS.—

(A) Section 6427(l)(5)(A) is amended to read as follows:

''(A) IN GENERAL.—Paragraph (1) shall not apply to diesel fuel or kerosene used by a State or local government.''.

(B) The heading for section 6427(l)(5) is amended by striking ''FARMERS AND''.

(b) Section 6427(i)(3) is amended—

(1) by adding at the end of subparagraph (A) the following new flush sentence:

''In the case of an electronic claim, this subparagraph shall be applied without regard to clause (i).'', and

(2) by striking ''20 days of the date of the filing of such claim'' in subparagraph (B) and inserting ''45 days of the date of the filing of such claim (20 days in the case of an electronic claim)'', and

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to fuels sold for nontaxable use after the date of the enactment of this Act.

SEC. 5263. TAXABLE FUEL REFUNDS FOR CERTAIN ULTIMATE VENDORS.

(a) IN GENERAL.—Paragraph (4) of section 6416(a) (relating to abatements, credits, and refunds) is amended to read as follows:

''(4) REGISTERED ULTIMATE VENDOR TO ADMINISTER CREDITS AND REFUNDS OF GASOLINE TAX.—

''(A) IN GENERAL.—For purposes of this subsection, if an ultimate vendor purchases any gasoline on which tax imposed by section 4081 has been paid and sells such gasoline to an ultimate purchaser described in subparagraph (C) or (D) of subsection (b)(2) (and such gasoline is for a use described in such subparagraph), such ultimate vendor shall be treated as the person (and the only person) who paid such tax, but only if such ultimate vendor is registered under section 4101. For purposes of this subparagraph, if the sale of gasoline is made by means of a credit card, the person extending the credit to the ultimate purchaser shall be deemed to be the ultimate vendor.

''(B) TIMING OF CLAIMS.—The procedure and timing of any claim under subparagraph (A) shall be the same as for claims under section 6427(i)(4), except that the rules of section 6427(i)(3)(B) regarding electronic claims shall not apply unless the ultimate vendor has certified to the Secretary for the most recent quarter of the taxable year that all ultimate purchasers of the vendor are certified and entitled to a refund under subparagraph (C) or (D) of subsection (b)(2).''.

(b) CREDIT CARD PURCHASES OF DIESEL FUEL OR KEROSENE BY STATE AND LOCAL GOVERNMENTS.—Section 6427(l)(5)(C) (relating to nontaxable uses of diesel fuel, kerosene, and aviation fuel), as amended by section 5252 of this Act, is amended by adding at the end

the following new sentence: ''For purposes of this subparagraph, if the sale of diesel fuel or kerosene is made by means of a credit card, the person extending the credit to the ultimate purchaser shall be deemed to be the ultimate vendor.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

SEC. 5264. TWO-PARTY EXCHANGES.

(a) IN GENERAL.—Subpart C of part III of subchapter A of chapter 32, as amended by section 5251 of this Act, is amended by adding at the end the following new section:

''SEC. 4106. TWO-PARTY EXCHANGES.

''(a) IN GENERAL.—In a two-party exchange, the delivering person shall not be liable for the tax imposed under of section 4081(a)(1)(A)(ii).

''(b) TWO-PARTY EXCHANGE.—The term 'two-party exchange' means a transaction, other than a sale, in which taxable fuel is transferred from a delivering person registered under section 4101 as a taxable fuel registrant to a receiving person who is so registered where all of the following occur:

''(1) The transaction includes a transfer from the delivering person, who holds the inventory position for taxable fuel in the terminal as reflected in the records of the terminal operator.

''(2) The exchange transaction occurs before or contemporaneous with completion of removal across the rack from the terminal by the receiving person.

''(3) The terminal operator in its books and records treats the receiving person as the person that removes the product across the terminal rack for purposes of reporting the transaction to the Secretary.

''(4) The transaction is the subject of a written contract.''.

(b) CONFORMING AMENDMENT.—The table of sections for subpart C of part III of subchapter A of chapter 32, as amended by section 5251 of this Act, is amended by adding after the last item the following new item:

''Sec. 4106. Two-party exchanges.''.

(c) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 5265. MODIFICATIONS OF TAX ON USE OF CERTAIN VEHICLES.

(a) NO PRORATION OF TAX UNLESS VEHICLE IS DESTROYED OR STOLEN.—

(1) IN GENERAL.—Section 4481(c) (relating to proration of tax) is amended to read as follows:

''(c) PRORATION OF TAX WHERE VEHICLE SOLD, DESTROYED, OR STOLEN.—

''(1) IN GENERAL.—If in any taxable period a highway motor vehicle is sold, destroyed, or stolen before the first day of the last month in such period and not subsequently used during such taxable period, the tax shall be reckoned proportionately from the first day of the month in such period in which the first use of such highway motor vehicle occurs to and including the last day of the month in which such highway motor vehicle was sold, destroyed, or stolen.

''(2) DESTROYED.—For purposes of paragraph (1), a highway motor vehicle is destroyed if such vehicle is damaged by reason of an accident or other casualty to such an extent that it is not economic to rebuild.''.

(2) CONFORMING AMENDMENTS.—

(A) Section 6156 (relating to installment payment of tax on use of highway motor vehicles) is repealed.

(B) The table of sections for subchapter A of chapter 62 is amended by striking the item relating to section 6156.

(b) DISPLAY OF TAX CERTIFICATE.—Paragraph (2) of section 4481(d) (relating to one tax liability for period) is amended to read as follows:

''(2) DISPLAY OF TAX CERTIFICATE.—Every taxpayer which pays the tax imposed under this section with respect to a highway motor vehicle shall, not later than 1 month after the due date of the return of tax with respect to each taxable period, receive and display on such vehicle an electronic identification device prescribed by the Secretary.''.

(c) ELECTRONIC FILING.—Section 4481 is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

''(e) ELECTRONIC FILING.—Any taxpayer who files a return under this section with respect to 25 or more vehicles for any taxable period shall file such return electronically.''.

(d) REPEAL OF REDUCTION IN TAX FOR CERTAIN TRUCKS.—Section 4483 of the Internal Revenue Code of 1986 is amended by striking subsection (f).

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable periods beginning after the date of the enactment of this Act.

(2) SUBSECTION (b).—The amendment made by subsection (b) shall take effect on October 1, 2005.

SEC. 5266. DEDICATION OF REVENUES FROM CERTAIN PENALTIES TO THE HIGHWAY TRUST FUND.

(a) IN GENERAL.—Subsection (b) of section 9503 (relating to transfer to Highway Trust Fund of amounts equivalent to certain taxes), as amended by section 5101 of this Act, is amended by redesignating paragraph (5) as paragraph (6) and inserting after paragraph (4) the following new paragraph:

''(5) CERTAIN PENALTIES.—There are hereby appropriated to the Highway Trust Fund amounts equivalent to the penalties assessed under sections 6715, 6715A, 6717, 6718, 6719, 6720, 6725, 7232, and 7272 (but only with regard to penalties under such section related to failure to register under section 4101).''.

(b) CONFORMING AMENDMENTS.—

(1) The heading of subsection (b) of section 9503 is amended by inserting ''AND PENALTIES'' after ''TAXES''.

(2) The heading of paragraph (1) of section 9503(b) is amended by striking ''IN GENERAL'' and inserting ''CERTAIN TAXES''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to penalties assessed after October 1, 2004.

SEC. 5267. NONAPPLICATION OF EXPORT EXEMPTION TO DELIVERY OF FUEL TO MOTOR VEHICLES REMOVED FROM UNITED STATES.

(a) IN GENERAL.—Section 4221(d)(2) (defining export) is amended by adding at the end the following new sentence: ''Such term does not include the delivery of a taxable fuel (as defined in section 4083(a)(1)) into a fuel tank of a motor vehicle which is shipped or driven out of the United States.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 4041(g) (relating to other exemptions) is amended by adding at the end the following new sentence: ''Paragraph (3) shall not apply to the sale for delivery of a liquid into a fuel tank of a motor vehicle which is shipped or driven out of the United States.''.

(2) Clause (iv) of section 4081(a)(1)(A) (relating to tax on removal, entry, or sale) is amended by inserting ''or at a duty-free sales enterprise (as defined in section 555(b)(8) of the Tariff Act of 1930)'' after ''section 4101''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales or deliveries made after the date of the enactment of this Act.

PART VII—TOTAL ACCOUNTABILITY

SEC. 5271. TOTAL ACCOUNTABILITY.

(a) TAXATION OF REPORTABLE LIQUIDS.—

(1) IN GENERAL.—Section 4081(a), as amended by this Act, is amended—

(A) by inserting ''or reportable liquid'' after ''taxable fuel'' each place it appears, and

(B) by inserting ''such liquid'' after ''such fuel'' in paragraph (1)(A)(iv).

(2) RATE OF TAX.—Subparagraph (A) of section 4081(a)(2), as amended by section 5211 of this Act, is amended by striking ''and'' at the end of clause (iii), by striking the period at the end of clause (iv) and inserting '', and'', and by adding at the end the following new clause:

''(v) in the case of reportable liquids, the rate determined under section 4083(c)(2).''.

(3) EXEMPTION.—Section 4081(a)(1) is amended by adding at the end the following new subparagraph:

''(C) EXEMPTION FOR REGISTERED TRANSFERS OF REPORTABLE LIQUIDS.—The tax imposed by this paragraph shall not apply to any removal, entry, or sale of a reportable liquid if—

''(i) such removal, entry, or sale is to a registered person who certifies that such liquid will not be used as a fuel or in the production of a fuel, or

''(ii) the sale is to the ultimate purchaser of such liquid.''.

(4) REPORTABLE LIQUIDS.—Section 4083, as amended by this Act, is amended by redesignating subsections (c) and (d) (as redesignated by section 5211 of this Act) as subsections (d) and (e), respectively, and by inserting after subsection (b) the following new section:

''(c) REPORTABLE LIQUID.—For purposes of this subpart—

''(1) IN GENERAL.—The term 'reportable liquid' means any petroleum-based liquid other than a taxable fuel.

''(2) TAXATION.—

''(A) GASOLINE BLEND STOCKS AND ADDITIVES.—Gasoline blend stocks and additives which are reportable liquids (as defined in paragraph (1)) shall be subject to the rate of tax under clause (i) of section 4081(a)(2)(A).

''(B) OTHER REPORTABLE LIQUIDS.—Any reportable liquid (as defined in paragraph (1)) not described in subparagraph (A) shall be subject to the rate of tax under clause (iii) of section 4081(a)(2)(A).''.

(5) CONFORMING AMENDMENTS.—

(A) Section 4081(e) is amended by inserting ''or reportable liquid'' after ''taxable fuel''.

(B) Section 4083(d) (relating to certain use defined as removal), as redesignated by paragraph (4), is amended by inserting ''or reportable liquid'' after ''taxable fuel''.

(C) Section 4083(e)(1) (relating to administrative authority), as redesignated by paragraph (4), is amended—

(i) in subparagraph (A)—

(I) by inserting ''or reportable liquid'' after ''taxable fuel'', and

(II) by inserting ''or such liquid'' after ''such fuel'' each place it appears, and

(ii) in subparagraph (B), by inserting ''or any reportable liquid'' after ''any taxable fuel''.

(D) Section 4101(a)(2), as added by section 5243 of this Act, is amended by inserting ''or a reportable liquid'' after ''taxable fuel''.

(E) Section 4101(a)(3), as added by section 5242 of this Act and redesignated by section 5243 of this Act, is amended by inserting ''or any reportable liquid'' before the period at the end.

(F) Section 4102 is amended by inserting ''or any reportable liquid'' before the period at the end.

(G)(i) Section 6718, as added by section 5241 of this Act, is amended—

(I) in subsection (a), by inserting ''or any reportable liquid (as defined in section 4083(c)(1))'' after '' section 4083(a)(1))'', and

(II) in the heading, by inserting ''or reportable liquids'' after ''taxable fuel''.

(ii) The item relating to section 6718 in table of sections for part I of subchapter B of chapter 68, as added by section 5241 of this Act, is amended by inserting ''or reportable liquids'' after ''taxable fuels''.

(H) Section 6427(h) is amended to read as follows:

''(h) GASOLINE BLEND STOCKS OR ADDITIVES AND REPORTABLE LIQUIDS.—Except as provided in subsection (k)—

''(1) if any gasoline blend stock or additive (within the meaning of section 4083(a)(2)) is not used by any person to produce gasoline and such person establishes that the ultimate use of such gasoline blend stock or additive is not to produce gasoline, or

''(2) if any reportable liquid (within the meaning of section 4083(c)(1)) is not used by any person to produce a taxable fuel and such person establishes that the ultimate use of such reportable liquid is not to produce a taxable fuel,

then the Secretary shall pay (without interest) to such person an amount equal to the aggregate amount of the tax imposed on such person with respect to such gasoline blend stock or additive or such reportable fuel.''.

(I) Section 7232, as amended by this Act, is amended by inserting ''or reportable liquid (within the meaning of section 4083(c)(1))'' after ''section 4083)''.

(J) Section 343 of the Trade Act of 2002, as amended by section 5252 of this Act, is amended by inserting ''and reportable liquids (as defined in section 4083(c)(1) of such Code)'' after ''Internal Revenue Code of 1986)''.

(b) DYED DIESEL.—Section 4082(a) is amended by striking ''and'' at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting ''and'', and by inserting after paragraph (3) the following new paragraph:

''(4) which is removed, entered, or sold by a person registered under section 4101.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to reportable liquids (as defined in section 4083(c) of the Internal Revenue Code) and fuel sold or used after September 30, 2004.

SEC. 5272. EXCISE TAX REPORTING.

(a) IN GENERAL.—Part II of subchapter A of chapter 61 is amended by adding at the end the following new subpart:

''SUBPART E—EXCISE TAX REPORTING

''SEC. 6025. RETURNS RELATING TO FUEL TAXES.

''(a) IN GENERAL.—The Secretary shall require any person liable for the tax imposed under Part III of subchapter A of chapter 32 to file a return of such tax on a monthly basis.

''(b) INFORMATION INCLUDED WITH RETURN.—The Secretary shall require any person filing a return under subsection (a) to provide information regarding any refined product (whether or not such product is taxable under this title) removed from a terminal during the period for which such return applies.''.

(b) CONFORMING AMENDMENT.—The table of parts for subchapter A of chapter 61 is amended by adding at the end the following new item:

''Subpart E—Excise Tax Reporting''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel sold or used after September 30, 2004.

SEC. 5273. INFORMATION REPORTING.

(a) IN GENERAL.—Section 4101(d) is amended by adding at the end the following new flush sentence:

''The Secretary shall require reporting under the previous sentence with respect to taxable fuels removed, entered, or transferred from any refinery, pipeline, or vessel which is registered under this section.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply on October 1, 2004.

SA 2316. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Strike title V and insert the following:

TITLE V—HIGHWAY REAUTHORIZATION AND EXCISE TAX SIMPLIFICATION

SEC. 5000. SHORT TITLE; AMENDMENT OF 1986 CODE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the ''Highway Reauthorization and Excise Tax Simplification Act of 2004''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—The table of contents for this title is as follows:

TITLE V—HIGHWAY REAUTHORIZATION AND EXCISE TAX SIMPLIFICATION

Sec. 5000. Short title; amendment of 1986 code; table of contents.

Subtitle A—Trust Fund Reauthorization

Sec. 5001. Extension of Highway Trust Fund and Aquatic Resources Trust Fund expenditure authority and related taxes.
Sec. 5002. Full accounting of funds received by the Highway Trust Fund.
Sec. 5003. Modification of adjustments of apportionments.

Subtitle B—Biodiesel Income Tax Credit

Sec. 5101. Biodiesel income tax credit.

Subtitle C—Fuel Fraud Prevention

Sec. 5200. Short title.

PART I—AVIATION JET FUEL

Sec. 5211. Taxation of aviation-grade kerosene.
Sec. 5212. Transfer of certain amounts from the Airport and Airway Trust Fund to the Highway Trust Fund to reflect highway use of jet fuel.

PART II—DYED FUEL

Sec. 5221. Dye injection equipment.
Sec. 5222. Elimination of administrative review for taxable use of dyed fuel.
Sec. 5223. Penalty on untaxed chemically altered dyed fuel mixtures.
Sec. 5224. Termination of dyed diesel use by intercity buses.

PART III—MODIFICATION OF INSPECTION OF RECORDS PROVISIONS

Sec. 5231. Authority to inspect on-site records.
Sec. 5232. Assessable penalty for refusal of entry.

PART IV—REGISTRATION AND REPORTING REQUIREMENTS

Sec. 5241. Registration of pipeline or vessel operators required for exemption of bulk transfers to registered terminals or refineries.
Sec. 5242. Display of registration.
Sec. 5243. Registration of persons within foreign trade zones.
Sec. 5244. Penalties for failure to register and failure to report.
Sec. 5245. Information reporting for persons claiming certain tax benefits.

PART V—IMPORTS

Sec. 5251. Tax at point of entry where importer not registered.
Sec. 5252. Reconciliation of on-loaded cargo to entered cargo.

PART VI—MISCELLANEOUS PROVISIONS

Sec. 5261. Tax on sale of diesel fuel whether suitable for use or not in a diesel-powered vehicle or train.
Sec. 5262. Modification of ultimate vendor refund claims with respect to farming.
Sec. 5263. Taxable fuel refunds for certain ultimate vendors.
Sec. 5264. Two-party exchanges.
Sec. 5265. Modifications of tax on use of certain vehicles.
Sec. 5266. Dedication of revenues from certain penalties to the Highway Trust Fund.
Sec. 5267. Nonapplication of export exemption to delivery of fuel to motor vehicles removed from United States.

PART VII—TOTAL ACCOUNTABILITY

Sec. 5271. Total accountability.
Sec. 5272. Excise tax reporting.
Sec. 5273. Information reporting.

Subtitle D—Definition of Highway Vehicle

Sec. 5301. Exemption from certain excise taxes for mobile machinery.
Sec. 5302. Modification of definition of off-highway vehicle.

Subtitle E—Excise Tax Reform and Simplification

PART I—HIGHWAY EXCISE TAXES

Sec. 5401. Dedication of gas guzzler tax to Highway Trust Fund.
Sec. 5402. Repeal certain excise taxes on rail diesel fuel and inland waterway barge fuels.

PART II—AQUATIC EXCISE TAXES

Sec. 5411. Elimination of Aquatic Resources Trust Fund and transformation of Sport Fish Restoration Account.
Sec. 5412. Exemption of LED devices from sonar devices suitable for finding fish.
Sec. 5413. Repeal of harbor maintenance tax on exports.
Sec. 5414. Cap on excise tax on certain fishing equipment.
Sec. 5415. Reduction in rate of tax on portable aerated bait containers.

PART III—AERIAL EXCISE TAXES

Sec. 5421. Clarification of excise tax exemptions for agricultural aerial applicators and exemption for fixed-wing aircraft engaged in forestry operations.
Sec. 5422. Modification of rural airport definition.
Sec. 5423. Exemption from ticket taxes for transportation provided by seaplanes.
Sec. 5424. Certain sightseeing flights exempt from taxes on air transportation.

PART IV—ALCOHOLIC BEVERAGE EXCISE TAXES

Sec. 5431. Repeal of special occupational taxes on producers and marketers of alcoholic beverages.
Sec. 5432. Suspension of limitation on rate of rum excise tax cover over to Puerto Rico and Virgin Islands.

PART V—SPORT EXCISE TAXES

Sec. 5441. Custom gunsmiths.

Sec. 5442. Modified taxation of imported archery products.
Sec. 5443. Treatment of tribal governments for purposes of Federal wagering excise and occupational taxes.
PART VI—OTHER PROVISIONS
Sec. 5451. Income tax credit for distilled spirits wholesalers and for distilled spirits in control State bailment warehouses for costs of carrying Federal excise taxes on bottled distilled spirits.
Sec. 5452. Credit for taxpayers owning commercial power takeoff vehicles.
Sec. 5453. Credit for auxiliary power units installed on diesel-powered trucks.
Subtitle F—Miscellaneous Provisions
Sec. 5501. Motor Fuel Tax Enforcement Advisory Commission.
Sec. 5502. National Surface Transportation Infrastructure Financing Commission.
Sec. 5503. Treasury study of fuel tax compliance and interagency cooperation.
Sec. 5504. Expansion of Highway Trust Fund expenditure purposes to include funding for studies of supplemental or alternative financing for the Highway Trust Fund.
Sec. 5505. Treasury study of highway fuels used by trucks for non-transportation purposes.
Sec. 5506. Delta regional transportation plan.
Sec. 5507. Treatment of employer-provided transit and van pooling benefits.
Sec. 5508. Study of incentives for production of biodiesel.
Sec. 5509. Reduction of expenditures from the Highway Trust Fund.
Subtitle G—Revenue Offsets
PART I—LIMITATION ON EXPENSING CERTAIN PASSENGERS AUTOMOBILES
Sec. 5601. Expansion of limitation on depreciation of certain passenger automobiles.
PART II—PROVISION TO REPLENISH THE GENERAL FUND
Sec. 5611. Modification to corporate estimated tax requirements.

Subtitle A—Trust Fund Reauthorization

SEC. 5001. EXTENSION OF HIGHWAY TRUST FUND AND AQUATIC RESOURCES TRUST FUND EXPENDITURE AUTHORITY AND RELATED TAXES.

(a) HIGHWAY TRUST FUND EXPENDITURE AUTHORITY.—

(1) HIGHWAY ACCOUNT.—Paragraph (1) of section 9503(c) (relating to transfers from Highway Trust Fund for certain repayments and credits) is amended—

(A) in the matter before subparagraph (A), by striking ''March 1, 2004'' and inserting ''October 1, 2009'',

(B) by striking ''or'' at the end of subparagraph (E),

(C) by striking the period at the end of subparagraph (F) and inserting '', or'',

(D) by inserting after subparagraph (F), the following new subparagraph:

''(G) authorized to be paid out of the Highway Trust Fund under the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004.'', and

(E) in the matter after subparagraph (G), as added by subparagraph (D), by striking ''Surface Transportation Extension Act of 2003'' and inserting ''Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004''.

(2) MASS TRANSIT ACCOUNT.—Paragraph (3) of section 9503(e) (relating to establishment of Mass Transit Account) is amended—

(A) in the matter before subparagraph (A), by striking ''March 1, 2004'' and inserting ''October 1, 2009'',

(B) by striking ''or'' at the end of subparagraph (C),

(C) by striking the period at the end of subparagraph (D) and inserting '', or'',

(D) by inserting after subparagraph (D), the following new subparagraph:

''(E) the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004,'', and

(E) in the matter after subparagraph (E), as added by subparagraph (D), by striking ''Surface Transportation Extension Act of 2003'' and inserting ''Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004''.

(3) EXCEPTION TO LIMITATION ON TRANSFERS.—Subparagraph (B) of section 9503(b)(5) (relating to limitation on transfers to Highway Trust Fund) is amended by striking ''March 1, 2004'' and inserting ''October 1, 2009''.

(b) AQUATIC RESOURCES TRUST FUND EXPENDITURE AUTHORITY.—

(1) SPORT FISH RESTORATION ACCOUNT.—Paragraph (2) of section 9504(b) (relating to Sport Fish Restoration Account) is amended by striking ''Surface Transportation Extension Act of 2003'' each place it appears and inserting ''Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004''.

(2) BOAT SAFETY ACCOUNT.—Section 9504(c) (relating to expenditures from Boat Safety Account) is amended—

(A) by striking ''March 1, 2004'' and inserting ''October 1, 2009'', and

(B) by striking ''Surface Transportation Extension Act of 2003'' and inserting ''Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004''.

(3) EXCEPTION TO LIMITATION ON TRANSFERS.—Paragraph (2) of section 9504(d) (relating to limitation on transfers to Aquatic Resources Trust Fund) is amended by striking ''March 1, 2004'' and inserting ''October 1, 2009''.

(4) TECHNICAL CORRECTION.—The last sentence of paragraph (2) of section 9504(b) is amended by striking ''subparagraph (B)'', and inserting ''subparagraph (C)''.

(c) EXTENSION OF TAXES.—

(1) IN GENERAL.—The following provisions are each amended by striking ''2005'' each place it appears and inserting ''2009'':

(A) Section 4041(a)(1)(C)(iii)(I) (relating to rate of tax on certain buses).

(B) Section 4041(a)(2)(B) (relating to rate of tax on special motor fuels).

(C) Section 4041(m)(1)(A) (relating to certain alcohol fuels produced from natural gas).

(D) Section 4051(c) (relating to termination of tax on heavy trucks and trailers).

(E) Section 4071(d) (relating to termination of tax on tires).

(F) Section 4081(d)(1) (relating to termination of tax on gasoline, diesel fuel, and kerosene).

(G) Section 4481(e) (relating to period tax in effect).

(H) Section 4482(c)(4) (relating to taxable period).

(I) Section 4482(d) (relating to special rule for taxable period in which termination date occurs).

(2) FLOOR STOCKS REFUNDS.—Section 6412(a)(1) (relating to floor stocks refunds) is amended—

(A) by striking ''2005'' each place it appears and inserting ''2009'', and

(B) by striking ''2006'' each place it appears and inserting ''2010''.

(d) EXTENSION OF CERTAIN EXEMPTIONS.—The following provisions are each amended by striking ''2005'' and inserting ''2009'':

(1) Section 4221(a) (relating to certain tax-free sales).

(2) Section 4483(g) (relating to termination of exemptions for highway use tax).

(e) EXTENSION OF DEPOSITS INTO, AND CERTAIN TRANSFERS FROM, TRUST FUND.—

(1) IN GENERAL.—Subsections (b), (c)(2), (c)(3), (c)(4)(A)(i), and (c)(5)(A) of section 9503 (relating to the Highway Trust Fund) are amended—

(A) by striking ''2005'' each place it appears and inserting ''2009'', and

(B) by striking ''2006'' each place it appears and inserting ''2010''.

(2) CONFORMING AMENDMENTS TO LAND AND WATER CONSERVATION FUND.—Section 201(b) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–11(b)) is amended—

(A) by striking ''2003'' and inserting ''2007'', and

(B) by striking ''2004'' each place it appears and inserting ''2008''.

(f) EXTENSION OF TAX BENEFITS FOR QUALIFIED METHANOL AND ETHANOL FUEL PRODUCED FROM COAL.—Section 4041(b)(2) (relating to qualified methanol and ethanol fuel) is amended—

(1) by striking ''2007'' in subparagraph (C)(ii) and inserting ''2010'', and

(2) by striking ''October 1, 2007'' in subparagraph (D) and inserting ''January 1, 2011''.

(g) PROHIBITION ON USE OF HIGHWAY ACCOUNT FOR RAIL PROJECTS.—Section 9503(c) (relating to transfers from Highway Trust Fund for certain repayments and credits) is amended by adding at the end the following new paragraph:

''(6) PROHIBITION ON USE OF HIGHWAY ACCOUNT FOR RAIL PROJECTS.—With respect to projects beginning after the date of the enactment of this paragraph, no amount shall be available from the Highway Account (as defined in subsection (e)(5)(B)) for any rail project.''.

(h) HIGHWAY TRUST FUND EXPENDITURES FOR HIGHWAY USE TAX EVASION PROJECTS.—From amounts available in the Highway Trust Fund, there is authorized to be expended such sums as are necessary for highway use tax evasion projects.

(i) EFFECTIVE DATE.—The amendments made by and provisions of this section shall take effect on the date of the enactment of this Act.

SEC. 5002. FULL ACCOUNTING OF FUNDS RECEIVED BY THE HIGHWAY TRUST FUND.

(a) IN GENERAL.—Section 9503(c) (relating to transfers from Highway Trust Fund for certain repayments and credits), as amended by section 5001 of this Act, is amended by striking paragraph (2) and redesignating paragraphs (3), (4), (5), and (6) as paragraphs (2), (3), (4), and (5), respectively.

(b) INTEREST ON UNEXPENDED BALANCES CREDITED TO TRUST FUND.—Section 9503 (relating to the Highway Trust Fund) is amended by striking subsection (f).

(c) CONFORMING AMENDMENTS.—

(1) Section 9503(b)(4)(D) is amended by striking ''paragraph (4)(D) or (5)(B)'' and inserting ''paragraph (3)(D) or (4)(B)''.

(2) Paragraph (2) of section 9503(c) (as redesignated by subsection (a)) is amended by adding at the end the following new sentence: ''The amounts payable from the Highway Trust Fund under this paragraph shall be determined by taking into account only the portion of the taxes which are deposited into the Highway Trust Fund.''.

(3) Section 9504(a)(2) is amended by striking ''section 9503(c)(4), section 9503(c)(5)'' and inserting ''section 9503(c)(3), section 9503(c)(4)''.

(4) Paragraph (2) of section 9504(b), as amended by section 5001 of this Act, is amended by striking ''section 9503(c)(5)'' and inserting ''section 9503(c)(4)''.

(5) Section 9504(e) is amended by striking ''section 9503(c)(4)'' and inserting ''section 9503(c)(3)''.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to amounts paid for which no transfer from the Highway Trust Fund has been made before April 1, 2004.

(2) INTEREST CREDITED.—The amendment made by subsection (b) shall take effect on the date of the enactment of this Act.

SEC. 5003. MODIFICATION OF ADJUSTMENTS OF APPORTIONMENTS.

(a) IN GENERAL.—Section 9503(d) (relating to adjustments for apportionments) is amended—

(1) by striking ''24-month'' in paragraph (1)(B) and inserting ''48-month'', and

(2) by striking ''2 YEARS''' in the heading for paragraph (3) and inserting ''4 YEARS'''.

(b) MEASUREMENT OF NET HIGHWAY RECEIPTS.—Section 9503(d) is amended by redesignating paragraph (6) as paragraph (7) and by inserting after paragraph (5) the following new paragraph:

''(6) MEASUREMENT OF NET HIGHWAY RECEIPTS.—For purposes of making any estimate under paragraph (1) of net highway receipts for periods ending after the date specified in subsection (b)(1), the Secretary shall treat—

''(A) each expiring provision of subsection (b) which is related to appropriations or transfers to the Highway Trust Fund to have been extended through the end of the 48-month period referred to in paragraph (1)(B), and

''(B) with respect to each tax imposed under the sections referred to in subsection (b)(1), the rate of such tax during the 48-month period referred to in paragraph (1)(B) to be the same as the rate of such tax as in effect on the date of such estimate.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

Subtitle B—Biodiesel Income Tax Credit

SEC. 5101. BIODIESEL INCOME TAX CREDIT.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by inserting after section 40 the following new section:

''SEC. 40A. BIODIESEL USED AS FUEL.

''(a) GENERAL RULE.—For purposes of section 38, the biodiesel fuels credit determined under this section for the taxable year is an amount equal to the sum of—

''(1) the biodiesel mixture credit, plus

''(2) the biodiesel credit.

''(b) DEFINITION OF BIODIESEL MIXTURE CREDIT AND BIODIESEL CREDIT.—For purposes of this section—

''(1) BIODIESEL MIXTURE CREDIT.—

''(A) IN GENERAL.—The biodiesel mixture credit of any taxpayer for any taxable year is 50 cents for each gallon of biodiesel used by the taxpayer in the production of a qualified biodiesel mixture.

''(B) QUALIFIED BIODIESEL MIXTURE.—The term 'qualified biodiesel mixture' means a mixture of biodiesel and diesel fuel (as defined in section 4083(a)(3)), determined without regard to any use of kerosene, which—

''(i) is sold by the taxpayer producing such mixture to any person for use as a fuel, or

''(ii) is used as a fuel by the taxpayer producing such mixture.

''(C) SALE OR USE MUST BE IN TRADE OR BUSINESS, ETC.—Biodiesel used in the production of a qualified biodiesel mixture shall be taken into account—

''(i) only if the sale or use described in subparagraph (B) is in a trade or business of the taxpayer, and

''(ii) for the taxable year in which such sale or use occurs.

''(D) CASUAL OFF-FARM PRODUCTION NOT ELIGIBLE.—No credit shall be allowed under this section with respect to any casual off-farm production of a qualified biodiesel mixture.

''(2) BIODIESEL CREDIT.—

''(A) IN GENERAL.—The biodiesel credit of any taxpayer for any taxable year is 50 cents for each gallon of biodiesel which is not in a mixture with diesel fuel and which during the taxable year—

''(i) is used by the taxpayer as a fuel in a trade or business, or

''(ii) is sold by the taxpayer at retail to a person and placed in the fuel tank of such person's vehicle.

''(B) USER CREDIT NOT TO APPLY TO BIODIESEL SOLD AT RETAIL.—No credit shall be allowed under subparagraph (A)(i) with respect to any biodiesel which was sold in a retail sale described in subparagraph (A)(ii).

''(3) CREDIT FOR AGRI-BIODIESEL.—In the case of any biodiesel which is agri-biodiesel, paragraphs (1)(A) and (2)(A) shall be applied by substituting '$1.00' for '50 cents'.

''(4) CERTIFICATION FOR BIODIESEL.—No credit shall be allowed under this section unless the taxpayer obtains a certification (in such form and manner as prescribed by the Secretary) from the producer or importer of the biodiesel which identifies the product produced and the percentage of biodiesel and agri-biodiesel in the product.

''(c) COORDINATION WITH CREDIT AGAINST EXCISE TAX.—The amount of the credit determined under this section with respect to any biodiesel shall be properly reduced to take into account any benefit provided with respect to such biodiesel solely by reason of the application of section 6426 or 6427(e).

''(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) BIODIESEL.—The term 'biodiesel' means the monoalkyl esters of long chain fatty acids derived from plant or animal matter which meet—

''(A) the registration requirements for fuels and fuel additives established by the Environmental Protection Agency under section 211 of the Clean Air Act (42 U.S.C. 7545), and

''(B) the requirements of the American Society of Testing and Materials D6751.

''(2) AGRI-BIODIESEL.—The term 'agri-biodiesel' means biodiesel derived solely from virgin oils, including esters derived from virgin vegetable oils from corn, soybeans, sunflower seeds, cottonseeds, canola, crambe, rapeseeds, safflowers, flaxseeds, rice bran, and mustard seeds, and from animal fats.

''(3) MIXTURE OR BIODIESEL NOT USED AS A FUEL, ETC.—

''(A) MIXTURES.—If—

''(i) any credit was determined under this section with respect to biodiesel used in the production of any qualified biodiesel mixture, and

''(ii) any person—

''(I) separates the biodiesel from the mixture, or

''(II) without separation, uses the mixture other than as a fuel,

then there is hereby imposed on such person a tax equal to the product of the rate applicable under subsection (b)(1)(A) and the number of gallons of such biodiesel in such mixture.

''(B) BIODIESEL.—If—

''(i) any credit was determined under this section with respect to the retail sale of any biodiesel, and

''(ii) any person mixes such biodiesel or uses such biodiesel other than as a fuel,

then there is hereby imposed on such person a tax equal to the product of the rate applicable under subsection (b)(2)(A) and the number of gallons of such biodiesel.

''(C) APPLICABLE LAWS.—All provisions of law, including penalties, shall, insofar as applicable and not inconsistent with this section, apply in respect of any tax imposed under subparagraph (A) or (B) as if such tax were imposed by section 4081 and not by this chapter.

''(4) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

''(e) TERMINATION.—This section shall not apply to any sale or use after December 31, 2006.''.

(b) CREDIT TREATED AS PART OF GENERAL BUSINESS CREDIT.—Section 38(b) (relating to current year business credit) is amended by striking ''plus'' at the end of paragraph (14), by striking the period at the end of paragraph (15) and inserting '', plus'', and by adding at the end the following new paragraph:

''(16) the biodiesel fuels credit determined under section 40A(a).''.

(c) CONFORMING AMENDMENTS.—

(1) Section 39(d) is amended by adding at the end the following new paragraph:

''(11) NO CARRYBACK OF BIODIESEL FUELS CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the biodiesel fuels credit determined under section 40A may be carried back to a taxable year ending on or before September 30, 2004.''.

(2)(A) Section 87 is amended to read as follows:

''SEC. 87. ALCOHOL AND BIODIESEL FUELS CREDITS.

''Gross income includes—

''(1) the amount of the alcohol fuels credit determined with respect to the taxpayer for the taxable year under section 40(a), and

''(2) the biodiesel fuels credit determined with respect to the taxpayer for the taxable year under section 40A(a).''.

(B) The item relating to section 87 in the table of sections for part II of subchapter B of chapter 1 is amended by striking ''fuel credit'' and inserting ''and biodiesel fuels credits''.

(3) Section 196(c) is amended by striking ''and'' at the end of paragraph (9), by striking the period at the end of paragraph (10) and inserting '', and'', and by adding at the end the following new paragraph:

''(11) the biodiesel fuels credit determined under section 40A(a).''.

(4) The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding after the item relating to section 40 the following new item:

''Sec. 40A. Biodiesel used as fuel.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel produced, and sold or used, after September 30, 2004, in taxable years ending after such date.

Subtitle C—Fuel Fraud Prevention

SEC. 5200. SHORT TITLE.

This subtitle may be cited as the ''Fuel Fraud Prevention Act of 2004''.

PART I—AVIATION JET FUEL

SEC. 5211. TAXATION OF AVIATION-GRADE KEROSENE.

(a) RATE OF TAX.—

(1) IN GENERAL.—Subparagraph (A) of section 4081(a)(2) is amended by striking ''and'' at the end of clause (ii), by striking the period at the end of clause (iii) and inserting '', and'', and by adding at the end the following new clause:

''(iv) in the case of aviation-grade kerosene, 21.8 cents per gallon.''.

(2) COMMERCIAL AVIATION.—Paragraph (2) of section 4081(a) is amended by adding at the end the following new subparagraph:

''(C) TAXES IMPOSED ON FUEL USED IN COMMERCIAL AVIATION.—In the case of aviation-grade kerosene which is removed from any refinery or terminal directly into the fuel

tank of an aircraft for use in commercial aviation, the rate of tax under subparagraph (A)(iv) shall be 4.3 cents per gallon.''.

(3) NONTAXABLE USES.—

(A) IN GENERAL.—Section 4082 is amended by redesignating subsections (e) and (f) as subsections (f) and (g), respectively, and by inserting after subsection (d) the following new subsection:

''(e) AVIATION-GRADE KEROSENE.—In the case of aviation-grade kerosene which is exempt from the tax imposed by section 4041(c) (other than by reason of a prior imposition of tax) and which is removed from any refinery or terminal directly into the fuel tank of an aircraft, the rate of tax under section 4081(a)(2)(A)(iv) shall be zero.''.

(B) CONFORMING AMENDMENTS.—

(i) Subsection (b) of section 4082 is amended by adding at the end the following new flush sentence: ''The term 'nontaxable use' does not include the use of aviation-grade kerosene in an aircraft.''.

(ii) Section 4082(d) is amended by striking paragraph (1) and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(4) NONAIRCRAFT USE OF AVIATION-GRADE KEROSENE.—

(A) IN GENERAL.—Subparagraph (B) of section 4041(a)(1) is amended by adding at the end the following new sentence: ''This subparagraph shall not apply to aviation-grade kerosene.''.

(B) CONFORMING AMENDMENT.—The heading for paragraph (1) of section 4041(a) is amended by inserting ''AND KEROSENE'' after ''DIESEL FUEL''.

(b) COMMERCIAL AVIATION.—Section 4083 is amended redesignating subsections (b) and (c) as subsections (c) and (d), respectively, and by inserting after subsection (a) the following new subsection:

''(b) COMMERCIAL AVIATION.—For purposes of this subpart, the term 'commercial aviation' means any use of an aircraft in a business of transporting persons or property for compensation or hire by air, unless properly allocable to any transportation exempt from the taxes imposed by section 4261 and 4271 by reason of section 4281 or 4282 or by reason of section 4261(h).''.

(c) REFUNDS.—

(1) IN GENERAL.—Paragraph (4) of section 6427(l) is amended to read as follows:

''(4) REFUNDS FOR AVIATION-GRADE KEROSENE.—

''(A) NO REFUND OF CERTAIN TAXES ON FUEL USED IN COMMERCIAL AVIATION.—In the case of aviation-grade kerosene used in commercial aviation (as defined in section 4083(b)) (other than supplies for vessels or aircraft within the meaning of section 4221(d)(3)), paragraph (1) shall not apply to so much of the tax imposed by section 4081 as is attributable to—

''(i) the Leaking Underground Storage Tank Trust Fund financing rate imposed by such section, and

''(ii) so much of the rate of tax specified in section 4081(a)(2)(A)(iv) as does not exceed 4.3 cents per gallon.

''(B) PAYMENT TO ULTIMATE, REGISTERED VENDOR.—With respect to aviation-grade kerosene, if the ultimate purchaser of such kerosene waives (at such time and in such form and manner as the Secretary shall prescribe) the right to payment under paragraph (1) and assigns such right to the ultimate vendor, then the Secretary shall pay the amount which would be paid under paragraph (1) to such ultimate vendor, but only if such ultimate vendor—

''(i) is registered under section 4101, and

''(ii) meets the requirements of subparagraph (A), (B), or (D) of section 6416(a)(1).''.

(2) TIME FOR FILING CLAIMS.—Paragraph (4) of section 6427(i) is amended by striking ''subsection (l)(5)'' and inserting ''paragraph (4)(B) or (5) of subsection (l)''.

(3) CONFORMING AMENDMENT.—Subparagraph (B) of section 6427(l)(2) is amended to read as follows:

''(B) in the case of aviation-grade kerosene—

''(i) any use which is exempt from the tax imposed by section 4041(c) other than by reason of a prior imposition of tax, or

''(ii) any use in commercial aviation (within the meaning of section 4083(b)).''.

(d) REPEAL OF PRIOR TAXATION OF AVIATION FUEL.—

(1) IN GENERAL.—Part III of subchapter A of chapter 32 is amended by striking subpart B and by redesignating subpart C as subpart B.

(2) CONFORMING AMENDMENTS.—

(A) Section 4041(c) is amended to read as follows:

''(c) AVIATION-GRADE KEROSENE.—

''(1) IN GENERAL.—There is hereby imposed a tax upon aviation-grade kerosene—

''(A) sold by any person to an owner, lessee, or other operator of an aircraft for use in such aircraft, or

''(B) used by any person in an aircraft unless there was a taxable sale of such fuel under subparagraph (A).

''(2) EXEMPTION FOR PREVIOUSLY TAXED FUEL.—No tax shall be imposed by this subsection on the sale or use of any aviation-grade kerosene if tax was imposed on such liquid under section 4081 and the tax thereon was not credited or refunded.

''(3) RATE OF TAX.—The rate of tax imposed by this subsection shall be the rate of tax specified in section 4081(a)(2)(A)(iv) which is in effect at the time of such sale or use.''.

(B) Section 4041(d)(2) is amended by striking ''section 4091'' and inserting ''section 4081''.

(C) Section 4041 is amended by striking subsection (e).

(D) Section 4041 is amended by striking subsection (i).

(E) Section 4041(m)(1) is amended to read as follows:

''(1) IN GENERAL.—In the case of the sale or use of any partially exempt methanol or ethanol fuel, the rate of the tax imposed by subsection (a)(2) shall be—

''(A) after September 30, 1997, and before September 30, 2009—

''(i) in the case of fuel none of the alcohol in which consists of ethanol, 9.15 cents per gallon, and

''(ii) in any other case, 11.3 cents per gallon, and

''(B) after September 30, 2009—

''(i) in the case of fuel none of the alcohol in which consists of ethanol, 2.15 cents per gallon, and

''(ii) in any other case, 4.3 cents per gallon.''.

(F) Sections 4101(a), 4103, 4221(a), and 6206 are each amended by striking '', 4081, or 4091'' and inserting ''or 4081''.

(G) Section 6416(b)(2) is amended by striking ''4091 or''.

(H) Section 6416(b)(3) is amended by striking ''or 4091'' each place it appears.

(I) Section 6416(d) is amended by striking ''or to the tax imposed by section 4091 in the case of refunds described in section 4091(d)''.

(J) Section 6427(j)(1) is amended by striking '', 4081, and 4091'' and inserting ''and 4081''.

(K)(i) Section 6427(l)(1) is amended to read as follows:

''(1) IN GENERAL.—Except as otherwise provided in this subsection and in subsection (k), if any diesel fuel or kerosene on which tax has been imposed by section 4041 or 4081 is used by any person in a nontaxable use, the Secretary shall pay (without interest) to the ultimate purchaser of such fuel an amount equal to the aggregate amount of tax imposed on such fuel under section 4041 or 4081, as the case may be, reduced by any refund paid to the ultimate vendor under paragraph (4)(B).''.

(ii) Paragraph (5)(B) of section 6427(l) is amended by striking ''Paragraph (1)(A) shall not apply to kerosene'' and inserting ''Paragraph (1) shall not apply to kerosene (other than aviation-grade kerosene)''.

(L) Subparagraph (B) of section 6724(d)(1) is amended by striking clause (xv) and by redesignating the succeeding clauses accordingly.

(M) Paragraph (2) of section 6724(d) is amended by striking subparagraph (W) and by redesignating the succeeding subparagraphs accordingly.

(N) Paragraph (1) of section 9502(b) is amended by adding ''and'' at the end of subparagraph (B) and by striking subparagraphs (C) and (D) and inserting the following new subparagraph:

''(C) section 4081 with respect to aviation gasoline and aviation-grade kerosene, and''.

(O) The last sentence of section 9502(b) is amended to read as follows:

''There shall not be taken into account under paragraph (1) so much of the taxes imposed by section 4081 as are determined at the rate specified in section 4081(a)(2)(B).''.

(P) Subsection (b) of section 9508 is amended by striking paragraph (3) and by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

(Q) Section 9508(c)(2)(A) is amended by striking ''sections 4081 and 4091'' and inserting ''section 4081''.

(R) The table of subparts for part III of subchapter A of chapter 32 is amended to read as follows:

''Subpart A. Motor and aviation fuels.

''Subpart B. Special provisions applicable to fuels tax.''.

(S) The heading for subpart A of part III of subchapter A of chapter 32 is amended to read as follows:

''Subpart A—Motor and Aviation Fuels''.

(T) The heading for subpart B of part III of subchapter A of chapter 32 is amended to read as follows:

''Subpart B—Special Provisions Applicable to Fuels Tax''.

(g) OTHER AMENDMENTS.—

(1) Section 4081(c) is amended by adding at the end the following new flush sentence:

''In the case of any taxable fuel which is aviation-grade keorsene, this subsection shall not apply and the rules of section 4091(c) (as in effect on the day before the date of the enactment of the Fuel Fraud Prevention Act of 2004) shall apply.''.

(2) For purposes of the Internal Revenue Code of 1986, any reference to section 4091(c) shall be treated as a reference to the rules of such section as in effect on the date before the date of the enactment of this Act.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to aviation-grade kerosene removed, entered, or sold after September 30, 2004.

(g) FLOOR STOCKS TAX.—

(1) IN GENERAL.—There is hereby imposed on aviation-grade kerosene held on October 1, 2004, by any person a tax equal to—

(A) the tax which would have been imposed before such date on such kerosene had the amendments made by this section been in effect at all times before such date, reduced by

(B) the tax imposed before such date under section 4091 of the Internal Revenue Code of 1986, as in effect on the day before the date of the enactment of this Act.

(2) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—The person holding the kerosene on October 1, 2004, to which the

tax imposed by paragraph (1) applies shall be liable for such tax.

(B) METHOD AND TIME FOR PAYMENT.—The tax imposed by paragraph (1) shall be paid at such time and in such manner as the Secretary of the Treasury shall prescribe, including the nonapplication of such tax on de minimis amounts of kerosene.

(3) TRANSFER OF FLOOR STOCK TAX REVENUES TO TRUST FUNDS.—For purposes of determining the amount transferred to any trust fund, the tax imposed by this subsection shall be treated as imposed by section 4081 of the Internal Revenue Code of 1986—

(A) at the Leaking Underground Storage Tank Trust Fund financing rate under such section to the extent of 0.1 cents per gallon, and

(B) at the rate under section 4081(a)(2)(A)(iv) to the extent of the remainder.

(4) HELD BY A PERSON.—For purposes of this section, kerosene shall be considered as held by a person if title thereto has passed to such person (whether or not delivery to the person has been made).

(5) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the tax imposed by section 4081 of such Code shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply with respect to the floor stock tax imposed by paragraph (1) to the same extent as if such tax were imposed by such section.

SEC. 5212. TRANSFER OF CERTAIN AMOUNTS FROM THE AIRPORT AND AIRWAY TRUST FUND TO THE HIGHWAY TRUST FUND TO REFLECT HIGHWAY USE OF JET FUEL.

(a) IN GENERAL.—Section 9502(d) is amended by adding at the end the following new paragraph:

''(7) TRANSFERS FROM THE TRUST FUND TO THE HIGHWAY TRUST FUND TO REFLECT HIGHWAY USE OF JET FUEL.—

''(A) IN GENERAL.—The Secretary shall pay from the Airport and Airway Trust Fund into the Highway Trust Fund—

''(i) $395,000,000 in fiscal year 2005,

''(ii) $425,000,000 in fiscal year 2006,

''(iii) $429,000,000 in fiscal year 2007,

''(iv) $432,000,000 in fiscal year 2008, and

''(v) $435,000,000 in fiscal year 2009.

''(B) AMOUNTS TRANSFERRED TO MASS TRANSIT ACCOUNT.—The Secretary shall transfer 11 percent of the amounts paid into the Highway Trust Fund under subparagraph (A) to the Mass Transit Account established under section 9503(e).''.

(b) CONFORMING AMENDMENTS.—

(1) Subsection (a) of section 9503 is amended—

(A) by striking ''appropriated or credited'' and inserting ''paid, appropriated, or credited'', and

(B) by striking ''or section 9602(b)'' and inserting '', section 9502(d)(7), or section 9602(b)''.

(2) Subsection (e)(1) of section 9503 is amended by striking ''or section 9602(b)'' and inserting '', section 9502(d)(7), or section 9602(b)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

PART II—DYED FUEL

SEC. 5221. DYE INJECTION EQUIPMENT.

(a) IN GENERAL.—Section 4082(a)(2) (relating to exemptions for diesel fuel and kerosene) is amended by inserting ''by mechanical injection'' after ''indelibly dyed''.

(b) DYE INJECTOR SECURITY.—Not later than June 30, 2004, the Secretary of the Treasury shall issue regulations regarding mechanical dye injection systems described in the amendment made by subsection (a), and such regulations shall include standards for making such systems tamper resistant.

(c) PENALTY FOR TAMPERING WITH OR FAILING TO MAINTAIN SECURITY REQUIREMENTS FOR MECHANICAL DYE INJECTION SYSTEMS.—

(1) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by adding after section 6715 the following new section:

''SEC. 6715A. TAMPERING WITH OR FAILING TO MAINTAIN SECURITY REQUIREMENTS FOR MECHANICAL DYE INJECTION SYSTEMS.

''(a) IMPOSITION OF PENALTY—

''(1) TAMPERING.—If any person tampers with a mechanical dye injection system used to indelibly dye fuel for purposes of section 4082, then such person shall pay a penalty in addition to the tax (if any).

''(2) FAILURE TO MAINTAIN SECURITY REQUIREMENTS.—If any operator of a mechanical dye injection system used to indelibly dye fuel for purposes of section 4082 fails to maintain the security standards for such system as established by the Secretary, then such operator shall pay a penalty.

''(b) AMOUNT OF PENALTY.—The amount of the penalty under subsection (a) shall be—

''(1) for each violation described in paragraph (1), the greater of—

''(A) $25,000, or

''(B) $10 for each gallon of fuel involved, and

''(2) for each—

''(A) failure to maintain security standards described in paragraph (2), $1,000, and

''(B) failure to correct a violation described in paragraph (2), $1,000 per day for each day after which such violation was discovered or such person should have reasonably known of such violation.

''(c) JOINT AND SEVERAL LIABILITY.—

''(1) IN GENERAL.—If a penalty is imposed under this section on any business entity, each officer, employee, or agent of such entity or other contracting party who willfully participated in any act giving rise to such penalty shall be jointly and severally liable with such entity for such penalty.

''(2) AFFILIATED GROUPS.—If a business entity described in paragraph (1) is part of an affiliated group (as defined in section 1504(a)), the parent corporation of such entity shall be jointly and severally liable with such entity for the penalty imposed under this section.''.

(2) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by adding after the item related to section 6715 the following new item:

''Sec. 6715A. Tampering with or failing to maintain security requirements for mechanical dye injection systems.''.

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (c) shall take effect 180 days after the date on which the Secretary issues the regulations described in subsection (b).

SEC. 5222. ELIMINATION OF ADMINISTRATIVE REVIEW FOR TAXABLE USE OF DYED FUEL.

(a) IN GENERAL.—Section 6715 is amended by inserting at the end the following new subsection:

''(e) NO ADMINISTRATIVE APPEAL FOR THIRD AND SUBSEQUENT VIOLATIONS.—In the case of any person who is found to be subject to the penalty under this section after a chemical analysis of such fuel and who has been penalized under this section at least twice after the date of the enactment of this subsection, no administrative appeal or review shall be allowed with respect to such finding except in the case of a claim regarding—

''(1) fraud or mistake in the chemical analysis, or

''(2) mathematical calculation of the amount of the penalty.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to penalties assessed after the date of the enactment of this Act.

SEC. 5223. PENALTY ON UNTAXED CHEMICALLY ALTERED DYED FUEL MIXTURES.

(a) IN GENERAL.—Section 6715(a) (relating to dyed fuel sold for use or used in taxable use, etc.) is amended by striking ''or'' in paragraph (2), by inserting ''or'' at the end of paragraph (3), and by inserting after paragraph (3) the following new paragraph:

''(4) any person who has knowledge that a dyed fuel which has been altered as described in paragraph (3) sells or holds for sale such fuel for any use which the person knows or has reason to know is not a nontaxable use of such fuel,''.

(b) CONFORMING AMENDMENT.—Section 6715(a)(3) is amended by striking ''alters, or attempts to alter,'' and inserting ''alters, chemically or otherwise, or attempts to so alter,''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 5224. TERMINATION OF DYED DIESEL USE BY INTERCITY BUSES.

(a) IN GENERAL.—Paragraph (3) of section 4082(b) (relating to nontaxable use) is amended to read as follows:

''(3) any use described in section 4041(a)(1)(C)(iii)(II).''.

(b) ULTIMATE VENDOR REFUND.—Subsection (b) of section 6427 is amended by adding at the end the following new paragraph:

''(4) REFUNDS FOR USE OF DIESEL FUEL IN CERTAIN INTERCITY BUSES.—

''(A) IN GENERAL.—With respect to any fuel to which paragraph (2)(A) applies, if the ultimate purchaser of such fuel waives (at such time and in such form and manner as the Secretary shall prescribe) the right to payment under paragraph (1) and assigns such right to the ultimate vendor, then the Secretary shall pay the amount which would be paid under paragraph (1) to such ultimate vendor, but only if such ultimate vendor—

''(i) is registered under section 4101, and

''(ii) meets the requirements of subparagraph (A), (B), or (D) of section 6416(a)(1).

''(B) CREDIT CARDS.—For purposes of this paragraph, if the sale of such fuel is made by means of a credit card, the person extending credit to the ultimate purchaser shall be deemed to be the ultimate vendor.''.

(c) PAYMENT OF REFUNDS.—Subparagraph (A) of section 6427(i)(4), as amended by section 5211 of this Act, is amended by inserting ''subsections (b)(4) and'' after ''filed under''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel sold after September 30, 2004.

PART III—MODIFICATION OF INSPECTION OF RECORDS PROVISIONS

SEC. 5231. AUTHORITY TO INSPECT ON-SITE RECORDS.

(a) IN GENERAL.—Section 4083(d)(1)(A) (relating to administrative authority), as amended by section 5211 of this Act, is amended by striking ''and'' at the end of clause (i) and by inserting after clause (ii) the following new clause:

''(iii) inspecting any books and records and any shipping papers pertaining to such fuel, and''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 5232. ASSESSABLE PENALTY FOR REFUSAL OF ENTRY.

(a) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties), as amended by section 5221 of this Act, is amended by adding at the end the following new section:

"SEC. 6717. REFUSAL OF ENTRY.

''(a) IN GENERAL.—In addition to any other penalty provided by law, any person who refuses to admit entry or refuses to permit any other action by the Secretary authorized by section 4083(d)(1) shall pay a penalty of $1,000 for such refusal.

''(b) JOINT AND SEVERAL LIABILITY.—

''(1) IN GENERAL.—If a penalty is imposed under this section on any business entity, each officer, employee, or agent of such entity or other contracting party who willfully participated in any act giving rise to such penalty shall be jointly and severally liable with such entity for such penalty.

''(2) AFFILIATED GROUPS.—If a business entity described in paragraph (1) is part of an affiliated group (as defined in section 1504(a)), the parent corporation of such entity shall be jointly and severally liable with such entity for the penalty imposed under this section.

''(c) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 4083(d)(3), as amended by section 5211 of this Act, is amended—

(A) by striking ''ENTRY.—The penalty'' and inserting: ''ENTRY.—

''(A) FORFEITURE.—The penalty'', and

(B) by adding at the end the following new subparagraph:

''(B) ASSESSABLE PENALTY.—For additional assessable penalty for the refusal to admit entry or other refusal to permit an action by the Secretary authorized by paragraph (1), see section 6717.''.

(2) The table of sections for part I of subchapter B of chapter 68, as amended by section 5221 of this Act, is amended by adding at the end the following new item:

''Sec. 6717. Refusal of entry.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

PART IV—REGISTRATION AND REPORTING REQUIREMENTS

SEC. 5241. REGISTRATION OF PIPELINE OR VESSEL OPERATORS REQUIRED FOR EXEMPTION OF BULK TRANSFERS TO REGISTERED TERMINALS OR REFINERIES.

(a) IN GENERAL.—Section 4081(a)(1)(B) (relating to exemption for bulk transfers to registered terminals or refineries) is amended—

(1) by inserting ''by pipeline or vessel'' after ''transferred in bulk'', and

(2) by inserting '', the operator of such pipeline or vessel,'' after ''the taxable fuel''.

(b) CIVIL PENALTY FOR CARRYING TAXABLE FUELS BY NONREGISTERED PIPELINES OR VESSELS.—

(1) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties), as amended by section 5232 of this Act, is amended by adding at the end the following new section:

"SEC. 6718. CARRYING TAXABLE FUELS BY NONREGISTERED PIPELINES OR VESSELS.

''(a) IMPOSITION OF PENALTY.—If any person knowingly transfers any taxable fuel (as defined in section 4083(a)(1)) in bulk pursuant to section 4081(a)(1)(B) to an unregistered, such person shall pay a penalty in addition to the tax (if any).

''(b) AMOUNT OF PENALTY.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the amount of the penalty under subsection (a) on each act shall be an amount equal to the greater of—

''(A) $10,000, or

''(B) $1 per gallon.

''(2) MULTIPLE VIOLATIONS.—In determining the penalty under subsection (a) on any person, paragraph (1) shall be applied by increasing the amount in paragraph (1) by the product of such amount and the number of prior penalties (if any) imposed by this section on such person (or a related person or any predecessor of such person or related person).

''(c) JOINT AND SEVERAL LIABILITY.—

''(1) IN GENERAL.—If a penalty is imposed under this section on any business entity, each officer, employee, or agent of such entity or other contracting party who willfully participated in any act giving rise to such penalty shall be jointly and severally liable with such entity for such penalty.

''(2) AFFILIATED GROUPS.—If a business entity described in paragraph (1) is part of an affiliated group (as defined in section 1504(a)), the parent corporation of such entity shall be jointly and severally liable with such entity for the penalty imposed under this section.

''(d) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.''.

(2) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68, as amended by section 5232 of this Act, is amended by adding at the end the following new item:

''Sec. 6718. Carrying taxable fuels by nonregistered pipelines or vessels.''.

(c) PUBLICATION OF REGISTERED PERSONS.—Not later than June 30, 2004, the Secretary of the Treasury shall publish a list of persons required to be registered under section 4101 of the Internal Revenue Code of 1986.

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on October 1, 2004.

SEC. 5242. DISPLAY OF REGISTRATION.

(a) IN GENERAL.—Subsection (a) of section 4101 (relating to registration) is amended—

(1) by striking ''Every'' and inserting the following:

''(1) IN GENERAL.—Every'', and

(2) by adding at the end the following new paragraph:

''(2) DISPLAY OF REGISTRATION.—Every operator of a vessel required by the Secretary to register under this section shall display proof of registration through an electronic identification device prescribed by the Secretary on each vessel used by such operator to transport any taxable fuel.''.

(b) CIVIL PENALTY FOR FAILURE TO DISPLAY REGISTRATION.—

(1) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties), as amended by section 5241 of this Act, is amended by adding at the end the following new section:

"SEC. 6719. FAILURE TO DISPLAY REGISTRATION OF VESSEL.

''(a) FAILURE TO DISPLAY REGISTRATION.—Every operator of a vessel who fails to display proof of registration pursuant to section 4101(a)(2) shall pay a penalty of $500 for each such failure. With respect to any vessel, only one penalty shall be imposed by this section during any calendar month.

''(b) MULTIPLE VIOLATIONS.—In determining the penalty under subsection (a) on any person, subsection (a) shall be applied by increasing the amount in subsection (a) by the product of such amount and the number of prior penalties (if any) imposed by this section on such person (or a related person or any predecessor of such person or related person).

''(c) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.''.

(2) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68, as amended by section 5241 of this Act, is amended by adding at the end the following new item:

''Sec. 6719. Failure to display registration of vessel.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

SEC. 5243. REGISTRATION OF PERSONS WITHIN FOREIGN TRADE ZONES, ETC..

(a) IN GENERAL.—Section 4101(a), as amended by section 5242 of this Act, is amended by redesignating paragraph (2) as paragraph (3), and by inserting after paragraph (1) the following new paragraph:

''(2) REGISTRATION OF PERSONS WITHIN FOREIGN TRADE ZONES, ETC..—The Secretary shall require registration by any person which—

''(A) operates a terminal or refinery within a foreign trade zone or within a customs bonded storage facility, or

''(B) holds an inventory position with respect to a taxable fuel in such a terminal.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

SEC. 5244. PENALTIES FOR FAILURE TO REGISTER AND FAILURE TO REPORT.

(a) INCREASED PENALTY.—Subsection (a) of section 7272 (relating to penalty for failure to register) is amended by inserting ''($10,000 in the case of a failure to register under section 4101)'' after ''$50''.

(b) INCREASED CRIMINAL PENALTY.—Section 7232 (relating to failure to register under section 4101, false representations of registration status, etc.) is amended by striking ''$5,000'' and inserting ''$10,000''.

(c) ASSESSABLE PENALTY FOR FAILURE TO REGISTER.—

(1) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties), as amended by section 5242 of this Act, is amended by adding at the end the following new section:

"SEC. 6720. FAILURE TO REGISTER.

''(a) FAILURE TO REGISTER.—Every person who is required to register under section 4101 and fails to do so shall pay a penalty in addition to the tax (if any).

''(b) AMOUNT OF PENALTY.—The amount of the penalty under subsection (a) shall be—

''(1) $10,000 for each initial failure to register, and

''(2) $1,000 for each day thereafter such person fails to register.

''(c) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.''.

(2) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68, as amended by section 5242 of this Act, is amended by adding at the end the following new item:

''Sec. 6720. Failure to register.''.

(d) ASSESSABLE PENALTY FOR FAILURE TO REPORT.—

(1) IN GENERAL.—Part II of subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end the following new section:

"SEC. 6725. FAILURE TO REPORT INFORMATION UNDER SECTION 4101.

''(a) IN GENERAL.—In the case of each failure described in subsection (b) by any person with respect to a vessel or facility, such person shall pay a penalty of $10,000 in addition to the tax (if any).

''(b) FAILURES SUBJECT TO PENALTY.—For purposes of subsection (a), the failures described in this subsection are—

''(1) any failure to make a report under section 4101(d) on or before the date prescribed therefor, and

''(2) any failure to include all of the information required to be shown on such report or the inclusion of incorrect information.

''(c) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.''.

(2) CLERICAL AMENDMENT.—The table of sections for part II of subchapter B of chapter 68 is amended by adding at the end the following new item:

''Sec. 6725. Failure to report information under section 4101.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to failures pending or occurring after September 30, 2004.

SEC. 5245. INFORMATION REPORTING FOR PERSONS CLAIMING CERTAIN TAX BENEFITS.

(a) IN GENERAL.—Subpart C of part III of subchapter A of chapter 32 is amended by adding at the end the following new section:

''SEC. 4104. INFORMATION REPORTING FOR PERSONS CLAIMING CERTAIN TAX BENEFITS.

''(a) IN GENERAL.—The Secretary shall require any person claiming tax benefits—

''(1) under the provisions of section 34, 40, and 40A to file a return at the time such person claims such benefits (in such manner as the Secretary may prescribe), and

''(2) under the provisions of section 4041(b)(2), 6426, or 6427(e) to file a monthly return (in such manner as the Secretary may prescribe).

''(b) CONTENTS OF RETURN.—Any return filed under this section shall provide such information relating to such benefits and the coordination of such benefits as the Secretary may require to ensure the proper administration and use of such benefits.

''(c) ENFORCEMENT.—With respect to any person described in subsection (a) and subject to registration requirements under this title, rules similar to rules of section 4222(c) shall apply with respect to any requirement under this section.''.

(b) CONFORMING AMENDMENT.—The table of sections for subpart C of part III of subchapter A of chapter 32 is amended by adding at the end the following new item:

''Sec. 4104. Information reporting for persons claiming certain tax benefits.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

PART V—IMPORTS

SEC. 5251. TAX AT POINT OF ENTRY WHERE IMPORTER NOT REGISTERED.

(a) TAX AT POINT OF ENTRY WHERE IMPORTER NOT REGISTERED.—

(1) IN GENERAL.—Subpart C of part III of subchapter A of chapter 31, as amended by section 5245 of this Act, is amended by adding at the end the following new section:

''SEC. 4105. TAX AT ENTRY WHERE IMPORTER NOT REGISTERED.

''(a) IN GENERAL.—Any tax imposed under this part on any person not registered under section 4101 for the entry of a fuel into the United States shall be imposed at the time and point of entry.

''(b) ENFORCEMENT OF ASSESSMENT.—If any person liable for any tax described under subsection (a) has not paid the tax or posted a bond, the Secretary may—

''(1) seize the fuel on which the tax is due, or

''(2) detain any vehicle transporting such fuel,

until such tax is paid or such bond is filed.

''(c) LEVY OF FUEL.—If no tax has been paid or no bond has been filed within 5 days from the date the Secretary seized fuel pursuant to subsection (b), the Secretary may sell such fuel as provided under section 6336.''.

(2) CONFORMING AMENDMENT.—The table of sections for subpart C of part III of subchapter A of chapter 31 of the Internal Revenue Code of 1986, as amended by section 5245 of this Act, is amended by adding after the last item the following new item:

''Sec. 4105. Tax at entry where importer not registered.''.

(b) DENIAL OF ENTRY WHERE TAX NOT PAID.—The Secretary of Homeland Security is authorized to deny entry into the United States of any shipment of a fuel which is taxable under section 4081 of the Internal Revenue Code of 1986 if the person entering such shipment fails to pay the tax imposed under such section or post a bond in accordance with the provisions of section 4105 of such Code.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 5252. RECONCILIATION OF ON-LOADED CARGO TO ENTERED CARGO.

(a) IN GENERAL.—Subsection (a) of section 343 of the Trade Act of 2002 is amended by inserting at the end the following new paragraph:

''(4) IN GENERAL.—Subject to paragraphs (2) and (3), not later than 1 year after the enactment of this paragraph, the Secretary of Homeland Security, together with the Secretary of the Treasury, shall promulgate regulations providing for the transmission to the Internal Revenue Service, through an electronic data interchange system, of information pertaining to cargo of taxable fuels (as defined in section 4083 of the Internal Revenue Code of 1986) destined for importation into the United States prior to such importation.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

PART VI—MISCELLANEOUS PROVISIONS

SEC. 5261. TAX ON SALE OF DIESEL FUEL WHETHER SUITABLE FOR USE OR NOT IN A DIESEL-POWERED VEHICLE OR TRAIN.

(a) IN GENERAL.—Section 4083(a)(3) is amended—

(1) by striking ''The term'' and inserting the following:

''(A) IN GENERAL.—The term'', and

(2) by inserting at the end the following new subparagraph:

''(B) LIQUID SOLD AS DIESEL FUEL.—The term 'diesel fuel' includes any liquid which is sold as or offered for sale as a fuel in a diesel-powered highway vehicle or a diesel-powered train.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 5262. MODIFICATION OF ULTIMATE VENDOR REFUND CLAIMS WITH RESPECT TO FARMING.

(a) IN GENERAL.—

(1) REFUNDS.—Section 6427(l) is amended by adding at the end the following new paragraph:

''(6) REGISTERED VENDORS PERMITTED TO ADMINISTER CERTAIN CLAIMS FOR REFUND OF DIESEL FUEL AND KEROSENE SOLD TO FARMERS.—

''(A) IN GENERAL.—In the case of diesel fuel or kerosene used on a farm for farming purposes (within the meaning of section 6420(c)), paragraph (1) shall not apply to the aggregate amount of such diesel fuel or kerosene if such amount does not exceed 500 gallons (as determined under subsection (i)(5)(A)(iii)).

''(B) PAYMENT TO ULTIMATE VENDOR.—The amount which would (but for subparagraph (A)) have been paid under paragraph (1) with respect to any fuel shall be paid to the ultimate vendor of such fuel, if such vendor—

''(i) is registered under section 4101, and

''(ii) meets the requirements of subparagraph (A), (B), or (D) of section 6416(a)(1).''.

(2) FILING OF CLAIMS.—Section 6427(i) is amended by inserting at the end the following new paragraph:

''(5) SPECIAL RULE FOR VENDOR REFUNDS WITH RESPECT TO FARMERS.—

''(A) IN GENERAL.—A claim may be filed under subsection (l)(6) by any person with respect to fuel sold by such person for any period—

''(i) for which $200 or more ($100 or more in the case of kerosene) is payable under subsection (l)(6),

''(ii) which is not less than 1 week, and

''(iii) which is for not more than 500 gallons for each farmer for which there is a claim.

Notwithstanding subsection (l)(1), paragraph (3)(B) shall apply to claims filed under the preceding sentence.

''(B) TIME FOR FILING CLAIM.—No claim filed under this paragraph shall be allowed unless filed on or before the last day of the first quarter following the earliest quarter included in the claim.''.

(3) CONFORMING AMENDMENTS.—

(A) Section 6427(l)(5)(A) is amended to read as follows:

''(A) IN GENERAL.—Paragraph (1) shall not apply to diesel fuel or kerosene used by a State or local government.''.

(B) The heading for section 6427(l)(5) is amended by striking ''FARMERS AND''.

(b) Section 6427(i)(3) is amended—

(1) by adding at the end of subparagraph (A) the following new flush sentence:

''In the case of an electronic claim, this subparagraph shall be applied without regard to clause (i).'', and

(2) by striking ''20 days of the date of the filing of such claim'' in subparagraph (B) and inserting ''45 days of the date of the filing of such claim (20 days in the case of an electronic claim)'', and

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to fuels sold for nontaxable use after the date of the enactment of this Act.

SEC. 5263. TAXABLE FUEL REFUNDS FOR CERTAIN ULTIMATE VENDORS.

(a) IN GENERAL.—Paragraph (4) of section 6416(a) (relating to abatements, credits, and refunds) is amended to read as follows:

''(4) REGISTERED ULTIMATE VENDOR TO ADMINISTER CREDITS AND REFUNDS OF GASOLINE TAX.—

''(A) IN GENERAL.—For purposes of this subsection, if an ultimate vendor purchases any gasoline on which tax imposed by section 4081 has been paid and sells such gasoline to an ultimate purchaser described in subparagraph (C) or (D) of subsection (b)(2) (and such gasoline is for a use described in such subparagraph), such ultimate vendor shall be treated as the person (and the only person) who paid such tax, but only if such ultimate vendor is registered under section 4101. For purposes of this subparagraph, if the sale of gasoline is made by means of a credit card, the person extending the credit to the ultimate purchaser shall be deemed to be the ultimate vendor.

''(B) TIMING OF CLAIMS.—The procedure and timing of any claim under subparagraph (A) shall be the same as for claims under section 6427(i)(4), except that the rules of section 6427(i)(3)(B) regarding electronic claims shall not apply unless the ultimate vendor has certified to the Secretary for the most recent quarter of the taxable year that all ultimate purchasers of the vendor are certified and entitled to a refund under subparagraph (C) or (D) of subsection (b)(2).''.

(b) CREDIT CARD PURCHASES OF DIESEL FUEL OR KEROSENE BY STATE AND LOCAL GOVERNMENTS.—Section 6427(l)(5)(C) (relating to nontaxable uses of diesel fuel, kerosene, and aviation fuel), as amended by section 5252 of this Act, is amended by adding at the end

the following new sentence: ''For purposes of this subparagraph, if the sale of diesel fuel or kerosene is made by means of a credit card, the person extending the credit to the ultimate purchaser shall be deemed to be the ultimate vendor.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

SEC. 5264. TWO-PARTY EXCHANGES.

(a) IN GENERAL.—Subpart C of part III of subchapter A of chapter 32, as amended by section 5251 of this Act, is amended by adding at the end the following new section:

''SEC. 4106. TWO-PARTY EXCHANGES.

''(a) IN GENERAL.—In a two-party exchange, the delivering person shall not be liable for the tax imposed under of section 4081(a)(1)(A)(ii).

''(b) TWO-PARTY EXCHANGE.—The term 'two-party exchange' means a transaction, other than a sale, in which taxable fuel is transferred from a delivering person registered under section 4101 as a taxable fuel registrant to a receiving person who is so registered where all of the following occur:

''(1) The transaction includes a transfer from the delivering person, who holds the inventory position for taxable fuel in the terminal as reflected in the records of the terminal operator.

''(2) The exchange transaction occurs before or contemporaneous with completion of removal across the rack from the terminal by the receiving person.

''(3) The terminal operator in its books and records treats the receiving person as the person that removes the product across the terminal rack for purposes of reporting the transaction to the Secretary.

''(4) The transaction is the subject of a written contract.''.

(b) CONFORMING AMENDMENT.—The table of sections for subpart C of part III of subchapter A of chapter 32, as amended by section 5251 of this Act, is amended by adding after the last item the following new item:

''Sec. 4106. Two-party exchanges.''.

(c) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 5265. MODIFICATIONS OF TAX ON USE OF CERTAIN VEHICLES.

(a) NO PRORATION OF TAX UNLESS VEHICLE IS DESTROYED OR STOLEN.—

(1) IN GENERAL.—Section 4481(c) (relating to proration of tax) is amended to read as follows:

''(c) PRORATION OF TAX WHERE VEHICLE SOLD, DESTROYED, OR STOLEN.—

''(1) IN GENERAL.—If in any taxable period a highway motor vehicle is sold, destroyed, or stolen before the first day of the last month in such period and not subsequently used during such taxable period, the tax shall be reckoned proportionately from the first day of the month in such period in which the first use of such highway motor vehicle occurs to and including the last day of the month in which such highway motor vehicle was sold, destroyed, or stolen.

''(2) DESTROYED.—For purposes of paragraph (1), a highway motor vehicle is destroyed if such vehicle is damaged by reason of an accident or other casualty to such an extent that it is not economic to rebuild.''.

(2) CONFORMING AMENDMENTS.—

(A) Section 6156 (relating to installment payment of tax on use of highway motor vehicles) is repealed.

(B) The table of sections for subchapter A of chapter 62 is amended by striking the item relating to section 6156.

(b) DISPLAY OF TAX CERTIFICATE.—Paragraph (2) of section 4481(d) (relating to one tax liability for period) is amended to read as follows:

''(2) DISPLAY OF TAX CERTIFICATE.—Every taxpayer which pays the tax imposed under this section with respect to a highway motor vehicle shall, not later than 1 month after the due date of the return of tax with respect to each taxable period, receive and display on such vehicle an electronic identification device prescribed by the Secretary.''.

(c) ELECTRONIC FILING.—Section 4481, as amended by section 5001 of this Act, is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

''(e) ELECTRONIC FILING.—Any taxpayer who files a return under this section with respect to 25 or more vehicles for any taxable period shall file such return electronically.''.

(d) REPEAL OF REDUCTION IN TAX FOR CERTAIN TRUCKS.—Section 4483 of the Internal Revenue Code of 1986 is amended by striking subsection (f).

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable periods beginning after the date of the enactment of this Act.

(2) SUBSECTION (b).—The amendment made by subsection (b) shall take effect on October 1, 2005.

SEC. 5266. DEDICATION OF REVENUES FROM CERTAIN PENALTIES TO THE HIGHWAY TRUST FUND.

(a) IN GENERAL.—Subsection (b) of section 9503 (relating to transfer to Highway Trust Fund of amounts equivalent to certain taxes), as amended by section 5001 of this Act, is amended by redesignating paragraph (5) as paragraph (6) and inserting after paragraph (4) the following new paragraph:

''(5) CERTAIN PENALTIES.—There are hereby appropriated to the Highway Trust Fund amounts equivalent to the penalties assessed under sections 6715, 6715A, 6717, 6718, 6719, 6720, 6725, 7232, and 7272 (but only with regard to penalties under such section related to failure to register under section 4101).''.

(b) CONFORMING AMENDMENTS.—

(1) The heading of subsection (b) of section 9503 is amended by inserting ''AND PENALTIES'' after ''TAXES''.

(2) The heading of paragraph (1) of section 9503(b) is amended by striking ''IN GENERAL'' and inserting ''CERTAIN TAXES''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to penalties assessed after October 1, 2004.

SEC. 5267. NONAPPLICATION OF EXPORT EXEMPTION TO DELIVERY OF FUEL TO MOTOR VEHICLES REMOVED FROM UNITED STATES.

(a) IN GENERAL.—Section 4221(d)(2) (defining export) is amended by adding at the end the following new sentence: ''Such term does not include the delivery of a taxable fuel (as defined in section 4083(a)(1)) into a fuel tank of a motor vehicle which is shipped or driven out of the United States.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 4041(g) (relating to other exemptions) is amended by adding at the end the following new sentence: ''Paragraph (3) shall not apply to the sale for delivery of a liquid into a fuel tank of a motor vehicle which is shipped or driven out of the United States.''.

(2) Clause (iv) of section 4081(a)(1)(A) (relating to tax on removal, entry, or sale) is amended by inserting ''or at a duty-free sales enterprise (as defined in section 555(b)(8) of the Tariff Act of 1930)'' after ''section 4101''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales or deliveries made after the date of the enactment of this Act.

PART VII—TOTAL ACCOUNTABILITY

SEC. 5271. TOTAL ACCOUNTABILITY.

(a) TAXATION OF REPORTABLE LIQUIDS.—

(1) IN GENERAL.—Section 4081(a), as amended by this Act, is amended—

(A) by inserting ''or reportable liquid'' after ''taxable fuel'' each place it appears, and

(B) by inserting ''such liquid'' after ''such fuel'' in paragraph (1)(A)(iv).

(2) RATE OF TAX.—Subparagraph (A) of section 4081(a)(2), as amended by section 5211 of this Act, is amended by striking ''and'' at the end of clause (iii), by striking the period at the end of clause (iv) and inserting '', and'', and by adding at the end the following new clause:

''(v) in the case of reportable liquids, the rate determined under section 4083(c)(2).''.

(3) EXEMPTION.—Section 4081(a)(1) is amended by adding at the end the following new subparagraph:

''(C) EXEMPTION FOR REGISTERED TRANSFERS OF REPORTABLE LIQUIDS.—The tax imposed by this paragraph shall not apply to any removal, entry, or sale of a reportable liquid if—

''(i) such removal, entry, or sale is to a registered person who certifies that such liquid will not be used as a fuel or in the production of a fuel, or

''(ii) the sale is to the ultimate purchaser of such liquid.''.

(4) REPORTABLE LIQUIDS.—Section 4083, as amended by this Act, is amended by redesignating subsections (c) and (d) (as redesignated by section 5211 of this Act) as subsections (d) and (e), respectively, and by inserting after subsection (b) the following new section:

''(c) REPORTABLE LIQUID.—For purposes of this subpart—

''(1) IN GENERAL.—The term 'reportable liquid' means any petroleum-based liquid other than a taxable fuel.

''(2) TAXATION.—

''(A) GASOLINE BLEND STOCKS AND ADDITIVES.—Gasoline blend stocks and additives which are reportable liquids (as defined in paragraph (1)) shall be subject to the rate of tax under clause (i) of section 4081(a)(2)(A).

''(B) OTHER REPORTABLE LIQUIDS.—Any reportable liquid (as defined in paragraph (1)) not described in subparagraph (A) shall be subject to the rate of tax under clause (iii) of section 4081(a)(2)(A).''.

(5) CONFORMING AMENDMENTS.—

(A) Section 4081(e) is amended by inserting ''or reportable liquid'' after ''taxable fuel''.

(B) Section 4083(d) (relating to certain use defined as removal), as redesignated by paragraph (4), is amended by inserting ''or reportable liquid'' after ''taxable fuel''.

(C) Section 4083(e)(1) (relating to administrative authority), as redesignated by paragraph (4), is amended—

(i) in subparagraph (A)—

(I) by inserting ''or reportable liquid'' after ''taxable fuel'', and

(II) by inserting ''or such liquid'' after ''such fuel'' each place it appears, and

(ii) in subparagraph (B), by inserting ''or any reportable liquid'' after ''any taxable fuel''.

(D) Section 4101(a)(2), as added by section 5243 of this Act, is amended by inserting ''or a reportable liquid'' after ''taxable fuel''.

(E) Section 4101(a)(3), as added by section 5242 of this Act and redesignated by section 5243 of this Act, is amended by inserting ''or any reportable liquid'' before the period at the end.

(F) Section 4102 is amended by inserting ''or any reportable liquid'' before the period at the end.

(G)(i) Section 6718, as added by section 5241 of this Act, is amended—

(I) in subsection (a), by inserting ''or any reportable liquid (as defined in section 4083(c)(1))'' after '' section 4083(a)(1))'', and

(II) in the heading, by inserting ''or reportable liquids'' after ''taxable fuel''.

(ii) The item relating to section 6718 in table of sections for part I of subchapter B of chapter 68, as added by section 5241 of this Act, is amended by inserting ''or reportable liquids'' after ''taxable fuels''.

(H) Section 6427(h) is amended to read as follows:

''(h) GASOLINE BLEND STOCKS OR ADDITIVES AND REPORTABLE LIQUIDS.—Except as provided in subsection (k)—

''(1) if any gasoline blend stock or additive (within the meaning of section 4083(a)(2)) is not used by any person to produce gasoline and such person establishes that the ultimate use of such gasoline blend stock or additive is not to produce gasoline, or

''(2) if any reportable liquid (within the meaning of section 4083(c)(1)) is not used by any person to produce a taxable fuel and such person establishes that the ultimate use of such reportable liquid is not to produce a taxable fuel,

then the Secretary shall pay (without interest) to such person an amount equal to the aggregate amount of the tax imposed on such person with respect to such gasoline blend stock or additive or such reportable fuel.''.

(I) Section 7232, as amended by this Act, is amended by inserting ''or reportable liquid (within the meaning of section 4083(c)(1))'' after ''section 4083)''.

(J) Section 343 of the Trade Act of 2002, as amended by section 5252 of this Act, is amended by inserting ''and reportable liquids (as defined in section 4083(c)(1) of such Code)'' after ''Internal Revenue Code of 1986)''.

(b) DYED DIESEL.—Section 4082(a) is amended by striking ''and'' at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting ''and'', and by inserting after paragraph (3) the following new paragraph:

''(4) which is removed, entered, or sold by a person registered under section 4101.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to reportable liquids (as defined in section 4083(c) of the Internal Revenue Code) and fuel sold or used after September 30, 2004.

SEC. 5272. EXCISE TAX REPORTING.

(a) IN GENERAL.—Part II of subchapter A of chapter 61 is amended by adding at the end the following new subpart:

''SUBPART E—EXCISE TAX REPORTING

''SEC. 6025. RETURNS RELATING TO FUEL TAXES.

''(a) IN GENERAL.—The Secretary shall require any person liable for the tax imposed under Part III of subchapter A of chapter 32 to file a return of such tax on a monthly basis.

''(b) INFORMATION INCLUDED WITH RETURN.—The Secretary shall require any person filing a return under subsection (a) to provide information regarding any refined product (whether or not such product is taxable under this title) removed from a terminal during the period for which such return applies.''.

(b) CONFORMING AMENDMENT.—The table of parts for subchapter A of chapter 61 is amended by adding at the end the following new item:

''Subpart E—Excise Tax Reporting''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel sold or used after September 30, 2004.

SEC. 5273. INFORMATION REPORTING.

(a) IN GENERAL.—Section 4101(d) is amended by adding at the end the following new flush sentence:

''The Secretary shall require reporting under the previous sentence with respect to taxable fuels removed, entered, or transferred from any refinery, pipeline, or vessel which is registered under this section.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply on October 1, 2004.

Subtitle D—Definition of Highway Vehicle

SEC. 5301. EXEMPTION FROM CERTAIN EXCISE TAXES FOR MOBILE MACHINERY.

(a) EXEMPTION FROM TAX ON HEAVY TRUCKS AND TRAILERS SOLD AT RETAIL.—

(1) IN GENERAL.—Section 4053 (relating to exemptions) is amended by adding at the end the following new paragraph:

''(8) MOBILE MACHINERY.—Any vehicle which consists of a chassis—

''(A) to which there has been permanently mounted (by welding, bolting, riveting, or other means) machinery or equipment to perform a construction, manufacturing, processing, farming, mining, drilling, timbering, or similar operation if the operation of the machinery or equipment is unrelated to transportation on or off the public highways,

''(B) which has been specially designed to serve only as a mobile carriage and mount (and a power source, where applicable) for the particular machinery or equipment involved, whether or not such machinery or equipment is in operation, and

''(C) which, by reason of such special design, could not, without substantial structural modification, be used as a component of a vehicle designed to perform a function of transporting any load other than that particular machinery or equipment or similar machinery or equipment requiring such a specially designed chassis.''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall take effect on the day after the date of the enactment of this Act.

(b) EXEMPTION FROM TAX ON USE OF CERTAIN VEHICLES.—

(1) IN GENERAL.—Section 4483 (relating to exemptions) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

''(g) EXEMPTION FOR MOBILE MACHINERY.—No tax shall be imposed by section 4481 on the use of any vehicle described in section 4053(8).''.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the day after the date of the enactment of this Act.

(d) EXEMPTION FROM FUEL TAXES.—

(1) IN GENERAL.—Section 6421(e)(2) (defining off-highway business use) is amended by adding at the end the following new subparagraph:

''(C) USES IN MOBILE MACHINERY.—

''(i) IN GENERAL.—The term 'off-highway business use' shall include any use in a vehicle which meets the requirements described in clause (ii).

''(ii) REQUIREMENTS FOR MOBILE MACHINERY.—The requirements described in this clause are—

''(I) the design-based test, and

''(II) the use-based test.

''(iii) DESIGN-BASED TEST.—For purposes of clause (ii)(I), the design-based test is met if the vehicle consists of a chassis—

''(I) to which there has been permanently mounted (by welding, bolting, riveting, or other means) machinery or equipment to perform a construction, manufacturing, processing, farming, mining, drilling, timbering, or similar operation if the operation of the machinery or equipment is unrelated to transportation on or off the public highways,

''(II) which has been specially designed to serve only as a mobile carriage and mount (and a power source, where applicable) for the particular machinery or equipment involved, whether or not such machinery or equipment is in operation, and

''(III) which, by reason of such special design, could not, without substantial structural modification, be used as a component of a vehicle designed to perform a function of transporting any load other than that particular machinery or equipment or similar machinery or equipment requiring such a specially designed chassis.

''(iv) USE-BASED TEST.—For purposes of clause (ii)(II), the use-based test is met if the use of the vehicle on public highways was less than 5,000 miles during the taxpayer's taxable year.

''(v) SPECIAL RULE FOR USE BY CERTAIN TAX-EXEMPT ORGANIZATIONS.—In the case of any use in a vehicle by an organization which is described in section 501(c) and exempt from tax under section 501(a), clause (ii) shall be applied without regard to subclause (II) thereof.''.

(2) ANNUAL REFUND OF TAX PAID.—Section 6427(i)(2) (relating to exceptions) is amended by adding at the end the following new subparagraph:

''(C) NONAPPLICATION OF PARAGRAPH.—This paragraph shall not apply to any fuel used in any off-highway business use described in section 6421(e)(2)(C).''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 5302. MODIFICATION OF DEFINITION OF OFF-HIGHWAY VEHICLE.

(a) IN GENERAL.—Section 7701(a) (relating to definitions) is amended by adding at the end the following new paragraph:

''(48) OFF-HIGHWAY VEHICLES.—

''(A) OFF-HIGHWAY TRANSPORTATION VEHICLES.—

''(i) IN GENERAL.—A vehicle shall not be treated as a highway vehicle if such vehicle is specially designed for the primary function of transporting a particular type of load other than over the public highway and because of this special design such vehicle's capability to transport a load over the public highway is substantially limited or impaired.

''(ii) DETERMINATION OF VEHICLE'S DESIGN.—For purposes of clause (i), a vehicle's design is determined solely on the basis of its physical characteristics.

''(iii) DETERMINATION OF SUBSTANTIAL LIMITATION OR IMPAIRMENT.—For purposes of clause (i), in determining whether substantial limitation or impairment exists, account may be taken of factors such as the size of the vehicle, whether such vehicle is subject to the licensing, safety, and other requirements applicable to highway vehicles, and whether such vehicle can transport a load at a sustained speed of at least 25 miles per hour. It is immaterial that a vehicle can transport a greater load off the public highway than such vehicle is permitted to transport over the public highway.

''(B) NONTRANSPORTATION TRAILERS AND SEMITRAILERS.—A trailer or semitrailer shall not be treated as a highway vehicle if it is specially designed to function only as an enclosed stationary shelter for the carrying on of an off-highway function at an off-highway site.''.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by this section shall take effect on the date of the enactment of this Act.

(2) FUEL TAXES.—With respect to taxes imposed under subchapter B of chapter 31 and part III of subchapter A of chapter 32, the amendment made by this section shall apply

to taxable periods beginning after the date of the enactment of this Act.

Subtitle E—Excise Tax Reform and Simplification

PART I—HIGHWAY EXCISE TAXES

SEC. 5401. DEDICATION OF GAS GUZZLER TAX TO HIGHWAY TRUST FUND.

(a) IN GENERAL.—Section 9503(b)(1) (relating to transfer to Highway Trust Fund of amounts equivalent to certain taxes) is amended by redesignating subparagraphs (C), (D), and (E) as subparagraphs (D), (E), and (F), respectively, and by inserting after subparagraph (B) the following new subparagraph:

''(C) section 4064 (relating to gas guzzler tax),''.

(b) UNIFORM APPLICATION OF TAX.—Subparagraph (A) of section 4064(b)(1) (defining automobile) is amended by striking the second sentence.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 5402. REPEAL CERTAIN EXCISE TAXES ON RAIL DIESEL FUEL AND INLAND WATERWAY BARGE FUELS.

(a) TAXES ON TRAINS.—

(1) IN GENERAL.—Subparagraph (A) of section 4041(a)(1) is amended by striking ''or a diesel-powered train'' each place it appears and by striking ''or train''.

(2) CONFORMING AMENDMENTS.—

(A) Subparagraph (C) of section 4041(a)(1), as amended by section 5001 of this Act, is amended by striking clause (ii) and by redesignating clause (iii) as clause (ii).

(B) Subparagraph (C) of section 4041(b)(1) is amended by striking all that follows ''section 6421(e)(2)'' and inserting a period.

(C) Subsection (d) of section 4041 is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

''(3) DIESEL FUEL USED IN TRAINS.—There is hereby imposed a tax of 0.1 cent per gallon on any liquid other than gasoline (as defined in section 4083)—

''(A) sold by any person to an owner, lessee, or other operator of a diesel-powered train for use as a fuel in such train, or

''(B) used by any person as a fuel in a diesel-powered train unless there was a taxable sale of such fuel under subparagraph (A).

No tax shall be imposed by this paragraph on the sale or use of any liquid if tax was imposed on such liquid under section 4081.''.

(D) Subsection (f) of section 4082 is amended by striking ''section 4041(a)(1)'' and inserting ''subsections (d)(3) and (a)(1) of section 4041, respectively''.

(E) Subparagraphs (A) and (B) of section 4083(a)(3), as amended by section 5261 of this Act, are amended by striking ''or a diesel-powered train''.

(F) Paragraph (3) of section 6421(f) is amended to read as follows:

''(3) GASOLINE USED IN TRAINS.—In the case of gasoline used as a fuel in a train, this section shall not apply with respect to the Leaking Underground Storage Tank Trust Fund financing rate under section 4081.''.

(G) Paragraph (3) of section 6427(l) is amended to read as follows:

''(3) REFUND OF CERTAIN TAXES ON FUEL USED IN DIESEL-POWERED TRAINS.—For purposes of this subsection, the term 'nontaxable use' includes fuel used in a diesel-powered train. The preceding sentence shall not apply to the tax imposed by section 4041(d) and the Leaking Underground Storage Tank Trust Fund financing rate under section 4081 except with respect to fuel sold for exclusive use by a State or any political subdivision thereof.''.

(b) FUEL USED ON INLAND WATERWAYS.—

(1) IN GENERAL.—Paragraph (1) of section 4042(b) is amended by adding ''and'' at the end of subparagraph (A), by striking '', and'' at the end of subparagraph (B) and inserting a period, and by striking subparagraph (C).

(2) CONFORMING AMENDMENT.—Paragraph (2) of section 4042(b) is amended by striking subparagraph (C).

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

PART II—AQUATIC EXCISE TAXES

SEC. 5411. ELIMINATION OF AQUATIC RESOURCES TRUST FUND AND TRANSFORMATION OF SPORT FISH RESTORATION ACCOUNT.

(a) SIMPLIFICATION OF FUNDING FOR BOAT SAFETY ACCOUNT.—

(1) IN GENERAL.—Section 9503(c)(3) (relating to transfers from Trust Fund for motorboat fuel taxes), as redesignated by section 5002 of this Act, is amended—

(A) by striking ''Fund—'' and all that follows through ''shall be transferred'' in subparagraph (B) and inserting ''Fund which is attributable to motorboat fuel taxes shall be transferred'', and

(B) by striking subparagraph (A), and

(C) by redesignating subparagraphs (B) through (E) as subparagraphs (A) through (D), respectively.

(2) CONFORMING AMENDMENTS.—

(A) Section 9503(b)(4) is amended by striking subparagraph (D).

(B) Subparagraph (B) of section 9503(c)(3), as redesignated by section 5002 of this Act and subsection (a)(3), is amended—

(i) by striking ''ACCOUNT'' in the heading and inserting ''TRUST FUND'',

(ii) by striking ''or (B)'' in clause (ii), and

(iii) by striking ''Account in the Aquatic Resources''.

(C) Subparagraph (C) of section 9503(c)(3), as redesignated by section 5002 of this Act and subsection (a)(3), is amended by striking '', but only to the extent such taxes are deposited into the Highway Trust Fund''.

(D) Paragraph (4) of section 9503(c), as redesignated by section 5002 of this Act, is amended—

(i) by striking ''Account in the Aquatic Resources'' in subparagraph (A), and

(ii) by striking '', but only to the extent such taxes are deposited into the Highway Trust Fund'' in subparagraph (B).

(b) MERGING OF ACCOUNTS.—

(1) IN GENERAL.—Subsection (a) of section 9504 is amended to read as follows:

''(a) CREATION OF TRUST FUND.—There is hereby established in the Treasury of the United States a trust fund to be known as the 'Sport Fish Restoration Trust Fund'. Such Trust Fund shall consist of such amounts as may be appropriated, credited, or paid to it as provided in this section, section 9503(c)(3), section 9503(c)(4), or section 9602(b).''.

(2) CONFORMING AMENDMENTS.—

(A) Subsection (b) of section 9504 is amended—

(i) by striking ''ACCOUNT'' in the heading and inserting ''TRUST FUND'',

(ii) by striking ''Account'' both places it appears in paragraphs (1) and (2) and inserting ''Trust Fund'', and

(iii) by striking ''ACCOUNT'' both places it appears in the headings for paragraphs (1) and (2) and inserting ''TRUST FUND''.

(B) Subsection (d) of section 9504, as amended by section 5001 of this Act, is amended—

(i) by striking ''AQUATIC RESOURCES'' in the heading,

(ii) by striking ''any Account in the Aquatic Resources'' in paragraph (1) and inserting ''the Sports Fish Restoration'', and

(iii) by striking ''any such Account'' in paragraph (1) and inserting ''such Trust Fund''.

(C) Subsection (e) of section 9504, as amended by section 5002 of this Act, is amended by striking ''Boat Safety Account and Sport Fish Restoration Account'' and inserting ''Sport Fish Restoration Trust Fund''.

(D) Section 9504 is amended by striking ''AQUATIC RESOURCES'' in the heading and inserting ''SPORT FISH RESTORATION''.

(E) The item relating to section 9504 in the table of sections for subchapter A of chapter 98 is amended by striking ''aquatic resources'' and inserting ''sport fish restoration''.

(c) PHASEOUT OF BOAT SAFETY ACCOUNT.—Subsection (c) of section 9504 is amended to read as follows:

''(c) EXPENDITURES FROM BOAT SAFETY ACCOUNT.—Amounts remaining in the Boat Safety Account on October 1, 2004, and amounts thereafter credited to the Account under section 9602(b), shall be available, as provided by appropriation Acts, for making expenditures before October 1, 2009, to carry out the purposes of section 13106 of title 46, United States Code (as in effect on the date of the enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004).''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

SEC. 5412. EXEMPTION OF LED DEVICES FROM SONAR DEVICES SUITABLE FOR FINDING FISH.

(a) IN GENERAL.—Section 4162(b) (defining sonar device suitable for finding fish) is amended by striking ''or'' at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting '', or'', and by adding at the end the following new paragraph:

''(5) an LED display.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to articles sold by the manufacturer, producer, or importer after September 30, 2004.

SEC. 5413. REPEAL OF HARBOR MAINTENANCE TAX ON EXPORTS.

(a) IN GENERAL.—Subsection (d) of section 4462 (relating to definitions and special rules) is amended to read as follows:

''(d) NONAPPLICABILITY OF TAX TO EXPORTS.—The tax imposed by section 4461(a) shall not apply to any port use with respect to any commercial cargo to be exported from the United States.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 4461(c)(1) is amended by adding ''or'' at the end of subparagraph (A), by striking subparagraph (B), and by redesignating subparagraph (C) as subparagraph (B).

(2) Section 4461(c)(2) is amended by striking ''imposed—'' and all that follows through ''in any other case,'' and inserting ''imposed''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect before, on, and after the date of the enactment of this Act.

SEC. 5414. CAP ON EXCISE TAX ON CERTAIN FISHING EQUIPMENT.

(a) IN GENERAL.—Paragraph (1) of section 4161(a) (relating to sport fishing equipment) is amended to read as follows:

''(1) IMPOSITION OF TAX.—

''(A) IN GENERAL.—There is hereby imposed on the sale of any article of sport fishing equipment by the manufacturer, producer, or importer a tax equal to 10 percent of the price for which so sold.

''(B) LIMITATION ON TAX IMPOSED ON FISHING RODS AND POLES.—The tax imposed by subparagraph (A) on any fishing rod or pole shall not exceed $10.''.

(b) CONFORMING AMENDMENTS.—Section 4161(a)(2) is amended by striking ''paragraph

(1)'' both places it appears and inserting ''paragraph (1)(A)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to articles sold by the manufacturer, producer, or importer after September 30, 2004.

SEC. 5415. REDUCTION IN RATE OF TAX ON PORTABLE AERATED BAIT CONTAINERS.

(a) IN GENERAL.—Section 4161(a)(2)(A) (relating to 3 percent rate of tax for electric outboard motors and sonar devices suitable for finding fish) is amended by inserting ''or a portable aerated bait container'' after ''fish''.

(b) CONFORMING AMENDMENT.—The heading of section 4161(a)(2) is amended by striking ''ELECTRIC OUTBOARD MOTORS AND SONAR DEVICES SUITABLE FOR FINDING FISH'' and inserting ''CERTAIN SPORT FISHING EQUIPMENT''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to articles sold by the manufacturer, producer, or importer after September 30, 2004.

PART III—AERIAL EXCISE TAXES

SEC. 5421. CLARIFICATION OF EXCISE TAX EXEMPTIONS FOR AGRICULTURAL AERIAL APPLICATORS AND EXEMPTION FOR FIXED-WING AIRCRAFT ENGAGED IN FORESTRY OPERATIONS.

(a) NO WAIVER BY FARM OWNER, TENANT, OR OPERATOR NECESSARY.—Subparagraph (B) of section 6420(c)(4) (relating to certain farming use other than by owner, etc.) is amended to read as follows:

''(B) if the person so using the gasoline is an aerial or other applicator of fertilizers or other substances and is the ultimate purchaser of the gasoline, then subparagraph (A) of this paragraph shall not apply and the aerial or other applicator shall be treated as having used such gasoline on a farm for farming purposes.''.

(b) EXEMPTION INCLUDES FUEL USED BETWEEN AIRFIELD AND FARM.—Section 6420(c)(4), as amended by subsection (a), is amended by adding at the end the following new flush sentence:

''For purposes of this paragraph, in the case of an aerial applicator, gasoline shall be treated as used on a farm for farming purposes if the gasoline is used for the direct flight between the airfield and 1 or more farms.''.

(c) EXEMPTION FROM TAX ON AIR TRANSPORTATION OF PERSONS FOR FORESTRY PURPOSES EXTENDED TO FIXED-WING AIRCRAFT.—Subsection (f) of section 4261 (relating to tax on air transportation of persons) is amended to read as follows:

''(f) EXEMPTION FOR CERTAIN USES.—No tax shall be imposed under subsection (a) or (b) on air transportation—

''(1) by helicopter for the purpose of transporting individuals, equipment, or supplies in the exploration for, or the development or removal of, hard minerals, oil, or gas, or

''(2) by helicopter or by fixed-wing aircraft for the purpose of the planting, cultivation, cutting, or transportation of, or caring for, trees (including logging operations),

but only if the helicopter or fixed-wing aircraft does not take off from, or land at, a facility eligible for assistance under the Airport and Airway Development Act of 1970, or otherwise use services provided pursuant to section 44509 or 44913(b) or subchapter I of chapter 471 of title 49, United States Code, during such use. In the case of helicopter transportation described in paragraph (1), this subsection shall be applied by treating each flight segment as a distinct flight.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel use or air transportation after the date of the enactment of this Act.

SEC. 5422. MODIFICATION OF RURAL AIRPORT DEFINITION.

(a) IN GENERAL.—Section 4261(e)(1)(B) (defining rural airport) is amended—

(1) by inserting ''(in the case of any airport described in clause (ii)(III), on flight segments of at least 100 miles)'' after ''by air'' in clause (i), and

(2) by striking the period at the end of subclause (II) of clause (ii) and inserting '', or'', and by adding at the end of clause (ii) the following new subclause:

''(III) is not connected by paved roads to another airport.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on April 1, 2004.

SEC. 5423. EXEMPTION FROM TICKET TAXES FOR TRANSPORTATION PROVIDED BY SEAPLANES.

(a) IN GENERAL.—Section 4261 (relating to imposition of tax) is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

''(i) EXEMPTION FOR SEAPLANES.—No tax shall be imposed by this section or section 4271 on any air transportation by a seaplane with respect to any segment consisting of a takeoff from, and a landing on, water, but only if the places at which such takeoff and landing occur have not received and are not receiving financial assistance from the Airport and Airways Trust Fund.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to transportation beginning after March 31, 2004.

SEC. 5424. CERTAIN SIGHTSEEING FLIGHTS EXEMPT FROM TAXES ON AIR TRANSPORTATION.

(a) IN GENERAL.—Section 4281 (relating to small aircraft on nonestablished lines) is amended by adding at the end the following new sentence: ''For purposes of this section, an aircraft shall not be considered as operated on an established line if such aircraft is operated on a flight the sole purpose of which is sightseeing.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to transportation beginning on or after the date of the enactment of this Act, but shall not apply to any amount paid before such date for such transportation.

PART IV—ALCOHOLIC BEVERAGE EXCISE TAXES

SEC. 5431. REPEAL OF SPECIAL OCCUPATIONAL TAXES ON PRODUCERS AND MARKETERS OF ALCOHOLIC BEVERAGES.

(a) REPEAL OF OCCUPATIONAL TAXES.—

(1) IN GENERAL.—The following provisions of part II of subchapter A of chapter 51 (relating to occupational taxes) are hereby repealed:

(A) Subpart A (relating to proprietors of distilled spirits plants, bonded wine cellars, etc.).

(B) Subpart B (relating to brewer).

(C) Subpart D (relating to wholesale dealers) (other than sections 5114 and 5116).

(D) Subpart E (relating to retail dealers) (other than section 5124).

(E) Subpart G (relating to general provisions) (other than sections 5142, 5143, 5145, and 5146).

(2) NONBEVERAGE DOMESTIC DRAWBACK.—Section 5131 is amended by striking '', on payment of a special tax per annum,''.

(3) INDUSTRIAL USE OF DISTILLED SPIRITS.—Section 5276 is hereby repealed.

(b) CONFORMING AMENDMENTS.—

(1)(A) The heading for part II of subchapter A of chapter 51 and the table of subparts for such part are amended to read as follows:

"PART II—MISCELLANEOUS PROVISIONS

''Subpart A. Manufacturers of stills.

''Subpart B. Nonbeverage domestic drawback claimants.

''Subpart C. Recordkeeping by dealers.

''Subpart D. Other provisions.''.

(B) The table of parts for such subchapter A is amended by striking the item relating to part II and inserting the following new item:

''Part II. Miscellaneous provisions.''.

(2) Subpart C of part II of such subchapter (relating to manufacturers of stills) is redesignated as subpart A.

(3)(A) Subpart F of such part II (relating to nonbeverage domestic drawback claimants) is redesignated as subpart B and sections 5131 through 5134 are redesignated as sections 5111 through 5114, respectively.

(B) The table of sections for such subpart B, as so redesignated, is amended—

(i) by redesignating the items relating to sections 5131 through 5134 as relating to sections 5111 through 5114, respectively, and

(ii) by striking ''and rate of tax'' in the item relating to section 5111, as so redesignated.

(C) Section 5111, as redesignated by subparagraph (A), is amended—

(i) by striking ''and rate of tax'' in the section heading,

(ii) by striking the subsection heading for subsection (a), and

(iii) by striking subsection (b).

(4) Part II of subchapter A of chapter 51 is amended by adding after subpart B, as redesignated by paragraph (3), the following new subpart:

"Subpart C—Recordkeeping by Dealers

''Sec. 5121. Recordkeeping by wholesale dealers.

''Sec. 5122. Recordkeeping by retail dealers.

''Sec. 5123. Preservation and inspection of records, and entry of premises for inspection.''.

(5)(A) Section 5114 (relating to records) is moved to subpart C of such part II and inserted after the table of sections for such subpart.

(B) Section 5114 is amended—

(i) by striking the section heading and inserting the following new heading:

"SEC. 5121. RECORDKEEPING BY WHOLESALE DEALERS.",

and

(ii) by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

''(c) WHOLESALE DEALERS.—For purposes of this part—

''(1) WHOLESALE DEALER IN LIQUORS.—The term 'wholesale dealer in liquors' means any dealer (other than a wholesale dealer in beer) who sells, or offers for sale, distilled spirits, wines, or beer, to another dealer.

''(2) WHOLESALE DEALER IN BEER.—The term 'wholesale dealer in beer' means any dealer who sells, or offers for sale, beer, but not distilled spirits or wines, to another dealer.

''(3) DEALER.—The term 'dealer' means any person who sells, or offers for sale, any distilled spirits, wines, or beer.

''(4) PRESUMPTION IN CASE OF SALE OF 20 WINE GALLONS OR MORE.—The sale, or offer for sale, of distilled spirits, wines, or beer, in quantities of 20 wine gallons or more to the same person at the same time, shall be presumptive evidence that the person making such sale, or offer for sale, is engaged in or carrying on the business of a wholesale dealer in liquors or a wholesale dealer in beer, as the case may be. Such presumption may be overcome by evidence satisfactorily showing that such sale, or offer for sale, was made to a person other than a dealer.''.

(C) Paragraph (3) of section 5121(d), as so redesignated, is amended by striking ''section 5146'' and inserting ''section 5123''.

(6)(A) Section 5124 (relating to records) is moved to subpart C of part II of subchapter

A of chapter 51 and inserted after section 5121.

(B) Section 5124 is amended—

(i) by striking the section heading and inserting the following new heading:

"SEC. 5122. RECORDKEEPING BY RETAIL DEALERS.",

(ii) by striking ''section 5146'' in subsection (c) and inserting ''section 5123'', and

(iii) by redesignating subsection (c) as subsection (d) and inserting after subsection (b) the following new subsection:

''(c) RETAIL DEALERS.—For purposes of this section—

''(1) RETAIL DEALER IN LIQUORS.—The term 'retail dealer in liquors' means any dealer (other than a retail dealer in beer or a limited retail dealer) who sells, or offers for sale, distilled spirits, wines, or beer, to any person other than a dealer.

''(2) RETAIL DEALER IN BEER.—The term 'retail dealer in beer' means any dealer (other than a limited retail dealer) who sells, or offers for sale, beer, but not distilled spirits or wines, to any person other than a dealer.

''(3) LIMITED RETAIL DEALER.—The term 'limited retail dealer' means any fraternal, civic, church, labor, charitable, benevolent, or ex-servicemen's organization making sales of distilled spirits, wine or beer on the occasion of any kind of entertainment, dance, picnic, bazaar, or festival held by it, or any person making sales of distilled spirits, wine or beer to the members, guests, or patrons of bona fide fairs, reunions, picnics, carnivals, or other similar outings, if such organization or person is not otherwise engaged in business as a dealer.

''(4) DEALER.—The term 'dealer' has the meaning given such term by section 5121(c)(3).''.

(7) Section 5146 is moved to subpart C of part II of subchapter A of chapter 51, inserted after section 5122, and redesignated as section 5123.

(8) Part II of subchapter A of chapter 51 is amended by inserting after subpart C the following new subpart:

"Subpart D—Other Provisions

''Sec. 5131. Packaging distilled spirits for industrial uses.

''Sec. 5132. Prohibited purchases by dealers.''.

(9) Section 5116 is moved to subpart D of part II of subchapter A of chapter 51, inserted after the table of sections, redesignated as section 5131, and amended by inserting ''(as defined in section 5121(c))'' after ''dealer'' in subsection (a).

(10) Subpart D of part II of subchapter A of chapter 51 is amended by adding at the end thereof the following new section:

"SEC. 5132. PROHIBITED PURCHASES BY DEALERS.

''(a) IN GENERAL.—Except as provided in regulations prescribed by the Secretary, it shall be unlawful for a dealer to purchase distilled spirits for resale from any person other than a wholesale dealer in liquors who is required to keep the records prescribed by section 5121.

''(b) LIMITED RETAIL DEALERS.—A limited retail dealer may lawfully purchase distilled spirits for resale from a retail dealer in liquors.

''(c) PENALTY AND FORFEITURE.—

"For penalty and forfeiture provisions applicable to violations of subsection (a), see sections 5687 and 7302.".

(11) Subsection (b) of section 5002 is amended—

(A) by striking ''section 5112(a)'' and inserting ''section 5121(c)(3)'',

(B) by striking ''section 5112'' and inserting ''section 5121(c)'',

(C) by striking ''section 5122'' and inserting ''section 5122(c)''.

(12) Subparagraph (A) of section 5010(c)(2) is amended by striking ''section 5134'' and inserting ''section 5114''.

(13) Subsection (d) of section 5052 is amended to read as follows:

''(d) BREWER.—For purposes of this chapter, the term 'brewer' means any person who brews beer or produces beer for sale. Such term shall not include any person who produces only beer exempt from tax under section 5053(e).''.

(14) The text of section 5182 is amended to read as follows:

''For provisions requiring recordkeeping by wholesale liquor dealers, see section 5121, and by retail liquor dealers, see section 5122.''.

(15) Subsection (b) of section 5402 is amended by striking ''section 5092'' and inserting ''section 5052(d)''.

(16) Section 5671 is amended by striking ''or 5091''.

(17)(A) Part V of subchapter J of chapter 51 is hereby repealed.

(B) The table of parts for such subchapter J is amended by striking the item relating to part V.

(18)(A) Sections 5142, 5143, and 5145 are moved to subchapter D of chapter 52, inserted after section 5731, redesignated as sections 5732, 5733, and 5734, respectively, and amended by striking ''this part'' each place it appears and inserting ''this subchapter''.

(B) Section 5732, as redesignated by subparagraph (A), is amended by striking ''(except the tax imposed by section 5131)'' each place it appears.

(C) Paragraph (2) of section 5733(c), as redesignated by subparagraph (A), is amended by striking ''liquors'' both places it appears and inserting ''tobacco products and cigarette papers and tubes''.

(D) The table of sections for subchapter D of chapter 52 is amended by adding at the end thereof the following:

''Sec. 5732. Payment of tax.

''Sec. 5733. Provisions relating to liability for occupational taxes.

''Sec. 5734. Application of State laws.''.

(E) Section 5731 is amended by striking subsection (c) and by redesignating subsection (d) as subsection (c).

(19) Subsection (c) of section 6071 is amended by striking ''section 5142'' and inserting ''section 5732''.

(20) Paragraph (1) of section 7652(g) is amended—

(A) by striking ''subpart F'' and inserting ''subpart B'', and

(B) by striking ''section 5131(a)'' and inserting ''section 5111''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on July 1, 2004, but shall not apply to taxes imposed for periods before such date.

SEC. 5432. SUSPENSION OF LIMITATION ON RATE OF RUM EXCISE TAX COVER OVER TO PUERTO RICO AND VIRGIN ISLANDS.

(a) IN GENERAL.—Section 7652(f)(1) (relating to limitation on cover over of tax on distilled spirits) is amended by striking ''January 1, 2004'' and inserting ''October 1, 2004, and $13.50 in the case of distilled spirits brought into the United States after September 30, 2004, and before January 1, 2006''.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to articles containing distilled spirits brought into the United States after December 31, 2003.

(2) SPECIAL RULE.—

(A) IN GENERAL.—After September 30, 2004, the treasury of Puerto Rico shall make a Conservation Trust Fund transfer within 30 days from the date of each cover over payment to such treasury under section 7652(e) of the Internal Revenue Code of 1986.

(B) CONSERVATION TRUST FUND TRANSFER.—

(i) IN GENERAL.—For purposes of this paragraph, the term ''Conservation Trust Fund transfer'' means a transfer to the Puerto Rico Conservation Trust Fund of an amount equal to 50 cents per proof gallon of the taxes imposed under section 5001 or section 7652 of such Code on distilled spirits that are covered over to the treasury of Puerto Rico under section 7652(e) of such Code.

(ii) TREATMENT OF TRANSFER.—Each Conservation Trust Fund transfer shall be treated as principal for an endowment, the income from which to be available for use by the Puerto Rico Conservation Trust Fund for the purposes for which the Trust Fund was established.

(iii) RESULT OF NONTRANSFER.—

(I) IN GENERAL.—Upon notification by the Secretary of the Interior that a Conservation Trust Fund transfer has not been made by the treasury of Puerto Rico, the Secretary of the Treasury shall, except as provided in subclause (II), deduct and withhold from the next cover over payment to be made to the treasury of Puerto Rico under section 7652(e) of such Code an amount equal to the appropriate Conservation Trust Fund transfer and interest thereon at the underpayment rate established under section 6621 of such Code as of the due date of such transfer. The Secretary of the Treasury shall transfer such amount deducted and withheld, and the interest thereon, directly to the Puerto Rico Conservation Trust Fund.

(II) GOOD CAUSE EXCEPTION.—If the Secretary of the Interior finds, after consultation with the Governor of Puerto Rico, that the failure by the treasury of Puerto Rico to make a required transfer was for good cause, and notifies the Secretary of the Treasury of the finding of such good cause before the due date of the next cover over payment following the notification of nontransfer, then the Secretary of the Treasury shall not deduct the amount of such nontransfer from any cover over payment.

(C) PUERTO RICO CONSERVATION TRUST FUND.—For purposes of this paragraph, the term ''Puerto Rico Conservation Trust Fund'' means the fund established pursuant to a Memorandum of Understanding between the United States Department of the Interior and the Commonwealth of Puerto Rico, dated December 24, 1968.

PART V—SPORT EXCISE TAXES

SEC. 5441. CUSTOM GUNSMITHS.

(a) SMALL MANUFACTURERS EXEMPT FROM FIREARMS EXCISE TAX.—Section 4182 (relating to exemptions) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

''(c) SMALL MANUFACTURERS, ETC.—

''(1) IN GENERAL.—The tax imposed by section 4181 shall not apply to any article described in such section if manufactured, produced, or imported by a person who manufactures, produces, and imports less than 50 of such articles during the calendar year.

''(2) CONTROLLED GROUPS.—All persons treated as a single employer for purposes of subsection (a) or (b) of section 52 shall be treated as one person for purposes of paragraph (1).''.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to articles sold by the manufacturer, producer, or importer on or after the date which is the first day of the month beginning at least 2 weeks after the date of the enactment of this Act.

(2) NO INFERENCE.—Nothing in the amendments made by this section shall be construed to create any inference with respect to the proper tax treatment of any sales before the effective date of such amendments.

SEC. 5442. MODIFIED TAXATION OF IMPORTED ARCHERY PRODUCTS.

(a) BOWS.—Paragraph (1) of section 4161(b) (relating to bows) is amended to read as follows:

''(1) BOWS.—

''(A) IN GENERAL.—There is hereby imposed on the sale by the manufacturer, producer, or importer of any bow which has a peak draw weight of 30 pounds or more, a tax equal to 11 percent of the price for which so sold.

''(B) ARCHERY EQUIPMENT.—There is hereby imposed on the sale by the manufacturer, producer, or importer—

''(i) of any part or accessory suitable for inclusion in or attachment to a bow described in subparagraph (A), and

''(ii) of any quiver or broadhead suitable for use with an arrow described in paragraph (2),

a tax equal to 11 percent of the price for which so sold.''.

(b) ARROWS.—Subsection (b) of section 4161 (relating to bows and arrows, etc.) is amended by redesignating paragraph (3) as paragraph (4) and inserting after paragraph (2) the following:

''(3) ARROWS.—

''(A) IN GENERAL.—There is hereby imposed on the sale by the manufacturer, producer, or importer of any arrow, a tax equal to 12 percent of the price for which so sold.

''(B) EXCEPTION.—In the case of any arrow of which the shaft or any other component has been previously taxed under paragraph (1) or (2)—

''(i) section 6416(b)(3) shall not apply, and

''(ii) the tax imposed by subparagraph (A) shall be an amount equal to the excess (if any) of—

''(I) the amount of tax imposed by this paragraph (determined without regard to this subparagraph), over

''(II) the amount of tax paid with respect to the tax imposed under paragraph (1) or (2) on such shaft or component.

''(C) ARROW.—For purposes of this paragraph, the term 'arrow' means any shaft described in paragraph (2) to which additional components are attached.''.

(c) CONFORMING AMENDMENTS.—Section 4161(b)(2) is amended—

(1) by inserting ''(other than broadheads)'' after ''point'', and

(2) by striking ''ARROWS.—'' in the heading and inserting ''ARROW COMPONENTS.—''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to articles sold by the manufacturer, producer, or importer after the date of the enactment of this Act.

SEC. 5443. TREATMENT OF TRIBAL GOVERNMENTS FOR PURPOSES OF FEDERAL WAGERING EXCISE AND OCCUPATIONAL TAXES.

(a) IN GENERAL.—Subsection (a) of section 7871 (relating to Indian tribal governments treated as States for certain purposes) is amended by striking ''and'' at the end of paragraph (6), by striking the period at the end of paragraph (7) and inserting ''; and'', and by adding at the end the following new paragraph:

''(8) for purposes of chapter 35 (relating to taxes on wagering).''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on July 1, 2004, but shall not apply to taxes imposed for periods before such date.

PART VI—OTHER PROVISIONS

SEC. 5451. INCOME TAX CREDIT FOR DISTILLED SPIRITS WHOLESALERS AND FOR DISTILLED SPIRITS IN CONTROL STATE BAILMENT WAREHOUSES FOR COSTS OF CARRYING FEDERAL EXCISE TAXES ON BOTTLED DISTILLED SPIRITS.

(a) IN GENERAL.—Subpart A of part I of subchapter A of chapter 51 (relating to gallonage and occupational taxes) is amended by adding at the end the following new section:

''SEC. 5011. INCOME TAX CREDIT FOR AVERAGE COST OF CARRYING EXCISE TAX.

''(a) IN GENERAL.—For purposes of section 38, the amount of the distilled spirits credit for any taxable year is the amount equal to the product of—

''(1) in the case of—

''(A) any eligible wholesaler—

''(i) the number of cases of bottled distilled spirits—

''(I) which were bottled in the United States, and

''(II) which are purchased by such wholesaler during the taxable year directly from the bottler of such spirits, or

''(B) any person which is subject to section 5005 and which is not an eligible wholesaler, the number of cases of bottled distilled spirits which are stored in a warehouse operated by, or on behalf of, a State, or agency or political subdivision thereof, on which title has not passed on an unconditional sale basis, and

''(2) the average tax-financing cost per case for the most recent calendar year ending before the beginning of such taxable year.

''(b) ELIGIBLE WHOLESALER.—For purposes of this section, the term 'eligible wholesaler' means any person which holds a permit under the Federal Alcohol Administration Act as a wholesaler of distilled spirits which is not a State, or agency or political subdivision thereof.

''(c) AVERAGE TAX-FINANCING COST.—

''(1) IN GENERAL.—For purposes of this section, the average tax-financing cost per case for any calendar year is the amount of interest which would accrue at the deemed financing rate during a 60-day period on an amount equal to the deemed Federal excise tax per case.

''(2) DEEMED FINANCING RATE.—For purposes of paragraph (1), the deemed financing rate for any calendar year is the average of the corporate overpayment rates under paragraph (1) of section 6621(a) (determined without regard to the last sentence of such paragraph) for calendar quarters of such year.

''(3) DEEMED FEDERAL EXCISE TAX PER CASE.—For purposes of paragraph (1), the deemed Federal excise tax per case is $25.68.

''(d) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) CASE.—The term 'case' means 12 80-proof 750 milliliter bottles.

''(2) NUMBER OF CASES IN LOT.—The number of cases in any lot of distilled spirits shall be determined by dividing the number of liters in such lot by 9.''.

(b) CREDIT TREATED AS PART OF GENERAL BUSINESS CREDIT.—Section 38(b) (relating to current year business credit), as amended by section 5101 of this Act, is amended by striking ''plus'' at the end of paragraph (15), by striking the period at the end of paragraph (16) and inserting '', plus'', and by adding at the end the following new paragraph:

''(17) the distilled spirits credit determined under section 5011(a).''.

(c) CONFORMING AMENDMENTS.—

(1) Section 39(d), as amended by section 5101 of this Act, is amended by adding at the end the following new paragraph:

''(12) NO CARRYBACK OF SECTION 5011 CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the credit determined under section 5011(a) may be carried back to a taxable year beginning before the date of the enactment of section 5011.''.

(2) The table of sections for subpart A of part I of subchapter A of chapter 51 is amended by adding at the end the following new item:

''Sec. 5011. Income tax credit for average cost of carrying excise tax.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 5452. CREDIT FOR TAXPAYERS OWNING COMMERCIAL POWER TAKEOFF VEHICLES.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits) is amended by adding at the end the following new section:

''SEC. 45G. COMMERCIAL POWER TAKEOFF VEHICLES CREDIT.

''(a) GENERAL RULE.—For purposes of section 38, the amount of the commercial power takeoff vehicles credit determined under this section for the taxable year is $250 for each qualified commercial power takeoff vehicle owned by the taxpayer as of the close of the calendar year in which or with which the taxable year of the taxpayer ends.

''(b) DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED COMMERCIAL POWER TAKEOFF VEHICLE.—The term 'qualified commercial power takeoff vehicle' means any highway vehicle described in paragraph (2) which is propelled by any fuel subject to tax under section 4041 or 4081 if such vehicle is used in a trade or business or for the production of income (and is licensed and insured for such use).

''(2) HIGHWAY VEHICLE DESCRIBED.—A highway vehicle is described in this paragraph if such vehicle is—

''(A) designed to engage in the daily collection of refuse or recyclables from homes or businesses and is equipped with a mechanism under which the vehicle's propulsion engine provides the power to operate a load compactor, or

''(B) designed to deliver ready mixed concrete on a daily basis and is equipped with a mechanism under which the vehicle's propulsion engine provides the power to operate a mixer drum to agitate and mix the product en route to the delivery site.

''(c) EXCEPTION FOR VEHICLES USED BY GOVERNMENTS, ETC.—No credit shall be allowed under this section for any vehicle owned by any person at the close of a calendar year if such vehicle is used at any time during such year by—

''(1) the United States or an agency or instrumentality thereof, a State, a political subdivision of a State, or an agency or instrumentality of one or more States or political subdivisions, or

''(2) an organization exempt from tax under section 501(a).

''(d) TERMINATION.—This section shall not apply with respect to any calendar year after 2006.''.

(b) CREDIT TREATED AS PART OF GENERAL BUSINESS CREDIT.—Section 38(b) (relating to current year business credit), as amended by section 5451 of this Act, is amended by striking ''plus'' at the end of paragraph (16), by striking the period at the end of paragraph (17) and inserting '', plus'', and by adding at the end the following new paragraph:

''(18) the commercial power takeoff vehicles credit under section 45G(a).''.

(c) CONFORMING AMENDMENTS.—

(1) Section 39(d), as amended by section 5451 of this Act, is amended by adding at the end the following new paragraph:

''(13) NO CARRYBACK OF SECTION 45G CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the credit determined under section 45G(a) may be carried back to a taxable year beginning on or before the date of the enactment of section 45G.''.

(2) The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

''Sec. 45G. Commercial power takeoff vehicles credit.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 5453. CREDIT FOR AUXILIARY POWER UNITS INSTALLED ON DIESEL-POWERED TRUCKS.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits), as amended by section 5452 of this Act, is amended by adding at the end the following new section:

''SEC. 45H. AUXILIARY POWER UNIT CREDIT.

''(a) GENERAL RULE.—For purposes of section 38, the amount of the auxiliary power unit credit determined under this section for the taxable year is $250 for each qualified auxiliary power unit—

''(1) purchased by the taxpayer, and

''(2) installed or caused to be installed by the taxpayer on a qualified heavy-duty highway vehicle during such taxable year.

''(b) DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED AUXILIARY POWER UNIT.—The term 'qualified auxiliary power unit' means any integrated system which—

''(A) provides heat, air conditioning, engine warming, and electricity to the factory installed components on a qualified heavy-duty highway vehicle as if the main drive engine of such vehicle was in operation,

''(B) is employed to reduce long-term idling of the diesel engine on such a vehicle, and

''(C) is certified by the Environmental Protection Agency as meeting emission standards in regulations in effect on the date of the enactment of this section.

''(2) QUALIFIED HEAVY-DUTY HIGHWAY VEHICLE.—The term 'qualified heavy-duty highway vehicle' means any highway vehicle weighing more than 12,500 pounds and powered by a diesel engine.

''(c) TERMINATION.—This section shall not apply with respect to any installation occurring after December 31, 2006.''.

(b) CREDIT TREATED AS PART OF GENERAL BUSINESS CREDIT.—Section 38(b) (relating to current year business credit), as amended by section 5452 of this Act, is amended by striking ''plus'' at the end of paragraph (17), by striking the period at the end of paragraph (18) and inserting '', plus'', and by adding at the end the following new paragraph:

''(19) the auxiliary power unit credit under section 45H(a).''.

(c) CONFORMING AMENDMENTS.—

(1) Section 39(d), as amended by section 5452 of this Act, is amended by adding at the end the following new paragraph:

''(14) NO CARRYBACK OF SECTION 45H CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the credit determined under section 45H(a) may be carried back to a taxable year beginning on or before the date of the enactment of section 45H.''.

(2) The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by section 5452 of this Act, is amended by adding at the end the following new item:

''Sec. 45H. Auxiliary power unit credit.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to auxiliary power units purchased and installed for taxable years beginning after the date of the enactment of this Act.

Subtitle F—Miscellaneous Provisions

SEC. 5501. MOTOR FUEL TAX ENFORCEMENT ADVISORY COMMISSION.

(a) ESTABLISHMENT.—There is established a Motor Fuel Tax Enforcement Advisory Commission (in this section referred to as the ''Commission'').

(b) FUNCTION.—The Commission shall—

(1) review motor fuel revenue collections, historical and current;

(2) review the progress of investigations;

(3) develop and review legislative proposals with respect to motor fuel taxes;

(4) monitor the progress of administrative regulation projects relating to motor fuel taxes;

(5) review the results of Federal and State agency cooperative efforts regarding motor fuel taxes;

(6) review the results of Federal interagency cooperative efforts regarding motor fuel taxes; and

(7) evaluate and make recommendations regarding—

(A) the effectiveness of existing Federal enforcement programs regarding motor fuel taxes,

(B) enforcement personnel allocation, and

(C) proposals for regulatory projects, legislation, and funding.

(c) MEMBERSHIP.—

(1) APPOINTMENT.—The Commission shall be composed of the following representatives appointed by the Chairmen and the Ranking Members of the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives:

(A) At least 1 representative from each of the following Federal entities: the Department of Homeland Security, the Department of Transportation - Office of Inspector General, the Federal Highway Administration, the Department of Defense, and the Department of Justice.

(B) At least 1 representative from the Federation of State Tax Administrators.

(C) At least 1 representative from any State department of transportation.

(D) 2 representatives from the highway construction industry.

(E) 5 representatives from industries relating to fuel distribution — refiners (2 representatives), distributors (1 representative), pipelines (1 representative), and terminal operators (2 representatives).

(F) 1 representative from the retail fuel industry.

(G) 2 representatives from the staff of the Committee on Finance of the Senate and 2 representatives from the staff of the Committee on Ways and Means of the House of Representatives.

(2) TERMS.—Members shall be appointed for the life of the Commission.

(3) VACANCIES.—A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(4) TRAVEL EXPENSES.—Members shall serve without pay but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(5) CHAIRMAN.—The Chairman of the Commission shall be elected by the members.

(d) FUNDING.—Such sums as are necessary shall be available from the Highway Trust fund for the expenses of the Commission.

(e) CONSULTATION.—Upon request of the Commission, representatives of the Department of the Treasury and the Internal Revenue Service shall be available for consultation to assist the Commission in carrying out its duties under this section.

(f) OBTAINING DATA.—The Commission may secure directly from any department or agency of the United States, information (other than information required by any law to be kept confidential by such department or agency) necessary for the Commission to carry out its duties under this section. Upon request of the Commission, the head of that department or agency shall furnish such nonconfidential information to the Commission. The Commission shall also gather evidence through such means as it may deem appropriate, including through holding hearings and soliciting comments by means of Federal Register notices.

(g) TERMINATION.—The Commission shall terminate after September 30, 2009.

SEC. 5502. NATIONAL SURFACE TRANSPORTATION INFRASTRUCTURE FINANCING COMMISSION.

(a) ESTABLISHMENT.—There is established a National Surface Transportation Infrastructure Financing Commission (in this section referred to as the ''Commission''). The Commission shall hold its first meeting within 90 days of the appointment of the eighth individual to be named to the Commission.

(b) FUNCTION.—

(1) IN GENERAL.—The Commission shall—

(A) make a thorough investigation and study of revenues flowing into the Highway Trust Fund under current law, including the individual components of the overall flow of such revenues;

(B) consider whether the amount of such revenues is likely to increase, decline, or remain unchanged, absent changes in the law, particularly by taking into account the impact of possible changes in public vehicular choice, fuel use, or travel alternatives that could be expected to reduce or increase revenues into the Highway Trust Fund;

(C) consider alternative approaches to generating revenues for the Highway Trust Fund, and the level of revenues that such alternatives would yield;

(D) consider highway and transit needs and whether additional revenues into the Highway Trust Fund, or other Federal revenues dedicated to highway and transit infrastructure, would be required in order to meet such needs; and

(E) study such other matters closely related to the subjects described in the preceding subparagraphs as it may deem appropriate.

(2) TIME FRAME OF INVESTIGATION AND STUDY.—The time frame to be considered by the Commission shall extend through the year 2015.

(3) PREPARATION OF REPORT.—Based on such investigation and study, the Commission shall develop a final report, with recommendations and the bases for those recommendations, indicating policies that should be adopted, or not adopted, to achieve various levels of annual revenue for the Highway Trust Fund and to enable the Highway Trust Fund to receive revenues sufficient to meet highway and transit needs. Such recommendations shall address, among other matters as the Commission may deem appropriate—

(A) what levels of revenue are required by the Federal Highway Trust Fund in order for it to meet needs to—

(i) maintain, and

(ii) improve the condition and performance of the Nation's highway and transit systems;

(B) what levels of revenue are required by the Federal Highway Trust Fund in order to ensure that Federal levels of investment in highways and transit do not decline in real terms; and

(C) the extent, if any, to which the Highway Trust Fund should be augmented by other mechanisms or funds as a Federal

means of financing highway and transit infrastructure investments.

(c) MEMBERSHIP.—

(1) APPOINTMENT.—The Commission shall be composed of 15 members, appointed as follows:

(A) 7 members appointed by the Secretary of Transportation, in consultation with the Secretary of the Treasury.

(B) 2 members appointed by the Chairman of the Committee on Ways and Means of the House of Representatives.

(C) 2 members appointed by the Ranking Minority Member of the Committee on Ways and Means of the House of Representatives.

(D) 2 members appointed by the Chairman of the Committee on Finance of the Senate.

(E) 2 members appointed by the Ranking Minority Member of the Committee on Finance of the Senate.

(2) QUALIFICATIONS.—Members appointed pursuant to paragraph (1) shall be appointed from among individuals knowledgeable in the fields of public transportation finance or highway and transit programs, policy, and needs, and may include representatives of interested parties, such as State and local governments or other public transportation authorities or agencies, representatives of the transportation construction industry (including suppliers of technology, machinery and materials), transportation labor (including construction and providers), transportation providers, the financial community, and users of highway and transit systems.

(3) TERMS.—Members shall be appointed for the life of the Commission.

(4) VACANCIES.—A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(5) TRAVEL EXPENSES.—Members shall serve without pay but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(6) CHAIRMAN.—The Chairman of the Commission shall be elected by the members.

(d) STAFF.—The Commission may appoint and fix the pay of such personnel as it considers appropriate.

(e) FUNDING.—Funding for the Commission shall be provided by the Secretary of the Treasury and by the Secretary of Transportation, out of funds available to those agencies for administrative and policy functions.

(f) STAFF OF FEDERAL AGENCIES.—Upon request of the Commission, the head of any department or agency of the United States may detail any of the personnel of that department or agency to the Commission to assist in carrying out its duties under this section.

(g) OBTAINING DATA.—The Commission may secure directly from any department or agency of the United States, information (other than information required by any law to be kept confidential by such department or agency) necessary for the Commission to carry out its duties under this section. Upon request of the Commission, the head of that department or agency shall furnish such nonconfidential information to the Commission. The Commission shall also gather evidence through such means as it may deem appropriate, including through holding hearings and soliciting comments by means of Federal Register notices.

(h) REPORT.—Not later than 2 years after the date of its first meeting, the Commission shall transmit its final report, including recommendations, to the Secretary of Transportation, the Secretary of the Treasury, and the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, the Committee on Transportation and Infrastructure of the House of Representatives, the Committee on Environment and Public Works of the Senate, and the Committee on Banking, Housing, and Urban Affairs of the Senate.

(i) TERMINATION.—The Commission shall terminate on the 180th day following the date of transmittal of the report under subsection (h). All records and papers of the Commission shall thereupon be delivered to the Administrator of General Services for deposit in the National Archives.

SEC. 5503. TREASURY STUDY OF FUEL TAX COMPLIANCE AND INTERAGENCY COOPERATION.

(a) IN GENERAL.—Not later than January 31, 2006, the Secretary of the Treasury shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report regarding fuel tax enforcement which shall include the information and analysis specified in subsections (b) and (c) and any other information and recommendations the Secretary of the Treasury may deem appropriate.

(b) AUDITS.—With respect to audits conducted by the Internal Revenue Service, the report required under subsection (a) shall include—

(1) the number and geographic distribution of audits conducted annually, by fiscal year, between October 1, 2001, and September 30, 2005;

(2) the total volume involved for each of the taxable fuels covered by such audits and a comparison to the annual production of such fuels;

(3) the staff hours and number of personnel devoted to the audits per year; and

(4) the results of such audits by year, including total tax collected, total penalties collected, and number of referrals for criminal prosecution.

(c) ENFORCEMENT ACTIVITIES.—With respect to enforcement activities, the report required under subsection (a) shall include—

(1) the number and geographic distribution of criminal investigations and prosecutions annually, by fiscal year, between October 1, 2001, and September 30, 2005, and the results of such investigations and prosecutions;

(2) to the extent such investigations and prosecutions involved other agencies, State or Federal, a breakdown by agency of the number of joint investigations involved;

(3) an assessment of the effectiveness of joint action and cooperation between the Department of the Treasury and other Federal and State agencies, including a discussion of the ability and need to share information across agencies for both civil and criminal Federal tax enforcement and enforcement of State or Federal laws relating to fuels;

(4) the staff hours and number of personnel devoted to criminal investigations and prosecutions per year;

(5) the staff hours and number of personnel devoted to administrative collection of fuel taxes; and

(6) the results of administrative collection efforts annually, by fiscal year, between October 1, 2001, and September 30, 2005.

SEC. 5504. EXPANSION OF HIGHWAY TRUST FUND EXPENDITURE PURPOSES TO INCLUDE FUNDING FOR STUDIES OF SUPPLEMENTAL OR ALTERNATIVE FINANCING FOR THE HIGHWAY TRUST FUND.

(a) IN GENERAL.—From amounts available in the Highway Trust Fund, there is authorized to be expended for 2 comprehensive studies of supplemental or alternative funding sources for the Highway Trust Fund—

(1) $1,000,000 to the Western Transportation Institute of the College of Engineering at Montana State University for the study and report described in subsection (b), and

(2) $16,500,000 to the Public Policy Center of the University of Iowa for the study and report described in subsection (c).

(b) STUDY OF FUNDING MECHANISMS.—Not later than December 31, 2006, the Western Transportation Institute of the College of Engineering at Montana State University shall report to the Secretary of the Treasury and the Secretary of Transportation on a study of highway funding mechanisms of other industrialized nations, an examination of the viability of alternative funding proposals, including congestion pricing, greater reliance on tolls, privatization of facilities, and bonding for construction of added capacity, and an examination of increasing the rates of motor fuels taxes in effect on the date of the enactment of this Act, including the indexation of such rates.

(c) STUDY ON FIELD TEST OF ON-BOARD COMPUTER ASSESSMENT OF HIGHWAY USE TAXES.—Not later than December 31, 2011, the Public Policy Center of the University of Iowa shall direct, analyze, and report to the Secretary of the Treasury and the Secretary of Transportation on a long-term field test of an approach to assessing highway use taxes based upon actual mileage driven by a specific vehicle on specific types of highways by use of an on-board computer—

(1) which is linked to satellites to calculate highway mileage traversed,

(2) which computes the appropriate highway use tax for each of the Federal, State, and local governments as the vehicle makes use of the highways, and

(3) the data from which is periodically downloaded by the vehicle owner to a collection center for an assessment of highway use taxes due in each jurisdiction traversed.The components of the field test shall include 2 years for preparation, including selection of vendors and test participants, and 3-year testing period.

SEC. 5505. TREASURY STUDY OF HIGHWAY FUELS USED BY TRUCKS FOR NON-TRANSPORTATION PURPOSES.

(a) STUDY.—The Secretary of the Treasury shall conduct a study regarding the use of highway motor fuel by trucks that is not used for the propulsion of the vehicle. As part of such study—

(1) in the case of vehicles carrying equipment that is unrelated to the transportation function of the vehicle—

(A) the Secretary of the Treasury, in consultation with the Secretary of Transportation, and with public notice and comment, shall determine the average annual amount of tax paid fuel consumed per vehicle, by type of vehicle, used by the propulsion engine to provide the power to operate the equipment attached to the highway vehicle, and

(B) the Secretary of the Treasury shall review the technical and administrative feasibility of exempting such nonpropulsive use of highway fuels for the highway motor fuels excise taxes,

(2) in the case where non-transportation equipment is run by a separate motor—

(A) the Secretary of the Treasury shall determine the annual average amount of fuel exempted from tax in the use of such equipment by equipment type, and

(B) the Secretary of the Treasury shall review issues of administration and compliance related to the present-law exemption provided for such fuel use, and

(3) the Secretary of the Treasury shall—

(A) estimate the amount of taxable fuel consumed by trucks and the emissions of various pollutants due to the long-term idling of diesel engines, and

(B) determine the cost of reducing such long-term idling through the use of plug-ins at truck stops, auxiliary power units, or other technologies.

(b) REPORT.—Not later than January 1, 2006, the Secretary of the Treasury shall report the findings of the study required under

subsection (a) to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

SEC. 5506. DELTA REGIONAL TRANSPORTATION PLAN.

(a) STUDY.—The Delta Regional Authority shall conduct a study of the transportation assets and needs in the States of Alabama, Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri, and Tennessee which comprise the Delta region.

(b) REGIONAL STRATEGIC TRANSPORTATION PLAN.—Upon completion of the study required under subsection (a), the Delta Regional Authority shall establish a regional strategic transportation plan to achieve efficient transportation systems in the Delta region. In developing the regional strategic transportation plan, the Delta Regional Authority shall consult with local planning and development districts, local and regional governments, metropolitan planning organizations, State transportation entities, and Federal transportation agencies.

(c) ELEMENTS OF STUDY AND PLAN.—The study and plan under this section shall include the following transportation modes and systems: transit, rail, highway, interstate, bridges, air, airports, waterways and ports.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Delta Regional Authority $1,000,000 to carry out the purposes of this section, to remain available until expended.

SEC. 5507. TREATMENT OF EMPLOYER-PROVIDED TRANSIT AND VAN POOLING BENEFITS.

(a) IN GENERAL.—Subparagraph (A) of section 132(f)(2) (relating to limitation on exclusion) is amended by striking ''$100'' and inserting ''$120''.

(b) INFLATION ADJUSTMENT CONFORMING AMENDMENTS.—The last sentence of section 132(f)(6)(A) (relating to inflation adjustment) is amended—

(1) by striking ''2002'' and inserting ''2005'', and

(2) by striking ''2001'' and inserting ''2004''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

SEC. 5508. STUDY OF INCENTIVES FOR PRODUCTION OF BIODIESEL.

(a) STUDY.—The General Comptroller of the United States shall conduct a study related to biodiesel fuels and the tax credit for biodiesel fuels established under this Act. Such study shall include—

(1) an assessment on whether such credit provides sufficient assistance to the producers of biodiesel fuel to establish the fuel as a viable energy alternative in the current market place,

(2) an assessment on how long such credit or similar subsidy would have to remain in effect before biodiesel fuel can compete in the market place without such assistance,

(3) a cost-benefit analysis of such credit, comparing the cost of the credit in forgone revenue to the benefits of lower fuel costs for consumers, increased profitability for the biodiesel industry, increased farm income, reduced program outlays from the Department of Agriculture, and the improved environmental conditions through the use of biodiesel fuel, and

(4) an assessment on whether such credit results in any unintended consequences for unrelated industries, including the impact, if any, on the glycerin market.

(b) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Comptroller General of the United States shall report the findings of the study required under subsection (a) to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

SEC. 5509. REDUCTION OF EXPENDITURES FROM THE HIGHWAY TRUST FUND.

The amount made available under titles I, II, III, and IV of this Act shall be reduced on a pro rata basis, so that the total of such reductions equals $214,000,000,000.

Subtitle G—Revenue Offsets

PART I—LIMITATION ON EXPENSING CERTAIN PASSENGER AUTOMOBILES

SEC. 5601. EXPANSION OF LIMITATION ON DEPRECIATION OF CERTAIN PASSENGER AUTOMOBILES.

(a) IN GENERAL.—Section 179(b) (relating to limitations) is amended by adding at the end the following new paragraph:

''(6) LIMITATION ON COST TAKEN INTO ACCOUNT FOR CERTAIN PASSENGER VEHICLES.—

''(A) IN GENERAL.—The cost of any sport utility vehicle for any taxable year which may be taken into account under this section shall not exceed $25,000.

''(B) SPORT UTILITY VEHICLE.—For purposes of subparagraph (A)—

''(i) IN GENERAL.—The term 'sport utility vehicle' means any 4-wheeled vehicle which—

''(I) is manufactured primarily for use on public streets, roads, and highways,

''(II) is not subject to section 280F, and

''(III) is rated at not more than 14,000 pounds gross vehicle weight.

''(ii) CERTAIN VEHICLES EXCLUDED.—Such term does not include any vehicle which—

''(I) does not have the primary load carrying device or container attached,

''(II) has a seating capacity of more than 12 individuals,

''(III) is designed for more than 9 individuals in seating rearward of the driver's seat,

''(IV) is equipped with an open cargo area, or a covered box not readily accessible from the passenger compartment, of at least 72.0 inches in interior length, or

''(V) has an integral enclosure, fully enclosing the driver compartment and load carrying device, does not have seating rearward of the driver's seat, and has no body section protruding more than 30 inches ahead of the leading edge of the windshield.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after February 2, 2004.

PART II—PROVISION TO REPLENISH THE GENERAL FUND

SEC. 5611. MODIFICATION TO CORPORATE ESTIMATED TAX REQUIREMENTS.

The amount of any required installment of corporate estimated income tax which is otherwise due under section 6655 of the Internal Revenue Code of 1986 after June 30, 2009, and before October 1, 2009, shall be 119 percent of such amount.

SA 2317. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 1006, between lines 7 and 8, insert the following:

SEC. 4603. SENSE OF THE SENATE

It is the sense of the Senate that, notwithstanding amendment to section 24104 of title 49, United States Code, by section 4601, no amounts in excess of the amounts appropriated for Amtrak for fiscal year 2004 should be appropriated for any fiscal year before the enactment of a law providing for comprehensive reform and restructuring of Amtrak (as determined by the Secretary of Transportation).''.

SA 2318. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 1005, line 18, strike ''There'' and insert ''Upon the enactment of a law providing for comprehensive reform and restructuring of Amtrak (as determined by the Secretary of Transportation), there''.

SA 2319. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 1005, line 21, after ''expenses.'' insert ''Notwithstanding the preceding sentence, no amounts in excess of the amounts appropriated for Amtrak for fiscal year 2004 are authorized to be appropriated for any fiscal year until the enactment of a law providing for comprehensive reform and restructuring of Amtrak (as determined by the Secretary of Transportation),''.

SA 2320. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

In section 105 of title 23, United States Code, as added by section 1201 of the amendment, strike subsection (c).

SA 2321. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

In section 105 of title 23, United States Code, as added by section 1201 of the amendment, strike subsection (b)(1)(B).

SA 2322. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

In section 105 of title 23, United States Code, as added by section 1201 of the amendment, strike subsection (d).

SA 2323. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize

funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Redesignate subsection (g) of section 105 of title 23, United States Code, as it would be amended by section 1104 of the amendment, as subsection (h) and insert after subsection (f) the following:

''(g) FURTHER ADJUSTMENT.—The Secretary shall reduce any funds apportioned to a State under this section by an amount equal to any discretionary allocation directed in an annual Appropriations Act, or its accompanying explanatory material, made from a program funded from the Highway Trust Fund (other than the mass transit account) or any other direct appropriation from the Highway Trust Fund (other than the mass transit account) received by such State, or any other entity in such State, in the prior fiscal year.

SA 2324. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 1005, beginning with line 15, strike through line 7 on page 1006 and insert the following:

TITLE VI—RAIL TRANSPORTATION

SEC. 601. SHORT TITLE.

This title may be cited as the ''Rail Passenger Service Restructuring, Reauthorization, and Development Act''.

SEC. 602. TABLE OF CONTENTS; AMENDMENT OF TITLE 49, UNITED STATES CODE.

(a) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 601. Short title.
Sec. 602. Table of contents; amendment of title 49, United States Code.

SUBTITLE A—NETWORK RESTRUCTURING AND COST-SHARING

PART 1—RESTRUCTURING

Sec. 611. Statement of purposes.
See. 612. Passenger rail service restructuring.
Sec. 613. Definitions.
Sec. 614. Operating grants for corridor routes.
Sec. 615. Operating grants for long distance routes
Sec. 616. Long distance route restructuring commission.
Sec. 617. Criteria for restructuring.
Sec. 618. Implementation of restructuring plan.

PART 2—NORTHEAST CORRIDOR

Sec. 621. Redemption of common stock.
Sec. 622. Retirement of preferred stock; transfer of assets.
See. 623. Real estate and asset sales; other.
See. 624. Interstate compact for the Northeast Corridor.
Sec. 625. Shut-down of commuter or freight operations.
Sec. 626. Capital grants for the Northeast Corridor.

PART 3—RELATED MATTERS

Sec. 631. Fair and open competition.
Sec. 632. Access to other railroads.
Sec. 633. Limitations on rail passenger transportation liability.
Sec. 634. Train operations insurance pool.
Sec. 635. Collective bargaining arrangements.

SUBTITLE B—RAIL DEVELOPMENT

See. 651. Capital assistance for intercity passenger rail service.
Sce. 652. Final regulations on applications by States for development grants.
Sec. 653. Authority for interstate compacts for corridor development.

SUBTITLE C—REFORMS

Sec. 671. Management of secured debt.
Sec. 672. Employee transition assistance.
Sec. 673. Termination of authority for GSA to provide services to Amtrak.
Sec. 674. Amtrak reform board of directors.
See. 675. Limitations on availability of grants.
Sec. 676. Repeal of obsolete and executed provisions of law.
Sec. 677. Establishment of financial accounting system for the American Passenger Railway Corporation by independent auditor.
See. 678. Restructuring of long-term debt and capital leases.
Sec. 679. Authorization of appropriations.

(b) AMENDMENT OF TITLE 49.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

SUBTITLE A—NETWORK RESTRUCTURING AND COST-SHARING

PART 1—RESTRUCTURING

SEC. 611. STATEMENT OF PURPOSE OF CORPORATE RESTRUCTURING.

Section 24101 is amended to read as follows:

§ 24101. Findings, purpose, and goals

''(a) FINDINGS.—

''(1) It is in the public interest of the United States to encourage and promote the development of various modes of transportation and transportation infrastructure to efficiently maximize the mobility of passengers and goods.

''(2) Despite Federal subsidies of nearly $27 billion over the past 34 years, intercity rail passenger service still accounts for less than 1 percent of all intercity travel.

''(3) Intercity rail passenger service can be competitive with other modes of transportation and achieve a significant share of the travel market in short-distance corridors connecting metropolitan areas.

''(4) Rail passenger transportation can help alleviate overcrowding of airways and airports, and can provide needed intermodal connections to airports, bus terminals, and mass transit services.

''(5) Short-distance corridor trains account for approximately 85 percent of Amtrak's ridership but only one-third of Amtrak's operating losses, excluding depreciation.

''(6) A number of Amtrak's long-distance routes may be more efficiently operated and attract higher ridership as connected corridors.

''(7) Service over long-distance routes that cannot be restructured as connected corridors, do not receive State financial support, or are not an essential link to the rest of the intercity passenger rail network, should be consolidated or discontinued.

''(8) Some States with short-distance corridor services provide significant financial support for such services, while other States with short-distance routes and all states with long-distance routes contribute nothing for such services. More equitable cost-sharing is needed to justify Federal investment in intercity rail passenger service.

''(9) The need to invest taxpayer dollars in intercity rail passenger service demands that fair and open competition be permitted for the provision of such services to ensure that service is provided in the most efficient manner, without jeopardizing the safety of such operations.

''(10) A greater degree of cooperation is necessary among intercity passenger service operators, freight railroads, State, regional, and local governments, the private sector, labor organizations, and suppliers of services and equipment to achieve the performance sufficient to justify the expenditure of additional public money on intercity rail passenger service.

''(11) Transportation services provided by the private freight railroads are vital to the economy and national defense and should not be disadvantaged by the operation of intercity passenger rail service over their rights-of-way.

''(12) The Northeast Corridor is a valuable resource of the United States used by intercity and commuter rail passenger transportation and freight transportation and should be restored to a state of good repair.

''(b) PURPOSE.—The purpose of this chapter is to assist in the preservation and development of conventional and high-speed intercity rail passenger services where such services can play an important role in facilitating passenger mobility in the United States.

''(e) GOALS.—The goals of this chapter are—

''(1) to move toward a national network of interconnected short-distance passenger rail corridor services,

''(2) to return the Northeast Corridor to a state of good repair;

''(3) to establish a framework for the development of new conventional and high-speed rail services;

''(4) to allow for train services to be operated under contract to a State or group of States, with the operator of the service selected by the State or group of States;

''(5) to establish equitable cost-sharing for capital expenses and operating losses with the States; and

''(6) to encourage greater participation in the provision of intercity rail passenger services by the private sector.''.

SEC. 612. PASSENGER RAIL SERVICE RESTRUCTURING.

(a) IN GENERAL.—Chapter 243 is amended by inserting before section 24301 the following:

''§ 24300. Restructuring mandate

''(a) IN GENERAL.—Within 6 months after the date of enactment of the Rail Passenger Service Restructuring, Reauthorization, and Development Act, the Amtrak Reform Board shall restructure Amtrak as 2 independent entities, as follows:

''(1) THE NATIONAL RAILROAD PASSENGER CORPORATION.—One entity shall be the National Railroad Passenger Corporation, otherwise known as Amtrak, that shall provide overall supervision of the restructuring of the intercity passenger rail program.

''(2) THE AMERICAN PASSENGER RAILWAY CORPORATION.—The other entity shall be a for profit corporation, to be known as the American Passenger Railway Corporation, that shall be responsible for conducting the passenger operations, infrastructure maintenance, and related services, including operation of reservation centers and ownership and management of rolling stock, that were conducted by Amtrak before the restructuring required by this subsection.

''(b) ARTICLES OF INCORPORATION AND OTHER DOCUMENTATION.—The Amtrak Reform Board shall—

''(1) file appropriate articles of incorporation under State law for the American Passenger Railway Corporation; and

''(2) amend the articles of incorporation and bylaws of the National Railroad Passenger Corporation to reflect its changed functions and responsibilities.

''(c) ROLES AND RESPONSIBILITIES OF THE AMERICAN PASSENGER RAILWAY CORPORATION.—

''(1) RAILROAD ACTIVITIES.—Consistent with the business corporation law of the State of incorporation of the American Passenger Railway Corporation, the Corporation shall be qualified to undertake railroad activities of an operational or infrastructure nature.

''(2) RAIL OPERATIONS AND RELATED FUNCTIONS.—The American Passenger Railway Corporation—

''(A) shall have the exclusive right, until October 1, 2005, to continue to provide the intercity passenger service provided by Amtrak on the date of enactment of the Rail Passenger Service Restructuring, Reauthorization, and Development Act;

''(B) shall, beginning October 1, 2005, operate intercity passenger service only on a contractual basis under negotiated terms an(1 conditions;

''(C) shall operate a national reservations system; and

''(D) subject to fulfillment of its contractual obligations, shall have the exclusive right, until management of the mainline of the Northeast Corridor between Boston, Massachusetts, and Washington, District of Columbia, is transferred to the interstate compact created under section 624 or to another entity, to continue to provide the train operations, dispatching, maintenance, and infrastructure services that are being provided by Amtrak on the date of enactment of the Rail Passenger Service Restructuring, Reauthorization, and Development Act, but may provide such services beginning October 1, 2005, only on a contractual basis with the National Railroad Passenger Corporation under negotiated terms and conditions.

''(4) STATUS OF CORPORATION.—

''(A) The American Passenger Railway Corporation—

''(1) is a railroad carrier under section 20102(2) and chapters 261 and 281 of this title;

''(ii) shall be operated and managed as a for-profit corporation; and

''(iii) is not a department, agency, or instrumentality of the United States Government nor a Government corporation (as defined in section 103 of title 5).

''(B) Chapter 105 of this title does not apply to the Corporation, except that laws and regulations governing safety, employee representation for collective bargaining purposes, the handling of disputes between carriers and employees, employee retirement, annuity, and unemployment systems, and other dealings with employees that apply to a rail carrier providing transportation subject to chapter 105 apply to the Corporation.

''(C) Subsections (c) through (1) of section 24301 of this title shall apply to the Corporation.

''(5) CHIEF EXECUTIVE OFFICER.—Subject to further action by the board of directors of the American Passenger Railway Corporation, the president of Amtrak on the date of enactment of the Rail Passenger Service Restructuring, Reauthorization, and Development Act shall be offered the position of chief executive officer of the American Passenger Railway Corporation.''.

§ 24300A. American Passenger Railway Corporation board of directors

'(a) IN GENERAL.—

''(1) MEMBERSHIP.—The American Passenger Railway Corporation shall be governed by a board of directors consisting of 7 members appointed by the President, by and with the advice and consent of the Senate. No individual who is an officer or employee of the United States may serve as a member of the board.

''(2) TERM OF OFFICE.—Each member shall serve for a term of 5 years. An individual may not serve for more than 2 terms.

''(3) QUORUM.—A majority of the board members who have been lawfully appointed and qualified at any moment shall constitute a quorum for the conduct of business.

''(b) BYLAWS.—The board of directors shall adopt bylaws governing the corporation consistent with the provisions of this section arid its articles of incorporation, and may amend, repeal, and otherwise modify the bylaws from time to time as necessary or appropriate.

''(c) TRANSITION BOARD MEMBERS.—Individuals who are serving as members of the Amtrak Reform Board on the day before the date on which the American Passenger Railway Corporation is established, with the exception of the Secretary of Transportation, shall serve as members of the board of directors of the American Passenger Railway Corporation until 4 members of that board have been appointed and qualified.

''§ 24300B. National Railroad Passenger Corporation board after restructuring

''(a) IN GENERAL.—After the American Passenger Railway Corporation is established, the Reform Board established under section 24302(a) shall be dissolved, and Amtrak shall be governed by a board of directors consisting of—

''(1) the Secretary of Transportation;

''(2) the Federal Railroad Administrator or another officer of the United States within the Department of Transportation compensated under the Executive Schedule under title 5, United States Code, who is designated by the Secretary; and

''(3) the Federal Transit Administrator or another officer of the United States within the Department of Transportation compensated under the Executive Schedule under title 5, who is designated by the Secretary.

''(b) ROLES AND RESPONSIBILITIES.—

''(1) SUPERVISION AND MANAGEMENT.—After the board of directors described in subsection (a) takes office, the National Railroad Passenger Corporation shall—

''(A) provide overall supervision of the restructuring of the intercity passenger rail program;

''(B) provide management of residual responsibilities; and

''(C) retain and manage Amtrak's legal rights, including it's legal right of access to other railroads, and ownership of Amtrak's real property, until that property is transferred to the Secretary of Transportation under section 622.

''(2) CONTRACTS FOR SERVICE.—The National Railroad Passenger Corporation shall, by contract, permit an operator to provide intercity passenger rail service over routes operated by Amtrak on the date prior to the date the restructuring required by this Act becomes effective, at the frequencies in effect on that date, on its behalf and to use its right of access to any segment of rail line owned by another rail carrier and needed for the operation of that train. The operator may be the American Passenger Railway Corporation or another operator designated by the Secretary, but there shall be no more than 1 intercity passenger rail operator at a time over any segment of rail line owned by another rail carrier, except in terminal areas as determined by the Secretary or as may otherwise be provided by agreement among the National Railroad Passenger Corporation, the operators, and the owner of the rail line.

''(3) USE OF AMTRAK NAME.—

''(A) IN GENERAL.—Amtrak shall retain all legal rights pertaining to the name 'Amtrak,' and may, at its option, license or otherwise make the name 'Amtrak' commercially available in connection with intercity passenger rail and related services.

''(B) USE BY AMERICAN PASSENGER RAILWAY CORPORATION.—Amtrak shall by contract, permit the American Passenger Railway Corporation to market its services under the Amtrak name.

''(4) AMTRAK PERSONNEL.—All Amtrak employees shall become American Passenger Railway Corporation employees unless retained by the National Railroad Passenger Corporation. The American Passenger Railway Corporation shall succeed to the collective bargaining agreements in effect between Amtrak and labor organizations that are in effect on the day before the date on which that Corporation is established. An employee who elects employment with National Railroad Passenger Corporation shall become an employee of that Corporation, with only such rights regarding pay and benefits as that Corporation shall determine.

''(5) FREIGHT AND COMMUTER OPERATIONS.—The National Railroad Passenger Corporation shall ensure that the implementation of the restructuring required by section 24300 gives due consideration to the needs of freight and commuter operations that, as of the date of enactment of the Rail Passenger Service Restructuring, Reauthorization, and Development Act, operate on the Northeast Corridor using Amtrak rights-of-way.

''(6) ROLLING STOCK.—The National Railroad Passenger Corporation shall set the terms under which the American Passenger Railway Corporation must make available to any replacement operator the legacy equipment associated with any intercity passenger rail service provided as of the date of enactment of that Act.''.

(b) SPINNING-OFF OF RESERVATIONS SYSTEM.—Not later than 2 years after the date of enactment of the Rail Passenger Service Restructuring, Reauthorization, and Development Act, the American Passenger Railway Corporation shall provide to the Secretary of Transportation, the Senate Committee on Commerce, Science, and Transportation, and the House of Representatives Committee on Transportation and Infrastructure recommendations on the feasibility, advantages, and disadvantages of spinning off the reservation system as a private for-profit entity.

(c) CONFORMING AMENDMENT.—The chapter analysis for chapter 243 is amended by inserting the following after the item relating to section 24309:

''24300. Restructuring mandate
''24300A. American Passenger Railway Corporation board of directors
''24300B. Amtrak board after restructuring''.

SEC. 613. DEFINITIONS.

Section 24102 is amended—

(1) by striking paragraph (2) and redesignating paragraphs (3) through (9) as paragraphs (2) through (8), respectively;

(2) by redesignating paragraphs (3) through (8), as redesignated, as paragraphs (4) through (9), respectively, and inserting after paragraph (2) the following:

''(3) 'corridor train' means—

''(A) a train route operated by Amtrak as of January 1, 2004, with a route length of 750 miles or less; or

''(B) a new conventional or high-speed route eligible for funding under chapter 244 of this title.'';

(3) by redesignating paragraphs (6) through (9), as redesignated, as paragraphs (7) through (10), respectively, and inserting after paragraph (5) the following:

''(6) 'long distance train' means a train route operated by Amtrak as of January 1, 2004, with a route length greater than 750 miles.''.

SEC. 614. OPERATING GRANTS FOR CORRIDOR ROUTES.

(a) IN GENERAL.—Chapter 243 is amended by adding at the end the following:

"§ 24316. Operating grants for corridor routes

''(a) IN GENERAL.—

''(1) OPERATING GRANT AUTHORITY.—Beginning on October 1, 2005, the Secretary of Transportation may make grants to States for operating assistance under the authority of this section, and not under any other provision of law, to reimburse operators of corridor routes over which intercity passenger service was provided on the date of enactment of the Rail Passenger Service Restructuring, Reauthorization, and Development Act for the operating expenses incurred in operating those routes or those frequencies to provide intercity passenger rail transportation.

''(2) CONDITIONS.—A grant under this section shall be subject to the terms, conditions, requirements, and provisions the Secretary decides are necessary or appropriate for the purposes of this section, including limitations on what operating expenses are eligible for reimbursement.

''(b) FEDERAL SHARE OF OPERATING LOSSES.—

''(1) REIMBURSABLE AMOUNT.—A grant to a State under this section for any fiscal year may not exceed an amount equal to the lower of—

''(A) the applicable percentage of the Federal operating subsidy for that fiscal year; or

''(B) the percentage of the operating subsidy for a route not borne by a State during the last fiscal year ending before the date of enactment of the Rail Passenger Service Restructuring, Reauthorization, and Development Act.

''(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage of the operating subsidy for a fiscal year is—

''(A) 70 percent for fiscal year 2006;

''(B) 60 percent for fiscal year 2007;

''(C) 50 percent for fiscal year 2008;

''(D) 40 percent for fiscal year 2009; and

''(E) 30 percent for fiscal year 2010.

''(c) DETERMINATION OF EXPENSES ELIGIBLE FOR REIMBURSEMENT.—

''(1) ANNUAL DETERMINATION OF SUBSIDY.—On an annual basis, the Inspector General for the Department of Transportation shall analyze and advise the Secretary of Transportation as to the operating subsidy required on corridor routes operated by the American Passenger Railway Corporation under contract with a State without competitive bid. The operating loss on such routes shall—

''(A) reflect the fully allocated costs of operating the route, including an appropriate share of overhead expenses, including general and administrative expenses; and

''(B) exclude depreciation and interest expense on long-term debt.

''(2) AGGREGATION OF NORTHEAST CORRIDOR LOSSES.—Operating losses on corridor trains operated exclusively on the mainline of the Northeast Corridor extending from Washington, D.C. to Boston, MA may be aggregated for purposes of determining the operating subsidy required on the routes.

''(3) DETERMINATION WITH COMPETITIVE BIDDING.—Expenses eligible for Federal support pursuant to paragraph (b)(2) for reimbursement for a corridor route that has been competitively bid shall consist of the operating subsidy agreed upon by the State, group of States, or other entity and the operator.

''(d) EXCEPTION TO DATE COST-SHARING REQUIRED.—For any State whose legislature has not convened in regular session after the date of enactment of the Rail Passenger Service Restructuring, Reauthorization, and Development Act and before October 1, 2005, the additional cost-sharing requirements of this section shall become effective on October 1, 2006.

''(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this section—

''(1) $125,000,000 for fiscal year 2006;

''(2) $100,000,000 for fiscal year 2007;

''(3) $90,000,000 for fiscal year 2008;

''(4) $75,000,000 for fiscal year 2009; and

''(5) $50,000,000 for fiscal year 2010.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 243 is amended by adding at the end the following:

''24316. Operating grants for corridor routes''.

SEC. 615. OPERATING GRANTS FOR LONG DISTANCE ROUTES.

(a) IN GENERAL.—Chapter 243, as amended by section 614, is amended by adding at the end the following:

"§ 24317. Operating grants for long distance routes

''(a) IN GENERAL.—

''(1) OPERATING GRANT AUTHORITY.—Beginning on October 1, 2005, the Secretary of Transportation may make grants to the American Passenger Railway Corporation or to a State for operating assistance under the authority of this section, and not under any other provision of law, to reimburse operators of long distance routes over which intercity passenger service was provided on the date of enactment of the Rail Passenger Service Restructuring, Reauthorization, and Development Act, for operating subsidies required in operating those routes or those frequencies to provide intercity passenger rail transportation.

''(2) CONDITIONS.—

''(A) A grant under this section shall be subject to the terms, conditions, requirements, and provisions the Secretary decides are necessary or appropriate for the purposes of this section, including limitations on what operating expenses are eligible for reimbursement.

''(B) The Secretary shall require the American Passenger Railway Corporation, as a condition of a grant under this section, to systematically reduce its fiscal year 2003 route and system-wide overhead expenses by a minimum of 5 percent annually through fiscal year 2010. A contract between the National Railroad Passenger Corporation and the American Passenger Railway Corporation for the operation of a long distance route or routes must provide for reimbursement of operating losses to be reduced to reflect such cost reductions and productivity enhancements.

''(3) ANNUAL DETERMINATION OF SUBSIDY.—On an annual basis, the Inspector General for the Department of Transportation shall analyze and advise the Secretary of Transportation as to the operating subsidy required on long distance routes operated by the American Passenger Railway Corporation.

''(b) FEDERAL SHARE OF OPERATING LOSSES.—Pending completion of the restructuring of long distance intercity passenger rail routes required by sections 615 through 617 of the Rail Passenger Service Restructuring, Reauthorization, and Development Act, the Federal share for an operating grant may be 100 percent of the qualifying operating subsidy for the route.

''(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation to carry out this section—

''(1) $550,000,000 for fiscal year 2006;

''(2) $400,000,000 for fiscal year 2007;

''(3) $350,000,000 for fiscal year 2008;

''(4) $325,000,000 for fiscal year 2009; and

''(5) $300,000,000 for fiscal year 2010.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 243, as amended by section 614 of this Act, is amended by adding at the end the following:

''24317. Operating grants for long distance routes

SEC. 616. LONG DISTANCE ROUTE RESTRUCTURING COMMISSION.

(a) ESTABLISHMENT.—There is established an independent commission to be known as the Long Distance Route Restructuring Commission.

(b) DUTY.—

(1) IN GENERAL.—The Commission shall submit a plan to Congress for restructuring long distance intercity passenger rail routes on a timely basis by—

(A) retaining routes that provide a unique service that can be contracted out by the National Railroad Passenger Corporation on a for-profit basis;

(B) restructuring other routes as linked corridor routes between major metropolitan areas; and

(C) consolidating or discontinuing service over remaining routes.

(2) PRESERVATION OF NATIONAL NETWORK.—The restructuring plan submitted by the Commission shall ensure that no corridor train is completely isolated from the rest of the intercity passenger rail network.

(3) EXCEPTIONS.—

(A) IN GENERAL.—A route will be excluded from consideration for restructuring, consolidation, or closure if a State or group of States commits, by contractual arrangement with the American Passenger Railway Corporation or another operator selected through a competitive process, to provide financial operating support at a level sufficient to offset at least

(i) 30 percent of the operating subsidy for fiscal year 2007;

(ii) 40 percent of the operating subsidy for fiscal year 2008; and

(iii) 50 percent of the operating subsidy thereafter.

(B) FAILURE OF SUPPORT.—If a State or group of States fails to provide the support to which it committed under this paragraph, then service over the route shall be discontinued.

(4) CONSULTATION REQUIRED.—In carrying out its duties, the Commission shall consult with the American Passenger Railway Corporation, State and local officials, freight railroads, companies with expertise in intercity passenger transportation, and other persons with an interest in the restructuring of the long distance train routes.

(c) APPOINTMENT.—

(1) The Commission shall be composed of 7 members appointed by the President within 6 months after the date of enactment of this Act.

(2) The Commission members shall elect 1 member to serve as Chairman.

(d) TERMINATION.—The Commission shall terminate 90 days after the Commission's recommendations for consolidation and closure are submitted to Congress.

(e) VACANCIES.—A vacancy on the Commission shall be filled in the same manner as the original appointment.

(f) DETAILEES.—Upon the request of the Chairman of the Commission, the head of any Federal department or agency may detail personnel of that department or agency to the Commission to assist the Commission in carrying out its duties.

(g) COMPENSATION; REIMBURSEMENT.—Members of the Commission shall serve without pay, but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with section 5702 and 5703 of title 5, United States Code.

(h) OTHER AUTHORITY.—

(1) The Commission may procure by contract, to the extent funds are available, the

temporary or intermittent services of experts or consultants pursuant to section 3109 of title 5, United States Code.

(2) The Commission may lease space and acquire personal property to the extent funds are available.

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the use of the Commission in carrying out its responsibilities under this section for each of fiscal years 2005 and 2006, $4,000,000, such sums to remain available until expended.

SEC. 617. CRITERIA FOR RESTRUCTURING.

(a) RESTRUCTURING AS LINKED CORRIDORS.—

(1) PREREQUISITE FOR RESTRUCTURING.—A long distance route or portion thereof may be recommended for restructuring as a linked corridor if—

(A) the origin-to-destination travel time of each corridor link in the new route, at conventional train speeds, including all station stops, will be competitive with other modes of transportation;

(B) each corridor link in the new route connects at least 2 major metropolitan areas or provides a link between 2 or more existing corridor trains;

(C) the restructured train can be reasonably expected to attract at least 10 percent of the combined common carrier market in the markets served;

(D) the projected cash operating loss of each of the restructured links does not exceed 11 cents per passenger-mile on a fully allocated cost basis; and

(E) the Federal operating subsidy will not be more than 50 percent of the operating subsidy for the route for fiscal year 2003.

(2) HOURS OF OPERATION.—In addition to the eligibility criteria in paragraph (1), any long distance routes recommended for restructuring as linked corridors shall be designed to operate between the hours of 6:00 a.m. and 11:00 p.m.

(3) MODIFICATION OF ROUTES.—With the concurrence of the affected States, existing routes may be modified to improve ridership and financial performance.

(4) NEW CAPITAL PLANS.—As part of the restructuring plan for reconfigured routes, the Commission shall develop a capital plan, if additional capital is needed to reconfigure the route as linked corridors.

(b) CONTRACTING-OUT OF PROFITABLE LONG DISTANCE ROUTES AND SERVICES.—The Commission shall determine which long distance routes or services on such routes, including auto-ferry transportation, food service, and sleeping accommodations, could be contracted to a private operator on a for-profit basis. In making these determinations, the Commission shall solicit expressions of interest from the private sector in operating long distance routes or services, including the conditions under which private companies may be interested in operating such services.

(e) CONSOLIDATION AND CLOSURE.—The Commission shall make recommendations to Congress for consolidating and closing long distance train routes or portions of routes that cannot be restructured under subsection (a) or contracted out under subsection (b), to reduce the Federal operating subsidy required by at least 50 percent compared to the operating subsidy required in fiscal year 2003, taking into consideration—

(1) the operating loss on a fully allocated cost basis, including capital costs, of the route or portion thereof;

(2) the extent to which train service is the only available public transportation to the cities and towns along the route or portion;

(3) whether an alternate route could significantly reduce operating losses or increase ridership;

(4) available capacity on the rights-of-way of the host railroad or railroads; and

(5) interest from the private sector in operating the route or portion thereof on a subsidized basis.

(d) COOPERATION OF AMERICAN PASSENGER RAILWAY CORPORATION.—

(1) The American Passenger Railway Corporation shall cooperate and comply, subject to the agreement of the Commission to protect the confidentiality of proprietary information, with all requests for financial, marketing, and other information affecting the routes under consideration by the Commission.

(2) The Secretary of Transportation may withhold all or part of an operating or capital grant to the Corporation if the Secretary determines the American Passenger Railway Corporation is not cooperating with the Commission as required by this Act.

(e) REPORT.—The Commission shall submit its recommendations for consolidation and closure to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure within 18 months after the date of enactment of this Act. The report shall include a description of—

(1) the analysis performed by the Commission to reach its conclusions;

(2) options considered in the development of a restructuring plan;

(3) the impact of the restructuring on employees of the American Passenger Railway Corporation for any long distance route restructured under this section; and

(4) the costs and benefits of implementing the plan.

SEC. 618. IMPLEMENTATION OF RESTRUCTURING PLAN.

(a) IN GENERAL.—Subject to subsection (b), the Secretary of Transportation shall implement the restructuring plan submitted by the Long Distance Route Restructuring Commission in its report to Congress pursuant to section 617 unless a joint resolution is enacted by the Congress disapproving such recommendations of the Commission before the earlier of—

(A) the end of the 45-day period beginning on the date the Commission submits its report to Congress; or

(B) the adjournment of Congress sine die for the session during which such report is submitted.

(2) For purposes of paragraph (1) of this subsection, the days on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain shall be excluded in the computation of a period.

PART 2—NORTHEAST CORRIDOR

SEC. 621. REDEMPTION OF COMMON STOCK.

(a) VALUATION.—The Secretary of Transportation shall arrange, at the National Railroad Passenger Corporation's expense, for a valuation of all Amtrak assets and liabilities with an estimated value in excess of $1,000,000 as of the date of enactment of this Act by the Secretary of the Treasury, or by a contractor selected by the Secretary of the Treasury. The valuation shall be conducted in accordance with the Uniform Standards of Professional Appraisal Practice of the Appraisal Foundation's Appraisal Standards Board and shall be completed within 1 year after the date of enactment of this Act.

(b) REDEMPTION.—

(1) Prior to the transfer of assets to the Secretary directed by section 622 of this Act, and within 3 months after the completion of the valuation under subsection (a), the National Railroad Passenger Corporation shall redeem all common stock in Amtrak issued prior to the date of enactment of this Act at the fair market value of such stock, based on the valuation performed under subsection (a).

(2) No provision of this Act, or amendments made by this Act, provide to the owners of the common stock a priority over holders of indebtedness or other stock of Amtrak.

(c) ACQUISITION THROUGH EMINENT DOMAIN.—In the event that the National Railroad Passenger Corporation and the owners of the Amtrak common stock have not completed the redemption of such stock within 3 months after the completion of the valuation under subsection (a), the National Railroad Passenger Corporation shall exercise its right of eminent domain under section 24311 of title 49, United States Code, to acquire that stock. The value assigned to the common stock under subsection (a) shall be deemed to constitute just compensation except to the extent that the owners of the common stock demonstrate that the valuation is less than the constitutional minimum value of the stock.

(d) AMENDMENT OF SECTION 24311.—Section 24311 (a) (1) is amended—

(1) by striking ''or'' at the end of subparagraph (A);

(2) by striking ''Amtrak.'' in subparagraph (B) and inserting ''Amtrak; or''; and

(3) by adding at the end the following:

''(C) necessary to redeem Amtrak's common stock from any, holder thereof, including a rail carrier.''.

(e) CONVERSION OF PREFERRED STOCK TO COMMON.—

(1) Subsequent to the redemption of the common stock in the corporation issued prior to the date of enactment of this Act, the Secretary of Transportation shall convert the one share of the preferred stock of Amtrak retained under section 622 of this Act for 10 shares of common stock in the National Railroad Passenger Corporation.

(2) The National Railroad Passenger Corporation may not issue any other common stock, and may not issue preferred stock, without the express written consent of the Secretary.

(f) TERMINATION OF SECTION 24907 NOTE AND MORTGAGE AUTHORITY.—Section 24907 is amended by adding at the end the following:

''(d) TERMINATION OF AUTHORITY.—The authority of the Secretary to obtain a note of indebtedness from, and make a mortgage agreement with, the American Passenger Railway Corporation under subsection (a) is terminated as of the date of the transfer of assets under section 622 of the Rail Passenger Service Restructuring, Reauthorization, and Development Act.''.

SEC. 622. RETIREMENT OF PREFERRED STOCK; TRANSFER OF ASSETS.

(a) TRANSFER.—Not later than 30 days after the redemption or acquisition of stock under section 621 of this Act, the National Railroad Passenger Corporation shall, in return for the consideration specified in subsection (c), transfer to the Secretary of Transportation title to—

(1) the portions of the Northeast Corridor currently owned or leased by the Corporation as well as any improvements made to these assets, including the rail right-of-way, stations, track, signal equipment, electric traction facilities, bridges, tunnels, repair facilities, and all other improvements owned by the Corporation between Boston, Massachusetts, and Washington, District of Columbia (including the route through Springfield, Massachusetts, and the routes to Harrisburg, Pennsylvania, and Albany, New York, from the Northeast Corridor mainline);

(2) Chicago Union Station and rail-related assets in the Chicago Metropolitan area; and

(3) all other track and right-of-way, stations, repair facilities, and other real property owned or leased by the Corporation.

(b) EXISTING ENCUMBRANCES.—

(1) ASSUMPTION BY FEDERAL GOVERNMENT.—Any outstanding debt on the mainline of the Northeast Corridor (other than debt associated with rolling stock) shall become a debt obligation of the United States as of the date of transfer of title under subsection (a)(1).

(2) RESTRUCTURING.—Except as provided in paragraph (1), the obligation of the American Passenger Railway Corporation or its successors or assigns to repay in full any indebtedness to the United States incurred since January, 1990, is not affected by this Act or an amendment made by this Act.

(c) CONSIDERATION.—In consideration for the assets transferred to the United States under subsection (a), the Secretary shall—

(1) deliver to the National Passenger Railroad Corporation all but one share of the preferred stock of Amtrak field by the Secretary and forgive Amtrak's legal obligation to pay any dividends, including accrued but unpaid dividends as of the date of transfer, evidenced by the preferred stock certificates; and

(2) release Amtrak from all mortgages and liens held by the Secretary that were in existence on January 1, 1990.

(d) AGREEMENT.—Prior to accepting title to the assets transferred under this section, the Secretary shall enter into a contract with American Passenger Railway Corporation under which American Passenger Railway Corporation w111 exercise care, custody, maintenance, and operational control of the assets to be transferred. The term of the contract shall be for 1 year, which shall be renewed annually without action on the part of either party unless canceled by either party with 90 days notice.

(e) FURTHER TRANSFERS.—

(1) The Secretary may, for appropriate consideration, transfer title to all or part of Chicago Union Station and rail-related assets in the Chicago metropolitan area acquired under this section to a regional public transportation agency that has significant operations in Chicago Union Station on the date of enactment of this Act.

(2) The Secretary may, for appropriate consideration, transfer to the underlying States title to real estate properties owned by the Corporation between Boston, Massachusetts, and Washington, District of Columbia, that constitute the route through Springfield, Massachusetts, and the routes to Harrisburg, Pennsylvania, and Albany, New York, from the Northeast Corridor mainline.

(3) The Secretary may, for appropriate consideration, transfer title to all or part of the assets acquired under subsection (a)(3) to a State, a public agency, a railroad, or other entity deemed appropriate by the Secretary.

(f) USE OF PROCEEDS.—Notwithstanding section 3302 of title 31, United States Code, any proceeds from the transfer of the assets described in subsection (e) shall be credited as off-setting collection to the account that finances debt and interest payments to the American Passenger Railway Corporation. Funds available for corridor development under chapter 244 of title 49, United States Code, shall be increased by an amount equal to the amounts credited under the preceding sentence.

SEC. 623. REAL ESTATE AND ASSET SALES; OTHER.

(a) IN GENERAL.—Within 3 years after the date of enactment of this Act, the Secretary of Transportation shall transfer all stations, track, and other fixed facilities outside the Northeast Corridor mainline to which the Secretary has assumed title under section 622 of this title, other than equipment repair facilities, to States, municipalities, railroads, or other entities for maximum consideration.

(b) USE OF PROCEEDS.—Notwithstanding section 3302 of title 31, United States Code, any proceeds from the transfer of assets under this section shall be credited as off-setting collections to the account that finances debt and interest payments to the American Passenger Railway Corporation. Funds available for corridor development under chapter 244 of title 49, United States Code, shall be increased by an amount equal to the amounts credited under the preceding sentence.

SEC. 624. INTERSTATE COMPACT FOR THE NORTHEAST CORRIDOR.

(a) CONSENT TO COMPACT.—

(1) IN GENERAL.—The States and the District of Columbia that constitute the Northeast Corridor, as defined in section 24102 of title 49, United States Code, may enter into a multistate compact, not in conflict with any other law of the United States, to be known as the Northeast Corridor Compact, to manage railroad operations and rail service and conduct related activities on the Northeast Corridor mainline between Boston, Massachusetts, and Washington, District of Columbia.

(2) CONGRESSIONAL APPROVAL REQUIRED.—The Northeast Corridor Compact shall be submitted to Congress for its consent. It is the sense of the Congress that rapid consent to the Compact is a priority matter for the Congress.

(b) COMPACT COMMISSION.—

(1) IN GENERAL.—There is hereby established a commission to be known as the Northeast Corridor Compact Commission. The Commission shall be composed of—

(A) 2 members (or their designees), to be selected by the Secretary of Transportation;

(B) 2 members (or their designees), to be selected by agreement of—

(i) the governors of Maryland, Delaware, Pennsylvania, New Jersey, New York, Connecticut, Rhode Island, and Massachusetts (hereinafter referred to as the ''participating States''); and

(ii) the mayor of the District of Colombia; and

(C) 1 member to be selected by the 4 members selected under subparagraphs (A) and (B).

(2) ADMINISTRATIVE PROVISIONS.—

(A) Members of the Commission shall be appointed for the life of the Commission.

(B) A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(C) Members shall serve without pay but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(D) The Chairman of the Commission shall be elected by the members.

(E) The Commission may appoint and fix the pay of such personnel as it considers appropriate.

(F) Upon the request of the Commission, the head of any department or agency of the United States may detail, on a reimbursable basis, any of the personnel of that department or agency to the Commission to assist it in carrying out its duties under this section.

(G) Upon the request of the Commission, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support services necessary for the Commission to carry out its responsibilities under this section.

(c) FUNCTIONS.—

(1) The Commission shall prepare for the consideration of and adoption by participating States, the District of Columbia, and the Secretary of Transportation an interstate compact that provides for—

(A) full authority for 99 years to succeed to the responsibilities of the American Passenger Railway Corporation as operator of the Northeast Corridor, subject to the provisions of a lease from the Department of Transportation, including—

(i) responsibility for Corridor maintenance and improvement;

(ii) operation of intercity passenger rail service;

(iii) arrangements for operation of freight railroad operations and commuter operations;

(iv) authority to make use of the Corridor for non-rail purposes; and

(v) assumption of financial responsibility for Northeast Corridor functions;

(B) execution of a lease of the Northeast Corridor from the Department of Transportation, for a period of 99 years, subject to appropriate provisions protecting the lessor's interests, including reversion of all lease interests to the lessor in the event the lessee fails to meet its financial obligations or otherwise assume financial responsibility for Northeast Corridor functions; and

(C) participation by the Department of Transportation, as the non-voting representative of the United States.

(2) The compact terms shall, at a minimum, conform to the requirements of subsections (e) through (i) of this section.

(d) FINAL COMPACT PROPOSAL.—

(1) The Commission shall submit a final compact proposal to participating States, the District of Columbia, and the Federal Government not later than 18 months after the date of enactment of this Act.

(2) The Commission shall terminate on the 180th day following the date of transmittal of the final compact proposal under this subsection.

(e) GOVERNANCE AND FUNDING REQUIREMENTS FOR COMPACT.—

(1) The governance provisions of the compact shall provide a mechanism to ensure voting representation for the participating States and the District of Columbia and for non-voting representation for the Secretary of Transportation and a freight railroad that conducts operations on the Northeast Corridor as ex officio members participating in all Compact affairs.

(2) The provisions of the compact shall establish the financial obligations of each compact member and shall provide for its management of rail services in the Northeast Corridor.

(f) FEDERAL INTEREST REQUIREMENTS FOR COMPACT.—The provisions of the Compact shall hold the United States Government harmless as to the actions of the Compact under the lease of rights to the Northeast Corridor by the United States Government.

(g) COMPACT BORROWING AUTHORITY.—

(1) The borrowing authority provisions of the Compact may authorize it to issue bonds or other debt instruments from time to time at its discretion for purposes that include paying any part of the cost of rail service improvements, construction, and rehabilitation and the acquisition of real and personal property, including operating equipment, except that debt issued by the Compact may be secured only by revenues to the Compact and may not be a debt of a participating State, the District of Columbia, or the Federal Government.

(2) The debt authorized by this subsection shall under no circumstances be backed by the full faith and credit of the United States, and a grant made under the authority of this Act or under the authority of part C of subtitle V of title 49, United States Code, shall include an express acknowledgement by the grantee that the debt does not constitute an obligation of the United States.

(h) ADOPTION OF COMPACT; TURNOVER.—

(1) IN GENERAL.—The participating States and the District of Columbia shall adopt a final compact agreement within 5 years after

the date of enactment of this Act, and the Compact shall thereafter assume responsibility for the Northeast Corridor operations on a date that is not later than 6 months after adoption of the Compact.

(2) OPERATIONS.—Upon leasing the Northeast Corridor to the Compact, the Secretary shall assign to the Compact and the Compact shall assume the then-current contract for operation of the Northeast Corridor. Upon the termination of that contract, the Compact may make such arrangements for operation of the Northeast Corridor as it sees fit consistent with its lease and this Act. If the Compact chooses to use a contractor to operate the Northeast Corridor, the contract shall be awarded competitively.

(3) MAINTENANCE.—Upon leasing the Northeast Corridor to the Compact, the Secretary shall assign to the Compact and the Compact shall assume the then-current contract for maintenance of the Northeast Corridor. Upon the termination of that contract, the Compact may make such arrangements for maintenance of the Northeast Corridor as it sees fit consistent with its lease and this Act. If the Compact chooses to use a contractor to maintain the Northeast Corridor, the contract shall be awarded competitively.

(4) NON-COMPACT ALTERNATIVE.—In the event that the participating States and the District of Columbia do not adopt the final compact agreement and make it operational under the schedule set forth in this section, the Secretary of Transportation, through a competitive bidding process, may contract with another public or private entity to manage the Northeast Corridor, with a goal of maximizing the return to the Federal government from such operations.

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation to carry out this section—

(1) $3,000,000 for fiscal year 2005, and

(2) $2,000,000 for fiscal year 2006,

such sums to remain available until expended.

SEC. 625. SHUT-DOWN OF COMMUTER OR FREIGHT OPERATIONS.

(a) IN GENERAL.—Section 11123 is amended by striking ''National Railroad Passenger Corporation'' each place it appears and inserting ''American Passenger Railway Corporation''.

(b) AUTHORIZATION OF APPROPRIATIONS.—From the funds made available for the American Passenger Railway Corporation for fiscal years 2005 through 2010, the Secretary of Transportation shall in each fiscal year hold in reserve such sums as may be necessary to carry out directed service orders issued under section 1123 of title 49, United States Code, to respond to the shut-down of commuter rail operations or freight operations due to a shut-down of operations by the American Passenger Railway Corporation. The Secretary shall make the reserved funds available through an appropriate grant instrument during the fourth quarter of each fiscal year to the extent that no grant orders have been issued by the Surface Transportation Board during that fiscal year prior to the date of transfer of the reserved funds or there is a balance of reserved funds not needed by the Board to pay for any directed service order in that fiscal year.

(c) EFFECTIVE DATE FOR SUBSECTION (a).—The amendment made by subsection (a) shall take effect on the date, determined by the Secretary of Transportation, on which the restructuring required by sections 24300, 24300A, and 24300B of title 49, United States Code, is completed.

SEC. 626. CAPITAL GRANTS FOR NORTHEAST CORRIDOR.

(a) IN GENERAL.—Chapter 243, as amended by section 615, is amended by adding at the end the following:

''§ 24318. Capital authorizations for the Northeast Corridor

''(a) IN GENERAL.—The Secretary of Transportation, in consultation with State and regional transportation officials, shall develop and implement a capital program to restore the rail infrastructure on the mainline Northeast Corridor between Boston, Massachusetts, and Washington, District of Columbia, to a state of good repair.

''(b) AUTHORIZATION OF APPROPRIATIONS FOR CAPITAL PROJECTS ON THE NORTHEAST CORRIDOR.—There are authorized to be appropriated to the Secretary of Transportation to make capital grants under this section $200,000,000 for fiscal year 2005 and $300,000,000 for each of fiscal years 2006 through 2010.

''(c) ACHIEVEMENT OF STATE-OF-GOOD-REPAIR ON NORTHEAST CORRIDOR.—

''(1) USE OF FUNDS.—Sums authorized for the Northeast Corridor under subsection (b) may be used solely for the purpose of funding deferred maintenance and safety projects, including the negotiated Federal share for life-safety improvements in the New York Penn Station tunnels.

''(2) STATE OF GOOD REPAIR.—The Northeast Corridor shall be considered to be in a state of good repair upon the completion of the capital program developed under subsection (a).''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 243, as amended by section 615, is amended by adding at the end thereof the following:

''24318. Capital authorizations for the Northeast Corridor''.

PART 3—RELATED MATTERS

SEC. 631. FAIR AND OPEN COMPETITION.

(a) IN GENERAL.—The Secretary of Transportation shall consult with States that competitively bid intercity passenger rail services to ensure that their bidding processes provide for fair and open competition for all bidders, including the American Passenger Railway Corporation.

(b) USE OF FEDERAL OR STATE FUNDS.—The Secretary shall ensure that the American Passenger Railway Corporation may not use Federal or State financial support for a passenger rail route to subsidize a competitive bid to operate intercity passenger rail service on another route.

SEC. 632. ACCESS TO OTHER RAILROADS.

(a) TERMS AND CONDITIONS FOR ACCESS TO OTHER RAILROADS.—

(1) EXISTING ROUTES AND FREQUENCIES.—

(A) IN GENERAL.—The National Railroad Passenger Corporation shall be responsible for negotiating the terms and conditions under which the American Passenger Railway Corporation, a State, or other entity may access the property of any freight railroad to provide intercity passenger rail service over routes operated by Amtrak on the day before the date, determined by the Secretary of Transportation, on which the restructuring required by sections 24300, 24300A, and 24300B of title 49, United States Code, is completed at the frequencies in effect on that clay.

(B) PRESERVATION OF RAILROAD BENEFITS.—The access and liability terms and conditions of the contracts between the National Railroad Passenger Corporation and railroads following that restructuring shall be no less favorable to the host railroads than the access and liability terms and conditions under contracts in effect on the day before the date, as so determined by the Secretary, on which the restructuring is completed.

(C) INCENTIVE PAYMENTS; PENALTIES.—The Secretary shall retain a system of incentive payments and performance penalties in negotiating compensation payments to freight railroads under subparagraph (A) that encourages on-time performance.

(3) CONDITIONS FOR NEW ROUTES AND TRAIN FREQUENCIES.—

(A) IN GENERAL.—The terms and conditions for the operation of a new intercity passenger rail route or frequency added after the date of enactment of this Act shall be determined by negotiation and mutual agreement between the host railroad and the operator or sponsor of the route or frequency to be added, with no preferential right of access.

(B) STANDARD OF COMPENSATION.—The standard of compensation for the rental change shall be fully allocated costs, excluding capital investments associated with an added route or frequency.

(C) FAILURE OF NEGOTIATION.—If the parties cannot agree on the terms and conditions of the rental charge, either party may seek a prescription of appropriate terms and conditions under section 24308 of title 49, United States Code.

(b) FITNESS QUALIFICATIONS FOR PASSENGER RAIL.—

(1) IN GENERAL.—No person may operate intercity passenger rail service over freight railroad property unless that person demonstrates to the satisfaction of the Secretary of Transportation that—

''(A) its intercity passenger rail operations will meet all applicable Federal safety rules and regulations;

''(B) it will operate the service on a sound financial basis; and

''(C) it has the technical expertise to operate intercity passenger rail service.''.

(2) MINIMUM STANDARDS.—Within 6 months after the date of enactment of this Act, the Secretary of Transportation shall by regulation establish minimum safety and financial qualifications for operators of intercity passenger rail service.

SEC. 633. LIMITATIONS ON RAIL PASSENGER TRANSPORTATION LIABILITY.

Section 28103 is amended by striking ''Amtrak shall maintain a total'' in subsection (c) and inserting ''each operator of intercity passenger rail service shall maintain''.

SEC. 634. TRAIN OPERATIONS INSURANCE POOL.

(a) IN GENERAL.—Chapter 281 is amended by adding at the end the following:

''§ 28104. Train operations insurance pool

''(a) IN GENERAL.—The Secretary of Transportation is authorized to encourage and otherwise assist insurance companies and other insurers that meet the requirements prescribed under subsection (b) of this section to form, associate, or otherwise join together in a pool—

''(1) to provide the insurance coverage required by section 28103; and

''(2) for the purpose of assuming, on such terms and conditions as may be agreed upon, such financial responsibility as will enable such companies and other insurers to assume a reasonable proportion of responsibility for the adjustment and payment of claims under section 28103.

''(b) REGULATIONS TO ESTABLISH INSURER QUALIFICATION REQUIREMENTS.—In order to promote the effective administration of the intercity rail passenger program, and to assure that the objectives of this chapter are furthered, the Secretary is authorized to prescribe requirements for insurance companies and other insurers participating in an insurance pool under subsection (a), including minimum requirements for capital or surplus or assets.

(c) AUTHORITY TO COLLECT AND PAY PREMIUMS AND OTHER COSTS.—In order to provide adequate insurance coverage at affordable cost to operators of intercity passenger rail service at no cost to the United States, the Secretary is authorized to divide the insurance premiums and all other costs of forming

and operating the insurance pool created pursuant to this section, including the costs of any contractors or consultants the Secretary may hire, among all the operators of intercity passenger rail service and collect from each operator of intercity passenger rail service the insurance premiums and other costs the Secretary has allocated to it. Notwithstanding any other provisions of law, the Secretary may receive funds collected under this section directly from each operator of intercity passenger rail service, credit the appropriation charged for the insurance premiums and other costs of forming and operating the insurance pool, and use those funds to pay insurance premiums and other costs of forming and operating the insurance pool, including the costs of any contractors or consultants the Secretary may hire. The Secretary may advance such sums as may be necessary to pay insurance premiums and other costs of forming and operating the insurance pool from unobligated balances available to the Federal Railroad Administration for intercity passenger rail service, to be reimbursed from payments received from operators of intercity passenger rail service. Where the Secretary is making a grant of operating funds for a route, the Secretary may collect the insurance premiums and other costs the Secretary has allocated to it by withholding those funds from the grant and crediting them to the appropriation charged for the insurance premiums and other costs of forming and operating the insurance pool.

"§ 28105. Use of insurance pool, companies, or other private organizations for certain payments

''(a) AUTHORIZATION TO ENTER INTO CONTRACTS FOR CERTAIN REQUIREMENTS.—In order to provide for maximum efficiency in the administration of the intercity rail passenger program, the Secretary of 'Transportation may enter into contracts with the pool formed or otherwise created under section 28104, or any insurance company or other private organizations, for the purpose of securing performance by such pool, company, or organization of any or all of the following responsibilities:

''(1) Estimating and later determining any amounts of payments to be made.

''(2) Receiving from the Secretary, disbursing, and accounting for payments of insurance premiums.

''(3) Making such audits of the records of any insurance company or other insurer, insurance agent or broker, or insurance adjustment organization as may be necessary to assure that proper payments are made.

''(4) Otherwise assisting in such manner as the contract may provide to further the purposes of this chapter.

''(b) TERMS AND CONDITIONS OF CONTRACT.—Any contract with the pool or an insurance company or other private organization under this section may contain such terms and conditions as the Secretary finds necessary or appropriate for carrying out responsibilities under subsection (a) of this section, and may provide for payment of any costs which the Secretary determines are incidental to carrying out such responsibilities which are covered by the contract.

''(e) COMPETITIVE BIDDING.—Any contract entered into under subsection (a) of this section may be entered into without regard to section 5 of title 41 or any other provision of law requiring competitive bidding.

''(d) FINDINGS OF SECRETARY.—No contract may be entered into under this section unless the Secretary finds that the pool, company, or organization will perform its obligations under the contract efficiently and effectively, and will meet such requirements as to financial responsibility, legal authority, and other matters as the Secretary finds pertinent.

''(e) BOND; LIABILITY OF CERTIFYING OFFICERS AND DISBURSING OFFICERS.—

''(1) SURETY BOND.—Any contract entered into under subsection (a) of this section may require the pool, company, or organization or any of its officers or employees certifying payments or disbursing funds pursuant to the contract, or otherwise participating in carrying out the contract, to give surety bond to the United States in such amount as the Secretary may deem appropriate.

''(2) PERSONAL LIABILITY FOR CERTIFICATION.—No individual designated pursuant to a contract under this section to certify payments shall, in the absence of gross negligence or intent to defraud the United States, be liable with respect to any payment certified by that individual under this section.

''(3) PERSONAL LIABILITY FOR PAYMENT.—No officer disbursing funds shall in the absence of gross negligence or intent to defraud the United States, be liable with respect to any payment by that officer under this section if it was based upon a voucher signed by an individual designated to certify such payments.

''(f) TERM OF CONTRACT; RENEWALS; TERMINATION.—Any contract entered into under this section shall be for a term of 1 year, and may be made automatically renewable from term to term in the absence of notice by either party of an intention to terminate at the end of the current term; except that the Secretary may terminate any such contract at any time (after reasonable notice to the pool, company, or organization involved) if the Secretary finds that the pool, company, or organization has failed substantially to carry out the contract, or is carrying out the contract in a manner inconsistent with the efficient and effective administration of the intercity rail passenger program.

"§ 28106. Reinsurance coverage

''(a) AVAILABILITY FOR EXCESS LOSSES.—The Secretary of Transportation is authorized to take such action as may be necessary in order to make available, to the pool formed or otherwise created under section 28104, reinsurance for losses which are in excess of losses assumed by such pool in accordance with the excess loss agreement entered into under subsection (c) of this section.

''(b) AVAILABILITY PURSUANT TO CONTRACT, AGREEMENT, OR OTHER ARRANGEMENT; PAYMENT OF PREMIUM, FEE, OR OTHER CHARGE.—Reinsurance shall be made available pursuant to contract, agreement, or any other arrangement, in consideration of such payment of a premium, fee, or other charge as the Secretary finds necessary to cover anticipated losses and other costs of providing such reinsurance.

''(c) EXCESS LOSS AGREEMENT; NEGOTIATION.—The Secretary is authorized to negotiate an excess loss agreement, from time to time, under which the amount of insurance retained by the pool, after ceding reinsurance, shall be adequate to further the purposes of this chapter, consistent with the objective of maintaining appropriate financial participation and risk sharing to the maximum extent practicable on the part of participating insurance companies and other insurers.

''(d) SUBMISSION OF EXCESS LOSSES ON PORTFOLIO BASIS.—All reinsurance claims for losses in excess of losses assumed by the pool shall be submitted on a portfolio basis by such pool in accordance with terms and conditions established by the Secretary.''.

(b) CONFORMING AMENDMENTS.—

(1) Chapter 281 is amended by striking ''LAW ENFORCEMENT'' in the chapter heading and inserting ''LAW ENFORCEMENT; LIABILITY; INSURANCE''.

(2) The part analysis of subtitle V is amended by striking the item relating to chapter 281 and inserting, the following:

''281. Law enforcement; liability; insurance ..... 28101''.

(3) The table of contents of the title is amended by striking the item relating to chapter 281 and inserting the following:

''281. Law enforcement; liability; insurance ..... 28101''.

(4) The chapter analysis for chapter 281 is amended by adding at the end the following:

''28104. Train operations insurance pool
''28105. Use of insurance pool, companies, or other private organizations for certain payments
''28106. Reinsurance coverage''.

SEC. 635. COLLECTIVE BARGAINING ARRANGEMENTS.

(a) STATUS AS EMPLOYER OR CARRIER.—

(1) IN GENERAL.—Any entity providing intercity passenger railroad transportation (within the meaning of section 20102 of title 49, United States Code) that begins operations after the date of enactment of this Act shall be considered an employer for purposes of the Railroad Retirement Act of 1974 (45 U.S.C. 231 et seq.) and considered a carrier for purposes of the Railway Labor Act (45 U.S.C. 151 et seq.).

(2) COLLECTIVE BARGAINING AGREEMENT.—Any entity providing intercity passenger railroad transportation (within the meaning of section 20102 of title 49, United States Code) that begins operations after the date of enactment of this Act and replaces intercity rail passenger service that was provided by another entity as of the date of enactment of this Act, shall enter into an agreement with the authorized bargaining agent or agents for employees of the predecessor provider that—

(A) gives each employee of the predecessor provider priority in hiring according to the employee's seniority on the predecessor provider for each position with the replacing entity that is in the employee's craft or class and is available within three years after the termination of the service being replaced;

(B) establishes a procedure for notifying such an employee of such positions;

(C) establishes a procedure for such an employee to apply for such positions; and

(D) establishes rates of pay, rules, and working conditions.

(3) REPLACEMENT OF EXISTING RAIL PASSENGER SERVICE.—

(A) NEGOTIATIONS.—An entity providing replacement intercity rail passenger service under paragraph (2) shall give written notice of its plan to replace existing rail passenger service to the authorized collective bargaining agent or agents for the employees of the predecessor provider at least 90 days prior to the date it plans to commence service. Within 5 days after the date of receipt of such written notice, negotiations between the replacing entity and the collective bargaining agent or agents for the employees of the predecessor provider shall commence for the purpose of reaching agreement with respect to all matters set forth in subparagraphs (A) through (D) of paragraph (2). The negotiations shall continue for 30 days or until an agreement is reached, whichever is sooner. If at the end of 30 days the parties have not entered into an agreement with respect to all such matters, the unresolved issues shall be submitted for arbitration in accordance with the procedure set forth in subparagraph (B).

(B) ARBITRATION.—If an agreement has not been entered into with respect to all matters set forth in subparagraphs (A) through (D) of

paragraph (2) as provided in subparagraph (A) of this paragraph, the parties shall select an arbitrator. If the parties are unable to agree upon the selection of such arbitrator within 5 days, either or both parties shall notify the National Mediation Board, which shall provide a list of 7 arbitrators with experience in arbitrating rail labor protection disputes. Within 5 days after such notification, the parties shall alternately strike names from the list until only one name remains, and that person shall serve as the neutral arbitrator. Within 45 days after selection of the arbitrator, the arbitrator shall conduct a hearing on the dispute and shall render a decision with respect to the unresolved issues set forth in subparagraphs (A) through (D) of paragraph (2). This decision shall be final, binding, and conclusive upon the parties. The salary and expenses of the arbitrator shall be borne equally by the parties, but all other expenses shall be paid by the party incurring them.

(C) SERVICE COMMENCEMENT.—An entity providing replacement intercity rail passenger service under paragraph (2) shall commence service only after an agreement is entered into with respect to the matters set forth in subparagraphs (A) through (D) of paragraph (2) or the decision of the arbitrator has been rendered.

(b) REGULATIONS.—Not later than 6 months after the date of the enactment of this Act, the Secretary of Transportation shall issue regulations for carrying out this section.

SUBTITLE B—RAIL DEVELOPMENT

SEC. 651. CAPITAL ASSISTANCE FOR INTERCITY PASSENGER RAIL SERVICE.

(a) IN GENERAL.—Part C of subtitle V is amended by inserting after chapter 243 the following:

''CHAPTER 244—INTERCITY PASSENGER RAIL SERVICE CORRIDOR CAPITAL ASSISTANCE

''Sec.
''24401. Definitions
''24402. Capital investment grants to support intercity passenger rail service
''24403. Project management oversight
''24404. Operating expenses
''24405. Local share and maintenance of effort
''24406. Grants for maintenance and modernization

''§ 24401. Definitions

''In this chapter:

''(1) APPLICANT.—The term 'applicant' means a State, a group of States, including an Interstate Compact formed under section 410 of the Amtrak Reform and Accountability Act of 1997 (49 U.S.C. 24101 note), or a public corporation, board, commission, or agency established by one or more States designated as the lead agency of a State for providing intercity passenger rail service.

''(2) CAPITAL PROJECT.—The term 'capital project' means a project for—

''(A) acquiring or constructing equipment or a facility for use in intercity passenger rail service, expenses incidental to the acquisition or construction (including designing, inspecting, supervising, engineering, location surveying, mapping, environmental studies, and acquiring rights-of-way), alternatives analysis related to the development of such train services, capacity improvements on the property over which the service will be conducted, passenger rail-related intelligent transportation systems, highway-rail grade crossing improvements or closures on routes used for intercity passenger rail service, relocation assistance, acquiring replacement housing sites, and acquiring, constructing, relocating, and rehabilitating replacement housing;

''(B) rehabilitating or remanufacturing rail rolling stock and associated facilities used primarily in intercity passenger rail service;

''(C) leasing equipment or a facility for use in intercity passenger rail service, subject to regulations (to be prescribed by the Secretary of Transportation) limiting such leasing arrangements to arrangements that are more cost-effective than purchase or construction;

''(D) modernizing existing intercity passenger rail service facilities and information systems;

''(E) the introduction of new technology, through innovative and improved products, other than magnetic levitation; or

''(F) defraying, with respect to new service established under section 24402, the cost of rental charges to freight railroads.

''(3) INTERCITY CORRIDOR PASSENGER RAIL SERVICE.—The term 'intercity corridor passenger rail service' means the transportation of passengers between major metropolitan areas by rail, including high-speed rail (as defined in section 26105(2) of this title), in corridors of 300 miles or less in length with trip times of 4 hours or less, and multiple frequencies daily.

''(4) NET PROJECT COST.—The term 'net project cost' means that portion of the cost of a project than cannot be financed from revenues reasonably expected to be generated by the project.

''§ 24402. Capital investment grants to support new intercity passenger rail service

''(a) GENERAL AUTHORITY.—

''(1) GRANTS.—The Secretary of Transportation may make grants under this section to an applicant to assist in financing capital investments for new high-speed intercity passenger rail service, the establishment of new, conventional services, or the expansion of existing high-speed or conventional service by adding additional frequencies.

''(2) TERMS AND CONDITIONS.—The Secretary shall require that a grant under this section be subject to the terms, conditions, requirements, and pro visions the Secretary decides are necessary or appropriate for the purposes of this section, including requirements for the disposition of net increases in value of real property resulting from the project assisted under this section.

''(3) APPLICATION WITH CHAPTER 53.—A grant under this section may not be made for a project or program of projects that qualifies for financial assistance under chapter 53 of this title.

''(b) PROJECT AS PART OF APPROVED PROGRAM.—

''(1) IN GENERAL.—The Secretary may not approve a grant for a project under this section unless the Secretary finds that the project is part of an approved corridor plan and program developed under section 135 of title 23 and that the applicant or recipient has or will have the legal, financial, and technical capacity to carry out the project (including safety and security aspects of the project), satisfactory continuing control over the use of the equipment or facilities, and the capability and willingness to maintain the equipment or facilities.

''(2) ELIGIBILITY INFORMATION.—An applicant shall provide sufficient information upon which the Secretary can make the findings required by this subsection.

''(3) PROPOSED OPERATOR JUSTIFICATION.—If an applicant has not selected the proposed operator of its service competitively, the applicant shall provide written justification to the Secretary showing why the proposed operator is the best, taking into account price and other factors, and that use of the proposed operator will not increase the capital cost of the project.

''(4) RAIL AGREEMENT.—The Secretary of Transportation may not approve a grant under this section unless the applicant demonstrates that the railroad or railroads over which the intercity passenger rail service will operate concur with the applicant's operating plans and infrastructure improvement requirements.

''(c) CRITERIA FOR GRANTS FOR INTERCITY CORRIDOR PASSENGER RAIL PROJECTS.—

''(1) IN GENERAL.—The Secretary may approve a grant under this section for a capital project only if the Secretary determines that the proposed project is—

''(A) based on the results of an alternatives analysis and preliminary engineering;

''(B) justified based on a comprehensive review of its mobility improvements, environmental benefits, cost effectiveness, and operating efficiencies; and

''(C) supported by an acceptable degree of State and local financial commitment, including evidence of stable and dependable financing sources to construct, maintain, and operate the system or extension.

''(2) ALTERNATIVES ANALYSIS AND PRELIMINARY ENGINEERING.—In evaluating a project under paragraph (1)(A), the Secretary shall analyze and consider the results of the alternatives analysis and preliminary engineering for the project.

''(3) PROJECT JUSTIFICATION.—In evaluating a project under paragraph (1)(B), the Secretary shall—

''(A) consider the direct and indirect costs of relevant alternatives;

''(B) consider the ability of the service to compete with other modes of transportation;

''(C) consider the extent to which the project fills an unmet transportation need;

''(D) consider the ability of the service to fund its operating expenses from fare revenues;

''(E) consider population density in the corridor;

''(F) consider the technical capability of the grant recipient to construct the project;

''(G) consider factors such as congestion relief, improved mobility, air pollution, noise pollution, energy consumption, and all associated ancillary and mitigating cost increases necessary to carry out each alternative analyzed;

''(H) consider the level of private sector financial participation and risk sharing in the project;

''(I) adjust the project justification to reflect differences in local land, construction, and operating costs; and

''(J) consider other factors that the Secretary determines appropriate to carry out this chapter.

''(4) LOCAL FINANCIAL COMMITMENT.—

''(A) EVALUATION OF PROJECT.—In evaluating a project under paragraph (1)(C), the Secretary shall require that—

''(i) the proposed project plan provides for the availability of contingency amounts that the Secretary determines to be reasonable to cover unanticipated cost increases;

''(ii) each proposed State or local source of capital and operating financing is stable, reliable, and available within the proposed project timetable; and

''(iii) State or local resources are available to operate the proposed service.

''(B) CONSIDERATIONS.—In assessing the stability, reliability, and availability of proposed sources of local financing under subparagraph (A), the Secretary shall consider—

''(i) existing grant commitments;

''(ii) the degree to which financing sources are dedicated to the purposes proposed;

''(iii) any debt obligation that exists or is proposed by the applicant for the proposed project or other intercity passenger rail service purpose; and

''(iv) the extent to which the project has a local financial commitment that exceeds the required non-Federal share of the cost of the project.

''(5) REGULATIONS.—Not later than 120 days after the date of enactment of the Rail Passenger Service Restructuring, Reauthorization, and Development Act, the Secretary

shall issue regulations on the manner in which the Secretary will evaluate and rate the projects based on the results of alternatives analysis, project justification, and the degree of local financial commitment, as required under this subsection.

''(6) PROJECT EVALUATION AND RATING.—A proposed project may advance from alternatives analysis to preliminary engineering, and may advance from preliminary engineering to final design and construction, only if the Secretary finds that the project meets the requirements of this section and there is a reasonable likelihood that the project will continue to meet such requirements. In making such findings, the Secretary shall evaluate and rate the project as 'highly recommended', 'recommended', or 'not recommended', based on the results of alternatives analysis, the project justification criteria, and the degree of local financial commitment, as required under this subsection. In rating the projects, the Secretary shall provide, in addition to the overall project rating, individual ratings for each of the criteria established under the regulations issued under paragraph (5).

''(7) PULL FUNDING GRANT AGREEMENT.—A project financed under this subsection shall be carried out through a full funding grant agreement. The Secretary shall enter into a full funding grant agreement based on the evaluations and ratings required under this subsection. The Secretary shall not enter into a full funding grant agreement for a project unless that project is authorized for final design and construction.

''(d) LETTERS OF INTENT, FULL FUNDING GRANT AGREEMENTS, AND EARLY SYSTEMS WORK AGREEMENTS.—

''(1) LETTER OF INTENT.—

''(A) The Secretary may issue a letter of intent to an applicant announcing an intention to obligate, for a project under this section, an amount from future available budget authority specified in law that is not more than the amount stipulated as the financial participation of the Secretary in the project.

''(B) At least 60 days before issuing a letter under subparagraph (A) of this paragraph or entering into a full funding grant agreement, the Secretary shall notify in writing the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure, and the House of Representatives and Senate Committees on Appropriations of the proposed letter or agreement. The Secretary shall include with the notification a copy of the proposed letter or agreement as well as the evaluations and ratings for the project.

''(C) The issuance of a letter is deemed not to be an obligation under sections 1108(c) and (d), 1501, and 1502(a) of title 31, or an administrative commitment.

''(D) An obligation or administrative commitment may be made only when amounts are appropriated.

''(2) FULL FUNDING AGREEMENT.—

''(A) The Secretary may make a full funding grant agreement with an applicant. The agreement shall—

''(i) establish the terms of participation by the United States Government in a project under this section;

''(ii) establish the maximum amount of Government financial assistance for the project, which, with respect to a high-speed rail project, shall be sufficient to complete at least an operable segment;

''(iii) cover the period of time for completing the project, including a period extending beyond the period of an authorization; and

''(iv) make timely and efficient management of the project easier according to the law of the United States.

''(B) An agreement under this paragraph obligates an amount of available budget authority specified in law and may include a commitment, contingent on amounts to be specified in law in advance for commitments under this paragraph, to obligate an additional amount from future available budget authority specified in law. The agreement shall state that the contingent commitment is not an obligation of the Government and is subject to the availability of appropriations made by Federal law and to Federal laws in force on or enacted after the date of the contingent commitment. Interest and other financing costs of efficiently carrying out a part of the project within a reasonable time are a cost of carrying out the project under a full funding grant agreement, except that eligible costs may not be more than the cost of the most favorable financing terms reasonably available for the project at the time of borrowing. The applicant shall certify, in a way satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financing terms.

''(3) EARLY SYSTEMS WORK AGREEMENT.—

''(A) The Secretary may make an early systems work agreement with an applicant if a record of decision under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) has been issued on the project and the Secretary finds there is reason to believe—

''(i) a full funding grant agreement for the project will be made; and

''(ii) the terms of the work agreement will promote ultimate completion of the project more rapidly and at less cost.

''(B) A work agreement under this paragraph obligates an amount of available budget authority specified in law and shall provide for reimbursement of preliminary costs of carrying out the project, including land acquisition, timely procurement of system elements for which specifications are decided, and other activities the Secretary decides are appropriate to make efficient, long-term project management easier. A work agreement shall cover the period of time the Secretary considers appropriate. The period may extend beyond the period of current authorization. Interest and other financing costs of efficiently carrying out the work agreement within a reasonable time are a cost of carrying out the agreement, except that eligible costs may not be more than the cost of the most favorable financing terms reasonably available for the project at the time of borrowing. The applicant shall certify, in a way satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financing terms. If an applicant does not carry out the project for reasons within the control of the applicant, the applicant shall repay all Government payments made under the work agreement plus reasonable interest and penalty charges the Secretary establishes in the agreement.

''(4) LIMIT ON TOTAL OBLIGATIONS AND COMMITMENTS.—The total estimated amount of future obligations of the Government and contingent commitments to incur obligations covered by all outstanding letters of intent, full funding grant agreements, and early systems work agreements under this section, when combined with obligations under section 5309 of this title, may be not more than the amount authorized under section 5338(b) of this title, less an amount the Secretary reasonably estimates is necessary for grants under this section not covered by a letter. The total amount covered by new letters and contingent commitments included in full funding grant agreements and early systems work agreements may be not more than a limitation specified in law.

''(e) FEDERAL SHARE OF NET PROJECT COST.—

''(1) IN GENERAL.—

''(A) Based on engineering studies, studies of economic feasibility, and information on the expected use of equipment or facilities, the Secretary shall estimate the net project cost.

''(B) A grant for the project may be for up to 50 percent of the net project cost. The remainder shall be provided in cash from non-Federal sources.

''(f) UNDERTAKING PROJECTS IN ADVANCE.—

''(1) IN GENERAL.—The Secretary may pay the Federal share of the net capital project cost to an applicant that carries out any part of a project described in this section according to all applicable procedures and requirements if—

''(A) the applicant applies for the payment,

''(B) the Secretary approves the payment; and

''(C) before carrying out a part of the project, the Secretary approves the plans and specifications for the part in the same way as other projects under this section.

''(2) INTEREST COSTS.—The cost of carrying out part of a project includes the amount of interest earned and payable on bonds issued by the applicant to the extent proceeds of the bonds are expended in carrying out the part. The amount of interest includable as cost under this paragraph may not be more than the most favorable interest terms reasonably available for the project at the time of borrowing. The applicant shall certify, in a manner satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financial terms.

''(3) USE OF COST INDICES.—The Secretary shall consider changes in capital project cost indices when determining the estimated cost under paragraph (2) of this subsection.

''(g) FUNDING.—

''(1) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation for purposes of this section—

''(A) $525,000,000 for fiscal year 2006,

''(B) $550,000,000 for fiscal year 2007,

''(C) $675,000,000 for fiscal year 2008,

''(D) $750,000,000 for fiscal year 2009, and

''(E) $800,000,000 for fiscal year 2010, such sums to remain available until expended.

''§ 24403. Project management oversight

''(a) PROJECT MANAGEMENT PLAN REQUIREMENTS.—To receive Federal financial assistance for a major capital project under this chapter, an applicant shall prepare and carry out a project management plan approved by the Secretary of Transportation. The plan shall provide for—

''(1) adequate recipient staff organization with well-defined reporting relationships, statements of functional responsibilities, job descriptions, and job qualifications;

''(2) a budget covering the project management organization, appropriate consultants, property acquisition, utility relocation, systems demonstration staff, audits, and miscellaneous payments the recipient may be prepared to justify;

''(3) a construction schedule for the project;

''(4) a document control procedure and recordkeeping system;

''(5) a change order procedure that includes a documented, systematic approach to handling the construction change orders;

''(6) organizational structures, management skills, and staffing levels required throughout the construction phase;

''(7) quality control and quality assurance functions, procedures, and responsibilities for construction, system installation, and integration of system components;

''(8) material testing policies and procedures;

''(9) internal plan implementation and reporting requirements,

''(10) criteria and procedures to be used for testing the operational system or its major components;

''(11) periodic updates of the plan, especially related to project budget and project schedule, financing, and ridership estimates; and

''(12) the recipient's commitment to submit a project budget and project schedule to the Secretary each month.

''(b) PLAN APPROVAL.—

''(1) 60-day decision.—The Secretary shall approve or disapprove a plan not later than 60 days after it is submitted. If the approval process cannot be completed within 60 days, the Secretary shall notify the recipient, explain the reasons for the delay, and estimate the additional time that will be required.

''(2) EXPLANATION OF DISAPPROVAL.—If the Secretary disapproves a plan, the Secretary shall inform the applicant of the reasons for disapproval of the plan.

''(c) SECRETARIAL OVERSIGHT.—

''(1) IN GENERAL.—The Secretary may use no more than 0.5 percent of amounts made available in a fiscal year for capital projects under this chapter to enter into contracts to oversee the construction of such projects.

''(2) USE OF FUNDS.—The Secretary may use amounts available under paragraph (1) of this subsection to make contracts for safety, procurement, management, and financial compliance reviews and audits of a recipient of amounts under paragraph (1).

''(3) FEDERAL SHARE.—The Federal Government shall pay the entire cost of carrying out a contract under this subsection.

''(d) ACCESS TO SITES AND RECORDS.—Each recipient of assistance under this chapter shall provide the Secretary and a contractor the Secretary chooses under subsection (b) of this section with access to the construction sites and records of the recipient when reasonably necessary.

''(e) REGULATIONS.—The Secretary shall prescribe regulations necessary to carry out this section. The regulations shall include—

''(1) a definition of 'major capital project' for this section;

''(2) a requirement that oversight begin during the preliminary engineering stage of a project, unless the Secretary finds it more appropriate to begin oversight during another stage of a project, to maximize the transportation benefits and cost savings associated with project management oversight; and

''(3) a formula based on infrastructure ownership, boardings, and passenger-miles traveled in the prior fiscal year by which the funds authorized for modernization of existing services will be allocated among the States; and

''(4) a requirement that, if a State does not apply for its share of formula grant funds under paragraph (3) of this subsection in a timely manner, those funds will be made available to other States.

''(f) FINANCIAL PLAN.—A recipient of financial assistance for a project under this section with an estimated total cost of $100,000,000, or more shall submit to the Secretary an annual financial plan for the project. The plan shall be based on detailed annual estimates of the cost to complete the remaining elements of the project and on reasonable assumptions, as determined by the Secretary, of future increases in the cost to complete the project.

''§ 24404. Operating expenses

''The Secretary of Transportation may not make grants under this chapter for operating expenses.

''§ 24405. Local share and maintenance of effort

''(a) IN GENERAL.—Notwithstanding any other provision of law, a recipient of assistance under this title may use, as part of the local matching funds for a capital project, the proceeds from the issuance of revenue bonds.

''(b) MAINTENANCE OF EFFORT.—The Secretary of Transportation shall approve the use of proceeds from the issuance of revenue bonds for the non-Federal share of the net project cost only if the aggregate amount of financial support for intercity passenger rail service from the State is not less than the average annual amount provided by the State during the preceding 3 years.

''§ 24406. Grants for maintenance and modernization

''(a) IN GENERAL.—The Secretary of Transportation may make capital grants for maintenance and modernization of intercity passenger rail services to—

''(1) the American Passenger Railway Corporation for services it operates under contract with the Secretary of Transportation; or

''(2) to States for intercity passenger rail services operated under a contract with a State or group of States.

''(b) USE OF FUNDS.—Grants under this section may be used—

''(1) to purchase, lease, rehabilitate, or remanufacture rolling stock and associated facilities used primarily in intercity passenger rail service;

''(2) to modernize existing intercity passenger rail service facilities and information systems; or

''(3) to defray the cost of rental charges to freight railroads for the addition of train frequencies.

''(c) FEDERAL SHARE.—The Federal share for a capital grant under this section may be 100 percent, except that the Federal share for a grant made under subsection (b)(3) may not exceed 50 percent.

''(d) ALLOCATION FORMULA.—Funds made available by this section shall be allocated equitably among the States based on a formula to be determined by the Secretary.

''(e) SLEEPING AND DINING CARS.—Pending the restructuring of long distance routes under sections 615 through 617 of the Rail Passenger Service Restructuring, Reauthorization, and Development Act, grants may be made to the American Passenger Railway Corporation for sleeping and dining cars only to the extent necessary to maintain the equipment in good working order and not for the purpose of refurbishing, rebuilding, or renewing such equipment to extend the equipment's useful life.

''(f) LONG DISTANCE RESTRUCTURING PLAN.—Unless the restructuring plan submitted by the Long Distance Route Restructuring Commission under section 617 of the Rail Passenger Service Restructuring, Reauthorization, and Development Act is disapproved by Congress, from the sums authorized for capital projects outside of the Northeast Corridor, the Secretary may reserve up to $20,000,000 in each of fiscal years 2007 through 2010 to assist in the restructuring of long distance routes as linked corridors, and the Federal share of such assistance shall be 100 percent.

''(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation $200,000,000 for each of fiscal years 2005 through 2010 to carry out this section.''.

SEC. 652. FINAL REGULATIONS ON APPLICATIONS BY STATES FOR DEVELOPMENT GRANTS.

Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation shall issue final regulations setting forth procedures for application and minimum requirements for the award of grants under chapter 244 of title 49, United States Code.

SEC. 653. AUTHORITY FOR INTERSTATE COMPACTS FOR CORRIDOR DEVELOPMENT.

(a) CONSENT TO COMPACTS.—

(1) 2 or more States with an interest in a specific form, route, or corridor of intercity passenger rail service (including high speed rail service) may enter into interstate compacts to implement the service, including—

(A) retaining an existing service or commencing a new service;

(B) assembling rights-of-way; and

(C) performing capital improvements, including—

(i) the construction and rehabilitation of maintenance facilities;

(ii) the purchase of rolling stock; and

(iii) operational improvements, including communications, signals, and other systems.

(2) A compact entered into under the authority of this section shall be submitted to Congress for its consent. It is the sense of Congress that rapid consent to the Compact is a priority for the Congress.

(b) FINANCING.—

(1) An interstate compact established by States under subsection (a) may provide that, in order to carry out the compact, the States may—

(A) accept contributions from a unit of State or local government or a person;

(B) use any Federal or State funds made available for intercity passenger rail service (except funds made available for Amtrak);

(C) on such terms and conditions as the States consider advisable—

(i) borrow money on a short-term basis and issue notes for the borrowing; and

(ii) issue bonds; and

(D) obtain financing by other means permitted under Federal or State law.

(2) Bonds and other indebtedness incurred under the authority of this subsection shall under no circumstances be backed by the full faith and credit of the United States.

SUBTITLE C—AMTRAK REFORMS

SEC. 671. MANAGEMENT OF SECURED DEBT.

Except as approved by the Secretary of Transportation to refinance existing secured debt, Amtrak (until the American Passenger Railway Corporation is established) and the American Passenger Railway Corporation thereafter, may not enter into any obligation secured by assets of the Corporation after the date of enactment of this Act. This section does not prohibit unsecured lines of credit used for working capital purposes.

SEC. 672. EMPLOYEE ASSISTANCE.

(a) TRANSITION FINANCIAL INCENTIVES.—

(1) IN GENERAL.—To reduce operating expenses in preparation for competition from other rail carriers, the American Passenger Railway Corporation may institute a program under which it may, at its discretion, provide financial incentives to employees who voluntarily terminate their employment with the Corporation and relinquish any legal rights to receive termination-related payments under any contractual agreement with the Corporation.

(2) CONDITIONS FOR FINANCIAL INCENTIVES.—As a condition for receiving financial assistance grants under this section, the American Passenger Railway Corporation shall certify to the Secretary of Transportation that—

(A) the financial assistance results in a net reduction in the total number of employees equal to the number receiving financial incentives;

(B) the financial assistance results in a net reduction in total employment expenses equivalent to the total employment expenses

associated with the employees receiving financial incentives; and

(C) the total number of employees eligible for termination-related payments will not be increased without the express written consent of the Secretary.

(3) AMOUNT OF FINANCIAL INCENTIVES.—The financial incentives authorized under this section may not exceed 1 year's base pay.

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation $25,000,000 for each of fiscal years 2005, 2006, and 2007 to make grants to the American Passenger Railway Corporation to fund financial incentive payments to employees under this subsection.

(b) LABOR PROTECTION FOR EMPLOYEES OF THE AMERICAN PASSENGER RAILWAY CORPORATION.—

(1) IN GENERAL.—The American Passenger Railway Corporation, or other operator of intercity passenger rail transportation service, shall be responsible for obligations imposed by law or collective bargaining agreement for compensation and benefits payable to employees terminated in connection with the restructuring of passenger rail service under this title and the amendments made by this title. The responsibility of the Corporation and such other operator under the preceding sentence, and the obligations for which it is responsible under that sentence, may not be transferred to any other entity in connection with such restructuring by contract or otherwise.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation for the use of the American Passenger Railway Corporation in meeting its responsibility under paragraph (1) $75,000,000 for each of fiscal years 2007 through 2010.

SEC. 673. TERMINATION OF AUTHORITY FOR GSA TO PROVIDE SERVICES TO AMTRAK.

Section 1110 of division A of H.R. 5666 (114 Stat. 2763A–202), as enacted by section 1(a)(4) of the Consolidated Appropriations Act, 2001, is repealed.

SEC. 674. AMTRAK REFORM BOARD OF DIRECTORS.

Section 24302 is amended by adding at the end the following:

''(d) ASSET TRANSITION COMMITTEE.—

''(1) IN GENERAL.—The Reform Board shall form an asset transition committee comprised of the Secretary or the Secretary's designee, and 2 other members, or 1 other member if 2 other members are not lawfully appointed.

''(2) POWERS AND DUTIES.—In addition to other powers and duties assigned by the board, the Asset Transition Committee has the duty to ensure that the public interest is served in board decisions and Amtrak management actions that change the use of or status of—

''(A) the contractual right of access of Amtrak to rail lines of other railroads;

''(B) Amtrak's secured debt;

''(C) Northeast Corridor real property and assets; and

''(D) rolling stock.

''(3) APPROVAL REQUIRED.—The board may not take an action with regard to the assets or secured debt specified in paragraph (2), or permit Amtrak management action with regard to those assets, that is not approved by the asset transition committee.''.

SEC. 675. LIMITATIONS ON AVAILABILITY OF GRANTS.

(a) IN GENERAL.—Chapter 243, as amended by section 627 of this Act is amended by inserting after section 24318 the following:

''§ 24319. Limitations on availability of grants

''Grants under this title to the American Passenger Railway Corporation are subject to the following conditions:

''(1) The Secretary of Transportation may approve funding to cover operating losses or operating expenses (including advance purchase orders) only after receiving and approving a grant request for each specific train route to which the grant relates.

''(2) Each such grant request shall be accompanied by a detailed financial analysis, revenue projection, and capital expenditure program justifying the Federal support to the Secretary's satisfaction.

''(3) Not later than December 31st prior to each fiscal year in which grants are made to the American Passenger Railway Corporation, the Corporation shall transmit to the Secretary of Transportation, the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Transportation and Infrastructure of the House of Representatives, and the House of Representatives and Senate Committees on Appropriations a business plan for operating and capital improvements to be funded in the fiscal year under section 24104(a) of this title.

''(4) The business plan shall include—

''(A) targets, as applicable, for ridership, revenues, and capital and operating expenses;

''(B) a separate accounting for such targets—

''(i) on the Northeast Corridor;

''(ii) each intercity train route;

''(iii) as a group for long distance trains and corridor services; and

''(iv) commercial activities, including contract operations and mail and express; and

''(C) a description of the work to be funded, along with cost estimates and an estimated timetable for completion of the projects covered by the business plan.

''(5) Each month of each fiscal year in which grants are made to the American Passenger Railway Corporation, the Corporation shall submit to the Secretary of Transportation, the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Transportation and Infrastructure of the House of Representatives, and the House of Representatives and Senate Committees on Appropriations a supplemental report in electronic format regarding the business plan, which shall describe the work completed to date, any changes to the business plan, and the reasons for such changes.

''(6) None of the funds authorized by this subtitle or the Rail Passenger Service Restructuring, Reauthorization, and Development Act may be disbursed to the American Passenger Railway Corporation for operating expenses, including advance purchase orders and capital projects not approved by the Secretary nor in the American Passenger Railway Corporation's business plan.

''(7) The American Passenger Railway Corporation shall display the business plan and all subsequent supplemental plans on its website within a reasonable time after they are submitted to the Secretary and the Congress under this section.

''(8) The Secretary may not make any grant to the American Passenger Railway Corporation until Amtrak agrees to continue abiding by the provisions of paragraphs (1), (2), (5), (9), and (11) of the summary of conditions on the direct loan agreement of June 28, 2002, until the loan is repaid.

''(9) No grant authorized by this title shall be made to the American Passenger Railway Corporation unless, within 6 months after the date of enactment of the Rail Passenger Service Restructuring, Reauthorization, and Development Act, the Corporation prepares a capital spending plan that addresses capital needs, consistent with the funding levels authorized to bring the Northeast Corridor capital assets to a state of good repair, as defined by the Secretary, and transmits that plan to the Secretary.

''(10) With respect to any route on which intercity passenger rail service is provided on the day before the date on which the restructuring required by sections 24300, 24300A, and 24300B is completed (as determined by the Secretary), the American Passenger Railway Corporation shall make available to any replacement operator the legacy equipment that is associated with the service on the route.

(11) The American Passenger Railway Corporation shall provide interline reservations services to any other provider of intercity passenger rail transportation on the same basis and at the same rates as those services are provided to the operating entities that provide passenger rail service within Amtrak as of the date of enactment of the Rail Passenger Service Restructuring, Reauthorization, and Development Act''.

(b) INTERIM APPLICATION OF SECTION 24319.—Until the restructuring required by sections 24300, 24300A, and 24300B of title 49, United States Code, is completed (as determined by the Secretary of Transportation), section 24319 of title 49, United States Code, as added by subsection (a), shall be applied by substituting ''Amtrak'' for ''American Passenger Railway Corporation'' or ''the Corporation'' each place it appears.

(c) CONFORMING AMENDMENT.—The chapter analysis for chapter 243 is amended by inserting after the item relating to section 24318 the following:

''24319. Limitations on availability of grants''.

SEC. 676. REPEAL OF OBSOLETE AND EXECUTED PROVISIONS OF LAW.

(a) IN GENERAL.—The following sections are repealed:

(1) Section 24701.

(2) Section 24706.

(3) Section 24901.

(4) Section 24902.

(5) Section 24904.

(6) Section 24906.

(7) Section 24909.

(b) AMENDMENT OF SECTION 24305.—Section 24305 is amended—

(1) by striking paragraph (2) of subsection (a) and redesignating paragraph (3) as paragraph (2); and

(2) by inserting ''With regard to items acquired with funds provided by the Federal Government,'' before ''Amtrak'' in subsection (f)(2).

(c) CONFORMING AMENDMENTS.—The chapter analyses for chapters 243, 247, and 249 are amended, as appropriate, by striking the items relating to sections 24307, 24701, 24706, 24901, 24902, 24904, 24906, 24908, and 24909.

SEC. 677. ESTABLISHMENT OF FINANCIAL ACCOUNTING SYSTEM FOR THE AMERICAN PASSENGER RAILWAY CORPORATION BY INDEPENDENT AUDITOR.

(a) IN GENERAL.—The Inspector General of the Department of Transportation shall employ an independent financial consultant—

(1) to assess Amtrak's financial accounting and reporting system and practices as of the date of enactment of this Act,

(2) to design and assist the American Passenger Railway Corporation in implementing a modern financial accounting and reporting system, on the basis of the assessment, that will produce accurate and timely financial information in sufficient detail—

(A) to enable the American Passenger Railway Corporation to assign revenues and expenses appropriately to each of its lines of business and to each major activity within each line of business activity, including train operations, equipment maintenance, ticketing, and reservations;

(B) to aggregate expenses and revenues related to infrastructure and distinguish them from expenses and revenues related to rail operations; and

(C) to provide ticketing and reservation information on a real-time basis.

(b) VERIFICATION OF SYSTEM; REPORT.—The Inspector General of the Department of Transportation shall review the accounting system designed and implemented under subsection (a) to ensure that it accomplishes the purposes for which it is intended. The Inspector General shall report his findings and conclusions, together with any recommendations, to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure.

(C) SEPARATE FINANCIAL STATEMENTS FOR NORTHEAST CORRIDOR INFRASTRUCTURE.—Beginning with fiscal year 2006, the American Passenger Railway Corporation shall issue separate financial statements for activities related to the infrastructure of the Northeast Corridor.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation $2,500,000 for fiscal year 2005 to carry out subsection (a), such sums to remain available until expended.

SEC. 678. RESTRUCTURING OF LONG-TERM DEBT AND CAPITAL LEASES.

(a) IN GENERAL.—The Secretary of the Treasury, in consultation with the Secretary of Transportation and Amtrak, shall restructure Amtrak's indebtedness as of the date of enactment of this Act.

(b) DEBT REDEMPTION.—The Secretary of Transportation, in consultation with the Secretary of the Treasury, shall enter into negotiations with the holders of Amtrak debt, including leases, that is outstanding on the date of enactment of this Act for the purpose of redeeming or restructuring that debt. The Secretary, in consultation with the Secretary of the Treasury, shall secure agreements for repayment on such terms as the Secretary deems favorable to the interests of the Government. Payments for such redemption may be made after October 1, 2005, in either a single payment or a series of payments, but in no case shall the repayment period extend beyond September 30, 2009.

(c) CRITERIA.—In redeeming or restructuring Amtrak's indebtedness, the Secretaries and Amtrak—

(1) shall ensure that the restructuring imposes the least practicable burden on taxpayers; and

(2) take into consideration repayment costs, the term of any loan or loans, and market conditions.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary for fiscal years 2005 through 2009 to restructure or redeem Amtrak's secured debt.

(e) AMTRAK PRINCIPAL AND INTEREST PAYMENTS.—

(1) PRINCIPAL ON DEBT SERVICE.—Unless the Secretary of Transportation and the Secretary of the Treasury restructure or redeem the debt, there are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak (before the date, determined by the Secretary of Transportation, on which the restructuring required by sections 24300, 24300A, and 24300B of title 49, United States Code, is completed) and the American Passenger Railway Corporation (after that date) for retirement of principal on loans for capital equipment, or capital leases, not more than the following amounts:

(A) For fiscal year 2005, $110,000,000.
(B) For fiscal year 2006, $115,000,000.
(C) For fiscal year 2007, $205,000,000.
(D) For fiscal year 2008, $165,000,000.
(E) For fiscal year 2009, $155,000,000.
(F) For fiscal year 2010, $150,000,000.

(2) INTEREST ON DEBT.—Unless the Secretary of Transportation and the Secretary of the Treasury restructure or redeem the debt, there are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak (before the date, determined by the Secretary of Transportation, on which the restructuring required by sections 24300, 24300A, and 24300B of title 49, United States Code, is completed) and the American Passenger Railway Corporation (after that date) for the payment of interest on loans for capital equipment, or capital leases, the following amounts:

(A) For fiscal year 2005, $155,000,000.
(B) For fiscal year 2006, $150,000,000.
(C) For fiscal year 2007, $140,000,000.
(D) For fiscal year 2008, $130,000,000.
(E) For fiscal year 2009, $125,000,000.
(F) For fiscal year 2010, $115,000,000.

(3) REDUCTIONS IN AUTHORIZATION LEVELS.—Whenever action taken by the Secretary of the Treasury under subsection (c) results in reductions in amounts of principle and interest that Amtrak must service on existing debt, Amtrak shall submit to the Senate Committee on Commerce, Science and Transportation, the House of Representatives Committee on Transportation and Infrastructure, the Senate Committee on Appropriations, and House of Representatives Committee on Appropriations revised requests for amounts authorized by paragraphs (1) and (2) that reflect the such reductions.

(g) LEGAL EFFECT OF PAYMENTS UNDER THIS SECTION.—The payment of principal and interest secured debt with the proceeds of grants under subsection (f) shall not—

(1) modify the extent or nature of any indebtedness of the National Railroad Passenger Corporation to the United States in existence of the date of enactment of this Act;

(2) change the private nature of Amtrak's or its successors' liabilities; or

(3) imply any Federal guarantee or commitment to amortize Amtrak's outstanding indebtedness.

SEC. 679. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary of Transportation for the benefit of Amtrak for fiscal year 2005 $750,000,000 for operating expenses.

SA 2325. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 476, line 18, strike the period and the closing quotation marks and insert the following:

"§ 512. Transportation Analysis Simulation System

''(a) CONTINUATION OF TRANSIMS DEVELOPMENT.—

''(1) The Secretary shall continue the development and deployment of the advanced transportation model known as the 'Transportation Analysis Simulation System' (referred to in this section as 'TRANSIMS' '' developed by the Los Alamos National Laboratory.

''(2) REQUIREMENTS AND CONSIDERATIONS.—In carrying out paragraph (1), the Secretary shall—

''(A) further improve TRANSIMS to reduce the cost and complexity of using the model;

''(B) continue development of TRANSIMS for applications to transportation planning, regulatory compliance, and response to natural disasters and other transportation disruptions; and

''(C) assist State departments of transportation and metropolitan planning organizations, especially smaller metropolitan planning organizations, in the implementation of TRANSIMS by providing training and technical assistance;

''(b) ELIGIBLE ACTIVITIES.—The Secretary shall use funds made available to carry out this section to—

''(1) further develop TRANSIMS for additional applications, including congestion analyses, major investment studies, economic impact analyses, alternative analyses, freight movement studies, emergency evacuation studies, port studies, and airport access studies;

''(2) provide training and technical assistance with respect to the implementation and application of TRANSIMS to States, local governments, and metropolitan planning organizations with responsibility for travel modeling;

''(3) develop methods to simulate the national transportation infrastructure as a single, integrated system of the movement of people and goods; and

''(4) provide funding to state transportation departments and metropolitan planning organizations for implementation of TRANSIMS.

''(c) ALLOCATION OF FUNDS.—Of the funds made available to carry out this section for each fiscal year, not less than 15 percent of the funds shall be allocated to activities in subsection (b)(3).

''(d) FUNDING.—Of the amounts made available under section 2001(a) of the Safe, Accountable, Flexible and Efficient Transportation Act of 2003 for each of fiscal years 2004 through 2009, the Secretary shall use $6,000,000 to carry out this section.

''(e) AVAILABILITY OF FUNDS.—Funds made available under this section shall be available to the Secretary through the Transportation Planning, Research, and Development Account of the Office of the Secretary of Transportation.''.

SA 2326. Mr. BINGAMAN (for himself and Mr. DOMENICI) submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 389, between lines 15 and 16, insert the following:

SEC. 18___. AUTHORIZATION OF CONTRACT AUTHORITY FOR STATES WITH INDIAN RESERVATIONS.

Section 1214(d) of the Transportation Equity Act for the 21st Century (23 U.S.C. 202 note; 112 Stat. 206) is amended—

(1) in paragraph (1), by inserting ''(except Arizona)'' after ''each State''; and

(2) in paragraph (5)(A), by striking ''$1,500,000 for each of fiscal years 1998 through 2003'' and inserting ''$1,800,000 for each of fiscal years 2004 through 2009''.

SA 2327. Mr. BOND proposed an amendment to amendment SA 2311 proposed by Mrs. CLINTON (for herself, Mr. BINGAMAN, Mr. BYRD, Mr. DODD, Mr. SARBANES, Mr. CORZINE, Mr. LIEBERMAN, Mr. ROCKEFELLER, Mr. HARKIN, and Ms. STABENOW) to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the language proposed to be inserted, insert the following:

SEC. 1409. RENTED OR LEASED MOTOR VEHICLES.

(a) IN GENERAL.—Subchapter I of chapter 301 of title 49, United States Code, is amended by adding at the end the following:

"§ 30106. Rented or leased motor vehicle safety and responsibility

''(a) IN GENERAL.—Provided that there is no negligence or criminal wrongdoing on the part of the owner of a motor vehicle, no such owner engaged in the trade or business of renting or leasing motor vehicles may be held liable under State law for harm caused by a person to himself or herself, another person, or to property, which results or arises from that person's use, operation, or possession of a rented or leased motor vehicle, by reason of being the owner of such motor vehicle.

''(b) CONSTRUCTION.—Subsection (a) shall not apply if such owner does not maintain the required limits of financial responsibility for such vehicle, as required by State law in the State in which the vehicle is registered.

''(c) APPLICABILITY AND EFFECTIVE DATE.—Notwithstanding any other provision of law, this section shall apply with respect to any action commenced on or after the date of enactment of this section without regard to whether the harm that is the subject of the action or the conduct that caused the harm occurred before such date of enactment.

''(d) DEFINITIONS.—In this section:

''(1) MOTOR VEHICLE.—The term 'motor vehicle' shall have the meaning given the term under section 13102(14) of this title.

''(2) OWNER.—The term 'owner' means a person who is—

''(A) a record or beneficial owner, lessor, or lessee of a motor vehicle;

''(B) entitled to the use and possession of a motor vehicle subject to a security interest in another person; or

''(C) a lessor, lessee, or bailee of a motor vehicle, in the trade or business of renting or leasing motor vehicles, having the use or possession of such motor vehicle, under a lease, bailment, or otherwise.

''(3) PERSON.—The term 'person' means any individual, corporation, company, limited liability company, trust, association, firm, partnership, society, joint stock company, or any other entity.

''(4) STATE.—The term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, any other territory or possession of the United States, or any political subdivision of any such State, commonwealth, territory, or possession.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 301 of title 49, United States Code, is amended by inserting after the item relating to section 30105 the following:

''30106. Rented or leased motor vehicle safety and responsibility.''.

SA 2328. Mr. DEWINE submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 792, between lines 15 and 16, insert the following:

PART 3—MISCELLANEOUS PROVISIONS

SEC. 4171. DRIVER LICENSING AND EDUCATION.

(a) NATIONAL OFFICE OF DRIVER LICENSING AND EDUCATION.—Section 105 of title 49, United States Code, is amended by adding at the end the following new subsection:

''(f)(1) There is a National Office of Driver Licensing and Education in the National Highway Traffic Safety Administration.

''(2) The head of the National Office of Driver Licensing and Education is the Director.

''(3) The functions of the National Office of Driver Licensing and Education are as follows:

''(A) To provide States with services for coordinating the motor vehicle driver training and licensing programs of the States.

''(B) To develop and make available to the States a recommended comprehensive model for motor vehicle driver education and graduated licensing that incorporates the best practices in driver education and graduated licensing, including best practices with respect to—

''(i) vehicle handling and crash avoidance;

''(ii) driver behavior and risk reduction;

''(iii) roadway features and associated safety implications;

''(iv) roadway interactions involving all types of vehicles and road users, such as car-truck and pedestrian-car interactions;

''(v) parent education; and

''(vi) other issues identified by the Director.

''(C) To carry out such research (pursuant to cooperative agreements or otherwise) and undertake such other activities as the Director determines appropriate to develop and, on an ongoing basis, improve the recommended comprehensive model.

''(D) To provide States with technical assistance for the implementation and deployment of the motor vehicle driver education and licensing comprehensive model recommended under subparagraph (B).

''(E) To develop and recommend to the States methods for harmonizing the presentation of motor vehicle driver education and licensing with the requirements of multistage graduated licensing systems, including systems described in section 410(c)(4) of title 23, and to demonstrate and evaluate the effectiveness of those methods in selected States.

''(F) To assist States with the development and implementation of programs to certify driver education instructors, including the development and implementation of proposed uniform certification standards.

''(G) To provide States with financial assistance under section 412 of title 23 for—

''(i) the implementation of the motor vehicle driver education and licensing comprehensive model recommended under subparagraph (B);

''(ii) the establishment or improved administration of multistage graduated licensing systems; and

''(iii) the support of other improvements in motor vehicle driver education and licensing programs.

''(H) To evaluate the effectiveness of the comprehensive model recommended under subparagraph (B).

''(I) To examine different options for delivering driver education in the States.

''(J) To perform such other functions relating to motor vehicle driver education or licensing as the Secretary may require.

''(4) Not later than 42 months after the date of the enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004, the Director shall submit to Congress a report on the progress made by the National Office of Driver Licensing and Education with respect to the functions under paragraph (3).''.

(b) GRANT PROGRAM FOR IMPROVEMENT OF DRIVER EDUCATION AND LICENSING.—

(1) AUTHORITY.—

(A) IN GENERAL.—Chapter 4 of title 23, United States Code, is amended by adding at the end the following new section:

"SEC. 412. DRIVER EDUCATION AND LICENSING.

''(a) AUTHORITY.—

''(1) IN GENERAL.—The Secretary shall carry out a program to provide States, by grant, with financial assistance to support the improvement of motor vehicle driver education programs and the establishment and improved administration of graduated licensing systems, including systems described in section 410(c)(4) of this title.

''(2) ADMINISTRATIVE OFFICE.—The Secretary shall administer the program under this section through the Director of the National Office of Driver Licensing and Education.

''(b) ELIGIBILITY REQUIREMENTS.—

''(1) REGULATIONS.—The Secretary shall prescribe in regulations the eligibility requirements, application and approval procedures and standards, and authorized uses of grant proceeds for the grant program under this section. The regulations shall, at a minimum, authorize use of grant proceeds for the following activities:

''(A) Quality assurance testing, including follow-up testing to monitor the effectiveness of—

''(i) driver licensing and education programs;

''(ii) instructor certification testing; and

''(iii) other statistical research designed to evaluate the performance of driver education and licensing programs.

''(B) Improvement of motor vehicle driver education curricula.

''(C) Training of instructors for motor vehicle driver education programs.

''(D) Testing and evaluation of motor vehicle driver performance.

''(E) Public education and outreach regarding motor vehicle driver education and licensing.

''(F) Improvements with respect to State graduated licensing programs, as well as related enforcement activities.

''(2) CONSULTATION REQUIREMENT.—In prescribing the regulations, the Secretary shall consult with the following:

''(A) The Administrator of the National Highway Traffic Safety Administration.

''(B) The heads of such other departments and agencies of the United States as the Secretary considers appropriate on the basis of relevant interests or expertise.

''(C) Appropriate officials of the governments of States and political subdivisions of States.

''(D) Other relevant experts.

''(c) MAXIMUM AMOUNT OF GRANT.—The maximum amount of a grant of financial assistance for a program, project, or activity under this section may not exceed 75 percent of the total cost of such program, project, or activity.''.

(B) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

''412. Driver education and licensing.''.

(2) TIME FOR PROMULGATION OF REGULATIONS.—The Secretary of Transportation shall promulgate the regulations under section 412(b) of title 23, United States Code (as added by paragraph (1)), not later than October 1, 2005.

(3) AUTHORIZATION OF APPROPRIATIONS.—Of the amounts available to carry out section 403 of title 23, United States Code, for each of the fiscal years 2005 through 2010, $5,000,000 may be made available for each such fiscal year to carry out section 412 of title 23, United States Code (as added by paragraph (1)).

(c) GRANT PROGRAM FOR PUBLIC AWARENESS OF ORGAN DONATION THROUGH DRIVER LICENSING PROGRAMS.—

(1) AUTHORITY.—

(A) IN GENERAL.—Chapter 4 of title 23, United States Code (as amended by subsection (b)), is further amended by adding at the end the following new section:

"SEC. 413. ORGAN DONATION THROUGH DRIVER LICENSING.

''(a) AUTHORITY.—

''(1) IN GENERAL.—The Secretary shall carry out a program to provide eligible recipients, by grant, with financial assistance to carry out campaigns to increase public awareness of, and training on, authority and procedures under State law to provide for the donation of organs through a declaration recorded on a motor vehicle driver license.

''(2) ADMINISTRATIVE OFFICE.—The Secretary shall administer the program under this section through the Director of the National Office of Driver Licensing and Education.

''(b) ELIGIBILITY REQUIREMENTS.—

''(1) REGULATIONS.—The Secretary shall prescribe in regulations the eligibility requirements, application and approval procedures and standards, and authorized uses of grant proceeds for the grant program under this section.

''(2) CONSULTATION REQUIREMENT.—In prescribing the regulations, the Secretary shall consult with the following:

''(A) The Administrator of the National Highway Traffic Safety Administration.

''(B) The heads of such other departments and agencies of the United States as the Secretary considers appropriate on the basis of relevant interests or expertise.

''(C) Appropriate officials of the governments of States and political subdivisions of States.

''(D) Representatives of private sector organizations recognized for relevant expertise.''.

(B) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

''413. Organ donation through driver licensing.''.

(2) TIME FOR PROMULGATION OF REGULATIONS.—The Secretary of Transportation shall promulgate the regulations under section 413(b) of title 23, United States Code (as added by paragraph (1)), not later than October 1, 2005.

(3) AUTHORIZATION OF EXPENDITURES.—Of the amounts available under Section 412(c)(3), as amended, no more than $1,000,000 may be utilized for this program annually.

(d) STUDY OF NATIONAL DRIVER EDUCATION STANDARDS.—

(1) REQUIREMENT FOR STUDY.—The Secretary of Transportation shall carry out a study to determine whether the establishment and imposition of nationwide minimum standards of motor vehicle driver education would improve national highway traffic safety or the performance and legal compliance of novice drivers.

(2) TIME FOR COMPLETION OF STUDY.—The Secretary shall complete the study not later than 2 years after the date of the enactment of this Act.

(3) REPORT.—The Secretary shall publish a report on the results of the study under this section not later than 2 years after the study is completed.

SEC. 4172. AMENDMENT OF AUTOMOBILE INFORMATION DISCLOSURE ACT.

(a) SAFETY LABELING REQUIREMENT.—Section 3 of the Automobile Information Disclosure Act (15 U.S.C. 1232) is amended by adding at the end the following:

''(g) if one or more safety ratings for such automobile have been assigned and formally published or released by the National Highway Traffic Safety Administration under the New Car Assessment Program, information about safety ratings that—

''(1) includes a graphic depiction of the number of stars that corresponds to each such assigned safety rating displayed in a clearly differentiated fashion from stars indicating the unattained safety rating;

''(2) refers to frontal impact crash tests, side impact crash tests, and rollover resistance tests (whether or not such automobile has been assigned a safety rating for such tests), including statements that—

''(A) frontal impact crash test ratings are based on risk of head and chest injury;

''(B) side impact crash test ratings are based on risk of chest injury; and

''(C) rollover resistance ratings are based on risk of rollover in the event of a single automobile crash;

''(3) is presented in a legible, visible, and prominent fashion and covers at least—

''(A) 8 percent of the total area of the label; or

''(B) an area with a minimum length of 4 ½ inches and a minimum height of 3 ½ inches; and

''(4) contains a heading titled 'Government Safety Information' and a disclaimer including the following text: 'Star ratings for frontal impact crash tests can only be compared to other vehicles in the same weight class and those plus or minus 250 pounds. Side impact and rollover ratings can be compared across all vehicle weights and classes. For more information on safety and testing, please visit http://www.nhtsa.dot.gov'; and

''(h) if an automobile has not been tested by the National Highway Traffic Safety Administration under the New Car Assessment Program, or safety ratings for such automobile have not been assigned in one or more rating categories, a statement to that effect.''.

(b) REGULATIONS.—Not later than January 1, 2005, the Secretary of Transportation shall prescribe regulations to implement the labeling requirements added pursuant to subsection (a).

(c) CONFORMING AND TECHNICAL AMENDMENTS.—Section 3 of such Act is further amended—

(1) in subsection (e), by striking ''and'' after the semicolon; and

(2) in subsection (f)—

(A) by adding ''and'' at the end of paragraph (3); and

(B) by striking the period at the end and inserting a semicolon.

(d) EFFECTIVE DATE.—The amendments made by subsection (a) and subsection (c) shall take effect on a production year basis not earlier than one year after the regulations are prescribed, and no later than Sept. 1, 2006.

SEC. 4173. CHILD SAFETY.

(a) INCORPORATION OF CHILD DUMMIES IN SAFETY TESTS.—

(1) RULEMAKING REQUIRED.—Not later than 2 years after the date of the enactment of this Act, the Administrator of the National Highway Traffic Safety Administration shall conduct a rulemaking to increase utilization of child dummies, including Hybrid-III child dummies, in motor vehicle safety tests, including crash tests, conducted by the Administration.

(2) CRITERIA.—In conducting the rulemaking under subsection (a), the Administrator shall select motor vehicle safety tests in which the inclusion of child dummies will lead to—

(A) increased understanding of crash dynamics with respect to children; and

(B) measurably improved child safety.

(3) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary of Transportation shall publish a report regarding the implementation of this section.

(b) CHILD SAFETY IN ROLLOVER CRASHES.—

(1) CONSUMER INFORMATION PROGRAM.—Not later than 2 years after the date of the enactment of this Act, the Secretary of Transportation shall implement a consumer information program relating to child safety in rollover crashes. The Secretary shall make information related to the program available to the public following completion of the program.

(2) CHILD DUMMY DEVELOPMENT.—

(A) IN GENERAL.—The Administrator of the National Highway Traffic Safety Administration shall initiate the development of a biofidelic child crash test dummy capable of measuring injury forces in a simulated rollover crash.

(B) REPORTS.—The Secretary shall submit to Congress a report on progress related to such development—

(i) not later than 1 year after the date of the enactment of this Act; and

(ii) not later than 3 years after the date of the enactment of this Act.

(c) REPORT ON ENHANCED VEHICLE SAFETY TECHNOLOGIES.—Not later than 2 years after the date of the enactment of this Act, the Secretary of Transportation shall submit to Congress a report that describes, evaluates, and determines the relative effectiveness of—

(1) currently available and emerging technologies, including auto-reverse functions and child-safe window switches, that are designed to prevent and reduce the number of injuries and deaths to children left unattended inside parked motor vehicles, including injuries and deaths that result from hyperthermia or are related to power windows or power sunroofs; and

(2) currently available and emerging technologies that are designed to improve the performance of safety belts with respect to the safety of occupants aged between 4 and 8 years old.

(d) COMPLETION OF RULEMAKING REGARDING POWER WINDOWS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Transportation shall—

(1) complete the rulemaking initiated by the National Highway Traffic Safety Administration that is ongoing on the date of the enactment of this Act and relates to a requirement that window switches be designed to reduce the accidental closing by children of power windows; and

(2) issue performance-based regulations to take effect not later than September 1, 2006, requiring that window switches or related technologies be designed to prevent the accidental closing by children of power windows.

(e) DATABASE ON INJURIES AND DEATHS IN NONTRAFFIC, NONCRASH EVENTS.—

(1) IN GENERAL.—The Secretary of Transportation shall establish a new database of, and collect data regarding, injuries and deaths in nontraffic, noncrash events involving motor vehicles. The database shall include information regarding—

(A) the number, types, and proximate causes of injuries and deaths resulting from such events;

(B) the characteristics of motor vehicles involved in such events;

(C) the characteristics of the motor vehicle operators and victims involved in such events; and

(D) the presence or absence in motor vehicles involved in such events of advanced technologies designed to prevent such injuries and deaths.

(2) RULEMAKING.—The Secretary shall conduct a rulemaking regarding how to structure and compile the database.

(3) AVAILABILITY.—The Secretary shall make the database available to the public.

SEC. 4174. SAFE INTERSECTIONS.

(a) IN GENERAL.—Chapter 2 of title 18, United States Code, is amended by adding at the end the following:

"§ 39. Traffic signal preemption transmitters

''(a) OFFENSES.—

''(1) SALE.—A person who provides for sale to unauthorized users a traffic signal preemption transmitter in or affecting interstate or foreign commerce shall be fined not more than $10,000, imprisoned not more than 1 year, or both.

''(2) POSSESSION.—A person who is an unauthorized user in possession of a traffic signal preemption transmitter in or affecting interstate or foreign commerce shall be fined not more than $10,000, imprisoned not more than 6 months, or both.

''(b) DEFINITIONS.—In this section, the following definitions apply:

''(1) TRAFFIC SIGNAL PREEMPTION TRANSMITTER.—The term 'traffic signal preemption transmitter' means any device or mechanism that can change a traffic signal's phase.

''(2) UNAUTHORIZED USER.—The term 'unauthorized user' means a user of a traffic signal preemption transmitter who is not a government approved user.''.

(b) CHAPTER ANALYSIS.—The chapter analysis for chapter 2 of title 18, United States Code, is amended by adding at the end the following:

''39. Traffic signal preemption transmitters.''.

SEC. 4175. STUDY ON INCREASED SPEED LIMITS.

(a) STUDY.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary shall conduct a study to examine the effects of increased speed limits enacted by States after 1995.

(2) REQUIREMENTS.—The study shall collect empirical data regarding—

(A) increases or decreases in driving speeds on Interstate highways since 1995;

(B) correlations between changes in driving speeds and accident, injury, and fatality rates;

(C) correlations between posted speed limits and observed driving speeds;

(D) the overall impact on motor vehicle safety resulting from the repeal of the national maximum speed limit in 1995; and

(E) such other matters as the Secretary determines to be appropriate.

(b) REPORT.—Not later than 1 year after the date of completion of the study under subsection (a), the Secretary shall submit to Congress a report that describes the results of the study.

SA 2329. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 338, after line 13, insert the following:

''(iii) $50,000,000 to the State of California to be used for the seismic retrofit and homeland security protection of the Golden Gate Bridge, San Francisco, California.

SA 2330. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE VII—BORDER SECURITY PROVISIONS

SEC. 7101. SECURE AND FAST ENTRY AT THE BORDER.

(a) SHORT TITLE.—This section may be cited as the ''Secure and Fast Entry at the Border Act of 2004'' or the ''SAFE Border Act of 2004'' .

(b) PORTPASS PROGRAM.—

(1) FINDINGS.—Congress finds the following:

(A) Port Passenger Accelerated Service System (PortPASS) is a group of pre-inspection technology programs used at ports of entry to facilitate the speedy passage of low-risk travelers.

(B) Ports of entry constitute vital links in our Nation's economic and social life.

(C) Southern and northern land border inspections combined comprise over 80 percent of the total number of inspections performed at all ports of entry.

(D) PortPASS programs strengthen our borders without impeding legitimate traffic needed for our Nation's economic health.

(E) Secure Electronic Network for Travelers Rapid Inspection (SENTRI), a PortPASS program, incorporates an extensive screening process to move pre-screened, low-risk travelers quickly and safely through the inspection process while preserving border security. There are currently over 45,000 SENTRI participants.

(F) PortPASS programs must expand their existing infrastructure to meet border management issues. The success and effectiveness of the programs demonstrate they are deserving of increased resource allocation to meet growth and security challenges.

(2) AMENDMENT TO IMMIGRATION AND NATIONALITY ACT.—Section 286(q)(1)(A) of the Immigration and Nationality Act (8 U.S.C. 1356(q)(1)(A)) is amended adding at the end the following:

''(iv) The Port Passenger Accelerated Service System (PortPASS) is authorized as a permanent land border inspection project under this subparagraph.''.

(3) SENTRI PARTICIPATION APPROVALS.—

(A) EXTENSION OF VALIDITY OF SENTRI APPROVALS FOR PARTICIPATION.—Notwithstanding any other provision of law, and beginning not later than 30 days after the date of enactment of this Act, approval shall be issued for participation in the Secure Electronic Network for Travelers Rapid Inspection (SENTRI), carried out by the Bureau of Citizenship and Immigration Services within the Department of Homeland Security, for non-commercial vehicle border crossers. Such approval shall be valid for not less than 2 years.

(B) PRECLUSION OF CERTAIN PERSONS.—Any person convicted of a felony or under active criminal investigation shall be prohibited from participating in the Secure Electronic Network for Travelers Rapid Inspection (SENTRI) program.

(4) SENSE OF CONGRESS.—It is the sense of the Congress that—

(A) the Department of Homeland Security must ensure the permanence of the Port Passenger Accelerated Service System (PortPASS) in the transition of PortPASS from the Department of Justice to the Department of Homeland Security;

(B) all land PortPASS programs should utilize interoperable technology to offer program enrollees increased access at all participating dedicated commuter lanes;

(C) the Secretary of Homeland Security should—

(i) appoint dedicated staff with appropriate training and instruction to the Secure Electronic Network for Travelers Rapid Inspection (SENTRI) program;

(ii) increase staffing under the SENTRI program for actual inspections and necessary administrative tasks; and

(iii) allocate greater resources to the program to facilitate and expedite the processing of applications for SENTRI; and

(D) the Secretary of Homeland Security should create a pre-inspection low-risk traveler dedicated commuter lane for pedestrian land border crossers.

SA 2331. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 460, strike line 18 and all that follows through page 462, line 24, and insert the following:

''(2) IDENTIFICATION OF CENTERS.—The university transportation centers established under this section shall—

''(A) comply with applicable requirements under subsection (c); and

''(B) be located at the institutions of higher learning specified in paragraph (3).

''(3) IDENTIFICATION OF GROUPS.—For the purpose of making grants under this subsection, the following grants are identified:

''(A) GROUP A.—Group A shall consist of the 10 regional centers selected under subsection (b).

''(B) GROUP B.—Group B shall consist of the following:

''(i) [_____].
''(ii) [_____].
''(iii) [_____].
''(iv) [_____].
''(v) [_____].
''(vi) [_____].
''(vii) [_____].
''(viii) [_____]
''(ix) [_____].
''(x) [_____].
''(xi) [_____].

''(C) GROUP C.—Group C shall consist of the following:

''(i) [_____].
''(ii) [_____].
''(iii) [_____].
''(iv) [_____].
''(v) [_____].
''(vi) [_____].
''(vii) [_____].
''(viii) [_____].
''(ix) [_____].
''(x) [_____].
''(xi) [_____].

''(D) GROUP D.—Group D shall consist of the following:

''(i) [_____].
''(ii) [_____].
''(iii) [_____].
''(iv) [_____].
''(v) [_____].
''(vi) [_____].
''(vii) [_____].
''(viii) [_____].

SA 2332. Mr. HARKIN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 145, strike lines 13 through 23 and insert the following:

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall promulgate regulations—

(1) to decrease the probability of worker injury;

(2) to maintain the free flow of vehicular traffic by requiring workers whose duties place the workers on, or in close proximity to, a Federal-aid highway (as defined in section 101 of title 23, United States Code) to wear high-visibility clothing; and

(3) to require such other worker-safety measures for workers described in paragraph (2) as the Secretary determines appropriate.

(b) VEGETATION CONTROL.—To lower operating expenses and improve safety during road construction, rehabilitation, and maintenance, the Secretary shall strongly encourage State departments of transportation and local transportation authorities to use devices that have been approved by the Federal Highway Administration to control vegetation near structures in the rights-of-way of highways.

SA 2333. Mr. HARKIN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 389, between lines 15 and 16, insert the following:

SEC. 18___. PRIORITY FOR PEDESTRIAN AND BICYCLE FACILITY ENHANCEMENT PROJECTS.

Section 133(e)(5) of title 23, United States Code, is amended by adding at the end the following:

''(D) PRIORITY FOR PEDESTRIAN AND BICYCLE FACILITY ENHANCEMENT PROJECTS.—The Secretary shall encourage States to give priority to pedestrian and bicycle facility enhancement projects that include a coordinated physical activity or healthy lifestyles program.''.

SA 2334. Mrs. CLINTON submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 893, between lines 23 and 24, insert the following:

''(C) RESPONSIBILITY OF STATES.—

''(i) IN GENERAL.—Each State shall be responsible for ensuring that subrecipients of Federal funds with the State under this section have emission reduction strategies for fleets of vehicles that are—

''(I) used in construction projects located in nonattainment and maintenance areas; and

''(II) funded under this title.

''(ii) REQUIREMENTS FOR STRATEGIES.—The emission reduction strategies referred to in clause (i) shall be consistent with guidance developed by the Administrator of the Environmental Protection Agency, in consultation with the Secretary, including guidance on—

''(I) contract preferences;

''(II) requirements for the use of anti-idling equipment;

''(III) diesel retrofits; and

''(IV) such other matters as the Administrator of the Environmental Protection Agency, in consultation with the Secretary, determine to be appropriate.

''(iii) USE OF CMAQ FUNDS.—A State may use funds made available for the congestion mitigation and air quality program to ensure the deployment of the emission reduction strategies described in clause (i).

SA 2335. Mrs. DOLE submitted an amendment intended to be proposed by her to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

SECTION 1. TAX TREATMENT OF STATE ACQUISITION OF RAILROAD REAL ESTATE INVESTMENT TRUST.

(a) IN GENERAL.—If a State acquires all of the outstanding stock of a real estate investment trust which is a non-operating class III railroad and substantially all of the activities of which consist of the ownership, leasing, and operation by such trust of facilities, equipment, and other property used by the trust or other persons in railroad transportation, then, for purposes of section 115 of the Internal Revenue Code of 1986—

(1) such activities shall be treated as the exercise of an essential governmental function, and

(2) income derived from such activities shall be treated as accruing to the State.

(b) GAIN OR LOSS NOT RECOGNIZED ON CONVERSION.—Notwithstanding section 337(d) of the Internal Revenue Code of 1986, no gain or less shall be recognized under section 336 or 337 of such Code because of the change of status of the real estate investment trust to a tax-exempt entity by reason of the application of subsection (a).

(c) TAX-EXEMPT FINANCING.—Any obligation issued by the entity described in subsection (a) shall be treated as an obligation of the State for purposes of applying section 103 and part IV of subchapter B of chapter 1 of the Internal Revenue Code of 1986.

(d) DEFINITIONS.—For purposes of this section—

(1) REAL ESTATE INVESTMENT TRUST.—The term ''real estate investment trust'' has the meaning given such term by section 856(a) of the Internal Revenue Code of 1986.

(2) NON-OPERATING CLASS III RAILROAD.—The term ''non-operating class III railroad'' has the meaning given such term by part A of subtitle IV of title 49, United States Code (49 U.S.C. 10101 et seq.) and the regulations thereunder.

(3) STATE.—The term ''State'' includes—

(A) the District of Columbia and any possession of the United States, and

(B) any authority, agency, or public corporation of a State.

(e) APPLICABILITY.—This section shall apply on and after the date of any acquisition described in subsection (a).

SA 2336. Mr. COLEMAN (for himself and Mr. DAYTON) submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following new title:

TITLE V—MISCELLANEOUS PROVISIONS

SEC. 5001. REIMBURSEMENT OF CERTAIN TRANSPORTATION COSTS INCURRED BY MEMBERS OF THE UNITED STATES ARMED FORCES ON REST AND RECUPERATION LEAVE.

The Secretary of Defense shall reimburse a member of the United States Armed Forces (out of funds available for the Armed Forces for operation and maintenance for the relevant fiscal year) for transportation expenses incurred by such member for one round trip by such member between two locations within the United States in connection with leave taken under the Central Command Rest and Recuperation Leave Program during the period beginning on September 25, 2003, and ending on December 18, 2003.

SA 2337. Mr. COLEMAN (for himself and Mr. DAYTON) submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following new title:

TITLE V—MISCELLANEOUS PROVISIONS

SEC. 5001. REIMBURSEMENT OF CERTAIN TRANSPORTATION COSTS INCURRED BY MEMBERS OF THE UNITED STATES ARMED FORCES ON REST AND RECUPERATION LEAVE.

The Secretary of Defense shall reimburse a member of the United States Armed Forces (out of funds available for the Armed Forces for operation and maintenance for the relevant fiscal year) for transportation expenses incurred by such member for one round trip by such member between two locations within the United States in connection with leave taken under the Central Command Rest and Recuperation Leave Program during the period beginning on September 25, 2003, and ending on December 18, 2003.

SA 2338. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, add the following:

SEC. 201. ALTERNATIVE MOTOR VEHICLE CREDIT.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 (relating to foreign tax credit, etc.) is amended by adding at the end the following new section:

"SEC. 30B. ALTERNATIVE MOTOR VEHICLE CREDIT.

''(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

''(1) the new qualified fuel cell motor vehicle credit determined under subsection (b),

''(2) the new qualified hybrid motor vehicle credit determined under subsection (c), and

''(3) the new qualified alternative fuel motor vehicle credit determined under subsection (d).

''(b) NEW QUALIFIED FUEL CELL MOTOR VEHICLE CREDIT.—

''(1) IN GENERAL.—For purposes of subsection (a), the new qualified fuel cell motor vehicle credit determined under this subsection with respect to a new qualified fuel cell motor vehicle placed in service by the taxpayer during the taxable year is—

''(A) $4,000, if such vehicle has a gross vehicle weight rating of not more than 8,500 pounds,

''(B) $10,000, if such vehicle has a gross vehicle weight rating of more than 8,500 pounds but not more than 14,000 pounds,

''(C) $20,000, if such vehicle has a gross vehicle weight rating of more than 14,000 pounds but not more than 26,000 pounds, and

''(D) $40,000, if such vehicle has a gross vehicle weight rating of more than 26,000 pounds.

''(2) INCREASE FOR FUEL EFFICIENCY.—

''(A) IN GENERAL.—The amount determined under paragraph (1)(A) with respect to a new qualified fuel cell motor vehicle which is a passenger automobile or light truck shall be increased by—

''(i) $1,000, if such vehicle achieves at least 150 percent but less than 175 percent of the 2002 model year city fuel economy,

''(ii) $1,500, if such vehicle achieves at least 175 percent but less than 200 percent of the 2002 model year city fuel economy,

''(iii) $2,000, if such vehicle achieves at least 200 percent but less than 225 percent of the 2002 model year city fuel economy,

''(iv) $2,500, if such vehicle achieves at least 225 percent but less than 250 percent of the 2002 model year city fuel economy,

''(v) $3,000, if such vehicle achieves at least 250 percent but less than 275 percent of the 2002 model year city fuel economy,

''(vi) $3,500, if such vehicle achieves at least 275 percent but less than 300 percent of the 2002 model year city fuel economy, and

''(vii) $4,000, if such vehicle achieves at least 300 percent of the 2002 model year city fuel economy.

''(B) 2002 MODEL YEAR CITY FUEL ECONOMY.—For purposes of subparagraph (A), the 2002 model year city fuel economy with respect to a vehicle shall be determined in accordance with the following tables:

''(i) In the case of a passenger automobile:

"If vehicle inertia weight class is:	The 2002 model year city fuel economy is:
1,500 or 1,750 lbs	45.2 mpg
2,000 lbs	39.6 mpg
2,250 lbs	35.2 mpg
2,500 lbs	31.7 mpg
2,750 lbs	28.8 mpg
3,000 lbs	26.4 mpg
3,500 lbs	22.6 mpg
4,000 lbs	19.8 mpg
4,500 lbs	17.6 mpg
5,000 lbs	15.9 mpg
5,500 lbs	14.4 mpg
6,000 lbs	13.2 mpg
6,500 lbs	12.2 mpg
7,000 to 8,500 lbs	11.3 mpg.

''(ii) In the case of a light truck:

"If vehicle inertia weight class is:	The 2002 model year city fuel economy is:
1,500 or 1,750 lbs	39.4 mpg
2,000 lbs	35.2 mpg
2,250 lbs	31.8 mpg
2,500 lbs	29.0 mpg
2,750 lbs	26.8 mpg
3,000 lbs	24.9 mpg
3,500 lbs	21.8 mpg
4,000 lbs	19.4 mpg
4,500 lbs	17.6 mpg
5,000 lbs	16.1 mpg
5,500 lbs	14.8 mpg
6,000 lbs	13.7 mpg
6,500 lbs	12.8 mpg
7,000 to 8,500 lbs	12.1 mpg.

''(C) VEHICLE INERTIA WEIGHT CLASS.—For purposes of subparagraph (B), the term 'vehicle inertia weight class' has the same meaning as when defined in regulations prescribed by the Administrator of the Environmental Protection Agency for purposes of the administration of title II of the Clean Air Act (42 U.S.C. 7521 et seq.).

''(3) NEW QUALIFIED FUEL CELL MOTOR VEHICLE.—For purposes of this subsection, the term 'new qualified fuel cell motor vehicle' means a motor vehicle—

''(A) which is propelled by power derived from one or more cells which convert chemical energy directly into electricity by combining oxygen with hydrogen fuel which is stored on board the vehicle in any form and may or may not require reformation prior to use,

''(B) which, in the case of a passenger automobile or light truck—

''(i) for 2002 and later model vehicles, has received a certificate of conformity under the Clean Air Act and meets or exceeds the equivalent qualifying California low emission vehicle standard under section 243(e)(2) of the Clean Air Act for that make and model year, and

''(ii) for 2004 and later model vehicles, has received a certificate that such vehicle meets or exceeds the Bin 5 Tier II emission level established in regulations prescribed by the Administrator of the Environmental Protection Agency under section 202(i) of the Clean Air Act for that make and model year vehicle,

''(C) the original use of which commences with the taxpayer,

''(D) which is acquired for use or lease by the taxpayer and not for resale, and

''(E) which is made by a manufacturer.

''(c) NEW QUALIFIED HYBRID MOTOR VEHICLE CREDIT.—

''(1) IN GENERAL.—For purposes of subsection (a), the new qualified hybrid motor vehicle credit determined under this subsection with respect to a new qualified hybrid motor vehicle placed in service by the taxpayer during the taxable year is the credit amount determined under paragraph (2).

''(2) CREDIT AMOUNT.—

''(A) IN GENERAL.—The credit amount determined under this paragraph shall be determined in accordance with the following tables:

''(i) In the case of a new qualified hybrid motor vehicle which is a passenger automobile or light truck and which provides the following percentage of the maximum available power:

"If percentage of the maximum available power is:	The credit amount is:
At least 4 percent but less than 10 percent.	$250
At least 10 percent but less than 20 percent.	$500
At least 20 percent but less than 30 percent.	$750
At least 30 percent	$1,000.

''(ii) In the case of a new qualified hybrid motor vehicle which is a heavy duty hybrid motor vehicle and which provides the following percentage of the maximum available power:

''(I) If such vehicle has a gross vehicle weight rating of not more than 14,000 pounds:

"If percentage of the maximum available power is:	The credit amount is:
At least 20 percent but less than 30 percent.	$1,000
At least 30 percent but less than 40 percent.	$1,750
At least 40 percent but less than 50 percent.	$2,000
At least 50 percent but less than 60 percent.	$2,250
At least 60 percent	$2,500.

''(II) If such vehicle has a gross vehicle weight rating of more than 14,000 but not more than 26,000 pounds:

"If percentage of the maximum available power is:	The credit amount is:
At least 20 percent but less than 30 percent.	$4,000
At least 30 percent but less than 40 percent.	$4,500
At least 40 percent but less than 50 percent.	$5,000
At least 50 percent but less than 60 percent.	$5,500
At least 60 percent	$6,000.

''(III) If such vehicle has a gross vehicle weight rating of more than 26,000 pounds:

"If percentage of the maximum available power is:	The credit amount is:
At least 20 percent but less than 30 percent.	$6,000
At least 30 percent but less than 40 percent.	$7,000
At least 40 percent but less than 50 percent.	$8,000
At least 50 percent but less than 60 percent.	$9,000
At least 60 percent	$10,000.

''(B) INCREASE FOR FUEL EFFICIENCY.—

''(i) AMOUNT.—The amount determined under subparagraph (A)(i) with respect to a new qualified hybrid motor vehicle which is a passenger automobile or light truck shall be increased by—

''(I) $500, if such vehicle achieves at least 125 percent but less than 150 percent of the 2002 model year city fuel economy,

''(II) $1,000, if such vehicle achieves at least 150 percent but less than 175 percent of the 2002 model year city fuel economy,

''(III) $1,500, if such vehicle achieves at least 175 percent but less than 200 percent of the 2002 model year city fuel economy,

''(IV) $2,000, if such vehicle achieves at least 200 percent but less than 225 percent of the 2002 model year city fuel economy,

''(V) $2,500, if such vehicle achieves at least 225 percent but less than 250 percent of the 2002 model year city fuel economy, and

''(VI) $3,000, if such vehicle achieves at least 250 percent of the 2002 model year city fuel economy.

''(ii) 2002 MODEL YEAR CITY FUEL ECONOMY.—For purposes of clause (i), the 2002 model year city fuel economy with respect to a vehicle shall be determined using the tables provided in subsection (b)(2)(B) with respect to such vehicle.

''(C) INCREASE FOR ACCELERATED EMISSIONS PERFORMANCE.—The amount determined under subparagraph (A)(ii) with respect to an applicable heavy duty hybrid motor vehicle shall be increased by the increased credit amount determined in accordance with the following tables:

''(i) In the case of a vehicle which has a gross vehicle weight rating of not more than 14,000 pounds:

"If the model year is:	The increased credit amount is:
2003	$3,000
2004	$2,500
2005	$2,000
2006	$1,500.

''(ii) In the case of a vehicle which has a gross vehicle weight rating of more than 14,000 pounds but not more than 26,000 pounds:

"If the model year is:	The increased credit amount is:
2003	$7,750
2004	$6,500
2005	$5,250
2006	$4,000.

''(iii) In the case of a vehicle which has a gross vehicle weight rating of more than 26,000 pounds:

"If the model year is:	The increased credit amount is:
2003	$12,000

"If the model year is:	The increased credit amount is:
2004	$10,000
2005	$8,000
2006	$6,000.

''(D) DEFINITIONS.—

''(i) APPLICABLE HEAVY DUTY HYBRID MOTOR VEHICLE.—For purposes of subparagraph (C), the term 'applicable heavy duty hybrid motor vehicle' means a heavy duty hybrid motor vehicle which is powered by an internal combustion or heat engine which is certified as meeting the emission standards set in the regulations prescribed by the Administrator of the Environmental Protection Agency for 2007 and later model year diesel heavy duty engines, or for 2008 and later model year ottocycle heavy duty engines, as applicable.

''(ii) HEAVY DUTY HYBRID MOTOR VEHICLE.—For purposes of this paragraph, the term 'heavy duty hybrid motor vehicle' means a new qualified hybrid motor vehicle which has a gross vehicle weight rating of more than 10,000 pounds and draws propulsion energy from both of the following onboard sources of stored energy:

''(I) An internal combustion or heat engine using consumable fuel which, for 2002 and later model vehicles, has received a certificate of conformity under the Clean Air Act and meets or exceeds a level of not greater than 3.0 grams per brake horsepower–hour of oxides of nitrogen and 0.01 per brake horsepower–hour of particulate matter.

''(II) A rechargeable energy storage system.

''(iii) MAXIMUM AVAILABLE POWER.—

''(I) PASSENGER AUTOMOBILE OR LIGHT TRUCK.—For purposes of subparagraph (A)(i), the term 'maximum available power' means the maximum power available from the rechargeable energy storage system, during a standard 10 second pulse power or equivalent test, divided by such maximum power and the SAE net power of the heat engine.

''(II) HEAVY DUTY HYBRID MOTOR VEHICLE.—For purposes of subparagraph (A)(ii), the term 'maximum available power' means the maximum power available from the rechargeable energy storage system, during a standard 10 second pulse power or equivalent test, divided by the vehicle's total traction power. The term 'total traction power' means the sum of the peak power from the rechargeable energy storage system and the heat engine peak power of the vehicle, except that if such storage system is the sole means by which the vehicle can be driven, the total traction power is the peak power of such storage system.

''(3) NEW QUALIFIED HYBRID MOTOR VEHICLE.—For purposes of this subsection, the term 'new qualified hybrid motor vehicle' means a motor vehicle—

''(A) which draws propulsion energy from onboard sources of stored energy which are both—

''(i) an internal combustion or heat engine using combustible fuel, and

''(ii) a rechargeable energy storage system,

''(B) which, in the case of a passenger automobile or light truck—

''(i) for 2002 and later model vehicles, has received a certificate of conformity under the Clean Air Act and meets or exceeds the equivalent qualifying California low emission vehicle standard under section 243(e)(2) of the Clean Air Act for that make and model year, and

''(ii) for 2004 and later model vehicles, has received a certificate that such vehicle meets or exceeds the Bin 5 Tier II emission level established in regulations prescribed by the Administrator of the Environmental Protection Agency under section 202(i) of the Clean Air Act for that make and model year vehicle,

''(C) the original use of which commences with the taxpayer,

''(D) which is acquired for use or lease by the taxpayer and not for resale, and

''(E) which is made by a manufacturer.

''(d) NEW QUALIFIED ALTERNATIVE FUEL MOTOR VEHICLE CREDIT.—

''(1) ALLOWANCE OF CREDIT.—Except as provided in paragraph (5), the new qualified alternative fuel motor vehicle credit determined under this subsection is an amount equal to the applicable percentage of the incremental cost of any new qualified alternative fuel motor vehicle placed in service by the taxpayer during the taxable year.

''(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage with respect to any new qualified alternative fuel motor vehicle is—

''(A) 40 percent, plus

''(B) 30 percent, if such vehicle—

''(i) has received a certificate of conformity under the Clean Air Act and meets or exceeds the most stringent standard available for certification under the Clean Air Act for that make and model year vehicle (other than a zero emission standard), or

''(ii) has received an order certifying the vehicle as meeting the same requirements as vehicles which may be sold or leased in California and meets or exceeds the most stringent standard available for certification under the State laws of California (enacted in accordance with a waiver granted under section 209(b) of the Clean Air Act) for that make and model year vehicle (other than a zero emission standard).

''(3) INCREMENTAL COST.—For purposes of this subsection, the incremental cost of any new qualified alternative fuel motor vehicle is equal to the amount of the excess of the manufacturer's suggested retail price for such vehicle over such price for a gasoline or diesel fuel motor vehicle of the same model, to the extent such amount does not exceed—

''(A) $5,000, if such vehicle has a gross vehicle weight rating of not more than 8,500 pounds,

''(B) $10,000, if such vehicle has a gross vehicle weight rating of more than 8,500 pounds but not more than 14,000 pounds,

''(C) $25,000, if such vehicle has a gross vehicle weight rating of more than 14,000 pounds but not more than 26,000 pounds, and

''(D) $40,000, if such vehicle has a gross vehicle weight rating of more than 26,000 pounds.

''(4)NEW QUALIFIED ALTERNATIVE FUEL MOTOR VEHICLE.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'new qualified alternative fuel motor vehicle' means any motor vehicle—

''(i) which is only capable of operating on an alternative fuel,

''(ii) the original use of which commences with the taxpayer,

''(iii) which is acquired by the taxpayer for use or lease, but not for resale, and

''(iv) which is made by a manufacturer.

''(B) ALTERNATIVE FUEL.—The term 'alternative fuel' means compressed natural gas, liquefied natural gas, liquefied petroleum gas, hydrogen, and any liquid at least 85 percent of the volume of which consists of methanol.

''(5) CREDIT FOR MIXED-FUEL VEHICLES.—

''(A) IN GENERAL.—In the case of a mixed-fuel vehicle placed in service by the taxpayer during the taxable year, the credit determined under this subsection is an amount equal to—

''(i) in the case of a 75/25 mixed-fuel vehicle, 70 percent of the credit which would have been allowed under this subsection if such vehicle was a qualified alternative fuel motor vehicle, and

''(ii) in the case of a 90/10 mixed-fuel vehicle, 90 percent of the credit which would have been allowed under this subsection if such vehicle was a qualified alternative fuel motor vehicle.

''(B) MIXED-FUEL VEHICLE.—For purposes of this subsection, the term 'mixed-fuel vehicle' means any motor vehicle described in subparagraph (C) or (D) of paragraph (3), which—

''(i) is certified by the manufacturer as being able to perform efficiently in normal operation on a combination of an alternative fuel and a petroleum-based fuel,

''(ii) either—

''(I) has received a certificate of conformity under the Clean Air Act, or

''(II) has received an order certifying the vehicle as meeting the same requirements as vehicles which may be sold or leased in California and meets or exceeds the low emission vehicle standard under section 88.105-94 of title 40, Code of Federal Regulations, for that make and model year vehicle,

''(iii) the original use of which commences with the taxpayer,

''(iv) which is acquired by the taxpayer for use or lease, but not for resale, and

''(v) which is made by a manufacturer.

''(C) 75/25 MIXED-FUEL VEHICLE.—For purposes of this subsection, the term '75/25 mixed-fuel vehicle' means a mixed-fuel vehicle which operates using at least 75 percent alternative fuel and not more than 25 percent petroleum-based fuel.

''(D) 90/10 MIXED-FUEL VEHICLE.—For purposes of this subsection, the term '90/10 mixed-fuel vehicle' means a mixed-fuel vehicle which operates using at least 90 percent alternative fuel and not more than 10 percent petroleum-based fuel.

''(e) APPLICATION WITH OTHER CREDITS.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess (if any) of—

''(1) the regular tax for the taxable year reduced by the sum of the credits allowable under subpart A and sections 27, 29, and 30, over

''(2) the tentative minimum tax for the taxable year.

''(f) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) CONSUMABLE FUEL.—The term 'consumable fuel' means any solid, liquid, or gaseous matter which releases energy when consumed by an auxiliary power unit.

''(2) MOTOR VEHICLE.—The term 'motor vehicle' has the meaning given such term by section 30(c)(2).

''(3) CITY FUEL ECONOMY.—The city fuel economy with respect to any vehicle shall be measured in a manner which is substantially similar to the manner city fuel economy is measured in accordance with procedures under part 600 of subchapter Q of chapter I of title 40, Code of Federal Regulations, as in effect on the date of the enactment of this section.

''(4) OTHER TERMS.—The terms 'automobile', 'passenger automobile', 'light truck', and 'manufacturer' have the meanings given such terms in regulations prescribed by the Administrator of the Environmental Protection Agency for purposes of the administration of title II of the Clean Air Act (42 U.S.C. 7521 et seq.).

''(5) REDUCTION IN BASIS.—For purposes of this subtitle, the basis of any property for which a credit is allowable under subsection (a) shall be reduced by the amount of such credit so allowed (determined without regard to subsection (e)).

''(6) NO DOUBLE BENEFIT.—The amount of any deduction or other credit allowable under this chapter—

''(A) for any incremental cost taken into account in computing the amount of the

credit determined under subsection (d) shall be reduced by the amount of such credit attributable to such cost, and

''(B) with respect to a vehicle described under subsection (b) or (c), shall be reduced by the amount of credit allowed under subsection (a) for such vehicle for the taxable year.

''(7) PROPERTY USED BY TAX-EXEMPT ENTITIES.—In the case of a credit amount which is allowable with respect to a motor vehicle which is acquired by an entity exempt from tax under this chapter, the person which sells or leases such vehicle to the entity shall be treated as the taxpayer with respect to the vehicle for purposes of this section and the credit shall be allowed to such person, but only if the person clearly discloses to the entity at the time of any sale or lease the specific amount of any credit otherwise allowable to the entity under this section.

''(8) RECAPTURE.—The Secretary shall, by regulations, provide for recapturing the benefit of any credit allowable under subsection (a) with respect to any property which ceases to be property eligible for such credit (including recapture in the case of a lease period of less than the economic life of a vehicle).

''(9) PROPERTY USED OUTSIDE UNITED STATES, ETC., NOT QUALIFIED.—No credit shall be allowed under subsection (a) with respect to any property referred to in section 50(b) or with respect to the portion of the cost of any property taken into account under section 179.

''(10) ELECTION TO NOT TAKE CREDIT.—No credit shall be allowed under subsection (a) for any vehicle if the taxpayer elects to not have this section apply to such vehicle.

''(11) CARRYBACK AND CARRYFORWARD ALLOWED.—

''(A) IN GENERAL.—If the credit amount allowable under subsection (a) for a taxable year exceeds the amount of the limitation under subsection (e) for such taxable year (in this paragraph referred to as the 'unused credit year'), such excess shall be allowed as a credit carryback for each of the 3 taxable years beginning after the date of the enactment of this paragraph, which precede the unused credit year and a credit carryforward for each of the 20 taxable years which succeed the unused credit year.

''(B) RULES.—Rules similar to the rules of section 39 shall apply with respect to the credit carryback and credit carryforward under subparagraph (A).

''(12) INTERACTION WITH AIR QUALITY AND MOTOR VEHICLE SAFETY STANDARDS.—Unless otherwise provided in this section, a motor vehicle shall not be considered eligible for a credit under this section unless such vehicle is in compliance with—

''(A) the applicable provisions of the Clean Air Act for the applicable make and model year of the vehicle (or applicable air quality provisions of State law in the case of a State which has adopted such provision under a waiver under section 209(b) of the Clean Air Act), and

''(B) the motor vehicle safety provisions of sections 30101 through 30169 of title 49, United States Code.

''(g) REGULATIONS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall promulgate such regulations as necessary to carry out the provisions of this section.

''(2) COORDINATION IN PRESCRIPTION OF CERTAIN REGULATIONS.—The Secretary of the Treasury, in coordination with the Secretary of Transportation and the Administrator of the Environmental Protection Agency, shall prescribe such regulations as necessary to determine whether a motor vehicle meets the requirements to be eligible for a credit under this section.

''(h) TERMINATION.—This section shall not apply to any property purchased after—

''(1) in the case of a new qualified fuel cell motor vehicle (as described in subsection (b)), December 31, 2011, and

''(2) in the case of any other property, December 31, 2006.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 1016(a) is amended by striking ''and'' at the end of paragraph (27), by striking the period at the end of paragraph (28) and inserting '', and'', and by adding at the end the following new paragraph:

''(29) to the extent provided in section 30B(f)(5).''.

(2) Section 55(c)(2) is amended by inserting ''30B(e),'' after ''30(b)(3)''.

(3) Section 6501(m) is amended by inserting ''30B(f)(10),'' after ''30(d)(4),''.

(4) The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 30A the following new item:

''Sec. 30B. Alternative motor vehicle credit.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 202. MODIFICATION OF CREDIT FOR QUALIFIED ELECTRIC VEHICLES.

(a) AMOUNT OF CREDIT.—

(1) IN GENERAL.—Section 30(a) (relating to allowance of credit) is amended by striking ''10 percent of''.

(2) LIMITATION OF CREDIT ACCORDING TO TYPE OF VEHICLE.—Section 30(b) (relating to limitations) is amended—

(A) by striking paragraphs (1) and (2) and inserting the following new paragraph:

''(1) LIMITATION ACCORDING TO TYPE OF VEHICLE.—The amount of the credit allowed under subsection (a) for any vehicle shall not exceed the greatest of the following amounts applicable to such vehicle:

''(A) In the case of a vehicle which conforms to the Motor Vehicle Safety Standard 500 prescribed by the Secretary of Transportation, as in effect on the date of the enactment of the Energy Tax Incentives Act of 2003, the lesser of—

''(i) 10 percent of the manufacturer's suggested retail price of the vehicle, or

''(ii) $1,500.

''(B) In the case of a vehicle not described in subparagraph (A) with a gross vehicle weight rating not exceeding 8,500 pounds—

''(i) $3,500, or

''(ii) $6,000, if such vehicle is—

''(I) capable of a driving range of at least 100 miles on a single charge of the vehicle's rechargeable batteries as measured pursuant to the urban dynamometer schedules under appendix I to part 86 of title 40, Code of Federal Regulations, or

''(II) capable of a payload capacity of at least 1,000 pounds.

''(C) In the case of a vehicle with a gross vehicle weight rating exceeding 8,500 but not exceeding 14,000 pounds, $10,000.

''(D) In the case of a vehicle with a gross vehicle weight rating exceeding 14,000 but not exceeding 26,000 pounds, $20,000.

''(E) In the case of a vehicle with a gross vehicle weight rating exceeding 26,000 pounds, $40,000.'', and

(B) by redesignating paragraph (3) as paragraph (2).

(3) CONFORMING AMENDMENTS.—

(A) Section 53(d)(1)(B)(iii) is amended by striking ''section 30(b)(3)(B)'' and inserting ''section 30(b)(2)(B)''.

(3) Section 55(c)(2), as amended by this Act, is amended by striking ''30(b)(3)'' and inserting ''30(b)(2)''.

(b) QUALIFIED BATTERY ELECTRIC VEHICLE.—

(1) IN GENERAL.—Section 30(c)(1)(A) (defining qualified electric vehicle) is amended to read as follows:

''(A) which is—

''(i) operated solely by use of a battery or battery pack, or

''(ii) powered primarily through the use of an electric battery or battery pack using a flywheel or capacitor which stores energy produced by an electric motor through regenerative braking to assist in vehicle operation,''.

(2) LEASED VEHICLES.—Section 30(c)(1)(C) is amended by inserting ''or lease'' after ''use''.

(3) CONFORMING AMENDMENTS.—

(A) Subsections (a), (b)(2), and (c) of section 30 are each amended by inserting ''battery'' after ''qualified'' each place it appears.

(B) The heading of subsection (c) of section 30 is amended by inserting ''BATTERY'' after ''QUALIFIED''.

(C) The heading of section 30 is amended by inserting ''**battery**'' after ''**qualified**''.

(D) The item relating to section 30 in the table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by inserting ''battery'' after ''qualified''.

(E) Section 179A(c)(3) is amended by inserting ''battery'' before ''electric''.

(F) The heading of paragraph (3) of section 179A(c) is amended by inserting ''BATTERY'' before ''ELECTRIC''.

(c) ADDITIONAL SPECIAL RULES.—Section 30(d) (relating to special rules) is amended by adding at the end the following new paragraphs:

''(5) NO DOUBLE BENEFIT.—The amount of any deduction or other credit allowable under this chapter for any cost taken into account in computing the amount of the credit determined under subsection (a) shall be reduced by the amount of such credit attributable to such cost.

''(6) PROPERTY USED BY TAX-EXEMPT ENTITIES.—In the case of a credit amount which is allowable with respect to a vehicle which is acquired by an entity exempt from tax under this chapter, the person which sells or leases such vehicle to the entity shall be treated as the taxpayer with respect to the vehicle for purposes of this section and the credit shall be allowed to such person, but only if the person clearly discloses to the entity at the time of any sale or lease the specific amount of any credit otherwise allowable to the entity under this section.

''(7) CARRYBACK AND CARRYFORWARD ALLOWED.—

''(A) IN GENERAL.—If the credit amount allowable under subsection (a) for a taxable year exceeds the amount of the limitation under subsection (b)(2) for such taxable year (in this paragraph referred to as the 'unused credit year'), such excess shall be allowed as a credit carryback for each of the 3 taxable years beginning after the date of the enactment of this paragraph, which precede the unused credit year and a credit carryforward for each of the 20 taxable years which succeed the unused credit year.

''(B) RULES.—Rules similar to the rules of section 39 shall apply with respect to the credit carryback and credit carryforward under subparagraph (A).''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 203. CREDIT FOR INSTALLATION OF ALTERNATIVE FUELING STATIONS.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 (relating to foreign tax credit, etc.), as amended by this Act, is amended by adding at the end the following new section:

"SEC. 30C. CLEAN-FUEL VEHICLE REFUELING PROPERTY CREDIT.

''(a) CREDIT ALLOWED.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 50 percent of the amount paid or incurred by the taxpayer during the taxable year for the installation of qualified clean-fuel vehicle refueling property.

''(b) LIMITATION.—The credit allowed under subsection (a)—

''(1) with respect to any retail clean-fuel vehicle refueling property, shall not exceed $30,000, and

''(2) with respect to any residential clean-fuel vehicle refueling property, shall not exceed $1,000.

''(c) YEAR CREDIT ALLOWED.—The credit allowed under subsection (a) shall be allowed in the taxable year in which the qualified clean-fuel vehicle refueling property is placed in service by the taxpayer.

''(d) DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED CLEAN-FUEL VEHICLE REFUELING PROPERTY.—The term 'qualified clean-fuel vehicle refueling property' has the same meaning given such term by section 179A(d).

''(2) RESIDENTIAL CLEAN-FUEL VEHICLE REFUELING PROPERTY.—The term 'residential clean-fuel vehicle refueling property' means qualified clean-fuel vehicle refueling property which is installed on property which is used as the principal residence (within the meaning of section 121) of the taxpayer.

''(3) RETAIL CLEAN-FUEL VEHICLE REFUELING PROPERTY.—The term 'retail clean-fuel vehicle refueling property' means qualified clean-fuel vehicle refueling property which is installed on property (other than property described in paragraph (2)) used in a trade or business of the taxpayer.

''(e) APPLICATION WITH OTHER CREDITS.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess (if any) of—

''(1) the regular tax for the taxable year reduced by the sum of the credits allowable under subpart A and sections 27, 29, 30, and 30B, over

''(2) the tentative minimum tax for the taxable year.

''(f) BASIS REDUCTION.—For purposes of this title, the basis of any property shall be reduced by the portion of the cost of such property taken into account under subsection (a).

''(g) NO DOUBLE BENEFIT.—No deduction shall be allowed under section 179A with respect to any property with respect to which a credit is allowed under subsection (a).

''(h) REFUELING PROPERTY INSTALLED FOR TAX-EXEMPT ENTITIES.—In the case of qualified clean-fuel vehicle refueling property installed on property owned or used by an entity exempt from tax under this chapter, the person which installs such refueling property for the entity shall be treated as the taxpayer with respect to the refueling property for purposes of this section (and such refueling property shall be treated as retail clean-fuel vehicle refueling property) and the credit shall be allowed to such person, but only if the person clearly discloses to the entity in any installation contract the specific amount of the credit allowable under this section.

''(i) CARRYFORWARD ALLOWED.—

''(1) IN GENERAL.—If the credit amount allowable under subsection (a) for a taxable year exceeds the amount of the limitation under subsection (e) for such taxable year (referred to as the 'unused credit year' in this subsection), such excess shall be allowed as a credit carryforward for each of the 20 taxable years following the unused credit year.

''(2) RULES.—Rules similar to the rules of section 39 shall apply with respect to the credit carryforward under paragraph (1).

''(j) SPECIAL RULES.—Rules similar to the rules of paragraphs (4) and (5) of section 179A(e) shall apply.

''(k) REGULATIONS.—The Secretary shall prescribe such regulations as necessary to carry out the provisions of this section.

''(l) TERMINATION.—This section shall not apply to any property placed in service—

''(1) in the case of property relating to hydrogen, after December 31, 2011, and

''(2) in the case of any other property, after December 31, 2007.''.

(b) MODIFICATIONS TO EXTENSION OF DEDUCTION FOR CERTAIN REFUELING PROPERTY.—

(1) IN GENERAL.—Subsection (f) of section 179A is amended to read as follows:

''(f) TERMINATION.—This section shall not apply to any property placed in service—

''(1) in the case of property relating to hydrogen, after December 31, 2011, and

''(2) in the case of any other property, after December 31, 2007.''.

(2) EXTENSION OF PHASEOUT.—Section 179A(b)(1)(B), as amended by section 606(a) of the Job Creation and Worker Assistance Act of 2002, is amended—

(A) by striking ''calendar year 2004'' in clause (i) and inserting ''calendar years 2004 and 2005 (calendar years 2004 through 2009 in the case of property relating to hydrogen) '',

(B) by striking ''2005'' in clause (ii) and inserting ''2006 (calendar year 2010 in the case of property relating to hydrogen)'', and

(C) by striking ''2006'' in clause (iii) and inserting ''2007 (calendar year 2011 in the case of property relating to hydrogen)''.

(c) INCENTIVE FOR PRODUCTION OF HYDROGEN AT QUALIFIED CLEAN-FUEL VEHICLE REFUELING PROPERTY.—Section 179A(d) (defining qualified clean-fuel vehicle refueling property) is amended by adding at the end the following new flush sentence:

''In the case of clean-burning fuel which is hydrogen produced from another clean-burning fuel, paragraph (3)(A) shall be applied by substituting 'production, storage, or dispensing' for 'storage or dispensing' both places it appears.''.

(d) CONFORMING AMENDMENTS.—(1) Section 1016(a), as amended by this Act, is amended by striking ''and'' at the end of paragraph (28), by striking the period at the end of paragraph (29) and inserting '', and'', and by adding at the end the following new paragraph:

''(30) to the extent provided in section 30C(f).''.

(2) Section 55(c)(2), as amended by this Act, is amended by inserting ''30C(e),'' after ''30B(e)''.

(3) The table of sections for subpart B of part IV of subchapter A of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 30B the following new item:

''Sec. 30C. Clean-fuel vehicle refueling property credit.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 204. CREDIT FOR RETAIL SALE OF ALTERNATIVE FUELS AS MOTOR VEHICLE FUEL.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by inserting after section 40 the following new section:

"SEC. 40A. CREDIT FOR RETAIL SALE OF ALTERNATIVE FUELS AS MOTOR VEHICLE FUEL.

''(a) GENERAL RULE.—For purposes of section 38, the alternative fuel retail sales credit for any taxable year is the applicable amount for each gasoline gallon equivalent of alternative fuel sold at retail by the taxpayer during such year as a fuel to propel any qualified motor vehicle.

''(b) DEFINITIONS.—For purposes of this section—

''(1) APPLICABLE AMOUNT.—The term 'applicable amount' means the amount determined in accordance with the following table:

"In the case of any taxable year ending in—	**The applicable amount is—**
2003	30 cents
2004	40 cents
2005 and 2006	50 cents.

''(2) ALTERNATIVE FUEL.—The term 'alternative fuel' means compressed natural gas, liquefied natural gas, liquefied petroleum gas, hydrogen, and any liquid at least 85 percent of the volume of which consists of methanol or ethanol.

''(3) GASOLINE GALLON EQUIVALENT.—The term 'gasoline gallon equivalent' means, with respect to any alternative fuel, the amount (determined by the Secretary) of such fuel having a Btu content of 114,000.

''(4) QUALIFIED MOTOR VEHICLE.—The term 'qualified motor vehicle' means any motor vehicle (as defined in section 30(c)(2)) which meets any applicable Federal or State emissions standards with respect to each fuel by which such vehicle is designed to be propelled.

''(5) SOLD AT RETAIL.—

''(A) IN GENERAL.—The term 'sold at retail' means the sale, for a purpose other than resale, after manufacture, production, or importation.

''(B) USE TREATED AS SALE.—If any person uses alternative fuel (including any use after importation) as a fuel to propel any qualified alternative fuel motor vehicle (as defined in section 30B(d)(4)) before such fuel is sold at retail, then such use shall be treated in the same manner as if such fuel were sold at retail as a fuel to propel such a vehicle by such person.

''(c) NO DOUBLE BENEFIT.—The amount of any deduction or other credit allowable under this chapter for any fuel taken into account in computing the amount of the credit determined under subsection (a) shall be reduced by the amount of such credit attributable to such fuel.

''(d) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

''(e) TERMINATION.—This section shall not apply to any fuel sold at retail after December 31, 2006.''.

(b) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b) (relating to current year business credit) is amended by striking ''plus'' at the end of paragraph (14), by striking the period at the end of paragraph (15) and inserting '', plus'', and by adding at the end the following new paragraph:

''(16) the alternative fuel retail sales credit determined under section 40A(a).''.

(c) TRANSITIONAL RULE.—Section 39(d) (relating to transitional rules) is amended by adding at the end the following new paragraph:

''(11) NO CARRYBACK OF SECTION 40A CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the alternative fuel retail sales credit determined under section 40A(a) may be carried back to a taxable year ending on or before the date of the enactment of such section.''.

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 40 the following new item:

''Sec. 40A. Credit for retail sale of alternative fuels as motor vehicle fuel.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel sold at retail after the date of the enactment of this Act, in taxable years ending after such date.

SA 2339. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 5442.

SA 2342. Mr. TALENT (for himself, Mr. WYDEN, Mr. CORZINE, and Mr. COLEMAN) submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 1298, after line 24, add the following:

Subtitle H—Build America Bonds

SEC. 5671. SHORT TITLE; ETC.

(a) SHORT TITLE.—This subtitle may be cited as the ''Build America Bonds Act of 2004''.

(b) REFERENCES TO INTERNAL REVENUE CODE OF 1986.—Except as otherwise expressly provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 5672. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds the following:

(1) Our Nation's highways, public transportation systems, and rail systems drive our economy, enabling all industries to achieve growth and productivity that makes America strong and prosperous.

(2) The establishment, maintenance, and improvement of the national transportation network is a national priority, for economic, environmental, energy, security, and other reasons.

(3) The ability to move people and goods is critical to maintaining State, metropolitan, rural, and local economies.

(4) The construction of infrastructure requires the skills of numerous occupations, including those in the contracting, engineering, planning and design, materials supply, manufacturing, distribution, and safety industries.

(5) Investing in transportation infrastructure creates long-term capital assets for the Nation that will help the United States address its enormous infrastructure needs and improve its economic productivity.

(6) Investment in transportation infrastructure creates jobs and spurs economic activity to put people back to work and stimulate the economy.

(7) Every billion dollars in transportation investment has the potential to create up to 47,500 jobs.

(8) Every dollar invested in the Nation's transportation infrastructure yields at least $5.70 in economic benefits because of reduced delays, improved safety, and reduced vehicle operating costs.

(9) The proposed increases to the Transportation Equity Act for the 21st Century (TEA–21) will not be sufficient to compensate for the Nation's transportation infrastructure deficit.

(b) PURPOSE.—The purpose of this subtitle is to provide financing for long-term infrastructure capital investments that are not currently being met by existing transportation and infrastructure investment programs, including mega-projects, projects of national significance and high priority projects, multi-State transportation corridors, intermodal transportation facilities, replacement and reconstruction of deficient and obsolete bridges, interstate highways, public transportation systems, and rail systems.

SEC. 5673. CREDIT TO HOLDERS OF BUILD AMERICA BONDS.

(a) IN GENERAL.—Part IV of subchapter A of chapter 1 (relating to credits against tax) is amended by adding at the end the following new subpart:

"Subpart H—Nonrefundable Credit for Holders of Build America Bonds

''Sec. 54. Credit to holders of Build America bonds.

"SEC. 54. CREDIT TO HOLDERS OF BUILD AMERICA BONDS.

''(a) ALLOWANCE OF CREDIT.—In the case of a taxpayer who holds a Build America bond on a credit allowance date of such bond which occurs during the taxable year, there shall be allowed as a credit against the tax imposed by this chapter for such taxable year an amount equal to the sum of the credits determined under subsection (b) with respect to credit allowance dates during such year on which the taxpayer holds such bond.

''(b) AMOUNT OF CREDIT.—

''(1) IN GENERAL.—The amount of the credit determined under this subsection with respect to any credit allowance date for a Build America bond is 25 percent of the annual credit determined with respect to such bond.

''(2) ANNUAL CREDIT.—The annual credit determined with respect to any Build America bond is the product of—

''(A) the applicable credit rate, multiplied by

''(B) the outstanding face amount of the bond.

''(3) APPLICABLE CREDIT RATE.—For purposes of paragraph (2), the applicable credit rate with respect to an issue is the rate equal to an average market yield (as of the day before the date of sale of the issue) on outstanding long-term corporate debt obligations (determined in such manner as the Secretary prescribes).

''(4) CREDIT ALLOWANCE DATE.—For purposes of this section, the term 'credit allowance date' means—

''(A) March 15,

''(B) June 15,

''(C) September 15, and

''(D) December 15.

Such term includes the last day on which the bond is outstanding.

''(5) SPECIAL RULE FOR ISSUANCE AND REDEMPTION.—In the case of a bond which is issued during the 3-month period ending on a credit allowance date, the amount of the credit determined under this subsection with respect to such credit allowance date shall be a ratable portion of the credit otherwise determined based on the portion of the 3-month period during which the bond is outstanding. A similar rule shall apply when the bond is redeemed.

''(c) LIMITATION BASED ON AMOUNT OF TAX.—

''(1) IN GENERAL.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess of—

''(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(B) the sum of the credits allowable under this part (other than this subpart and subpart C).

''(2) CARRYOVER OF UNUSED CREDIT.—If the credit allowable under subsection (a) exceeds the limitation imposed by paragraph (1) for such taxable year, such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such taxable year.

''(d) CREDIT INCLUDED IN GROSS INCOME.—Gross income includes the amount of the credit allowed to the taxpayer under this section (determined without regard to subsection (c)) and the amount so included shall be treated as interest income.

''(e) BUILD AMERICA BOND.—For purposes of this part, the term 'Build America bond' means any bond issued as part of an issue if—

''(1) the net spendable proceeds from the sale of such issue are to be used—

''(A) for expenditures incurred after the date of the enactment of this section for any qualified project, or

''(B) for deposit in the Build America Trust Account for repayment of Build America bonds at maturity,

''(2) the bond is issued by the Transportation Finance Corporation, is in registered form, and meets the Build America bond limitation requirements under subsection (g),

''(3) the Transportation Finance Corporation certifies that it meets the State contribution requirement of subsection (k) with respect to such project, as in effect on the date of issuance,

''(4) the Transportation Finance Corporation certifies that the State in which an approved qualified project is located meets the requirement described in subsection (l),

''(5) except for bonds issued in accordance with subsection (g)(6), the term of each bond which is part of such issue does not exceed 30 years,

''(6) the payment of principal with respect to such bond is the obligation of the Transportation Finance Corporation, and

''(7) with respect to bonds described in paragraph (1)(A), the issue meets the requirements of subsection (h) (relating to arbitrage).

''(f) QUALIFIED PROJECT.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified project' means any—

''(A) qualified highway project,

''(B) qualified public transportation project, and

''(C) congestion relief project,

proposed by 1 or more States and approved by the Transportation Finance Corporation.

''(2) QUALIFIED HIGHWAY PROJECT.—The term 'qualified highway project' means a project for highway facilities or other facilities which are eligible for assistance under title 23, United States Code.

''(3) QUALIFIED PUBLIC TRANSPORTATION PROJECT.—The term 'qualified public transportation project' means a project for public transportation facilities or other facilities which are eligible for assistance under chapter 53 of title 49, United States Code.

''(4) CONGESTION RELIEF PROJECT.—The term 'congestion relief project' means an intermodal freight transfer facility, freight rail facility, freight movement corridor, intercity passenger rail or facility, intercity bus vehicle or facility, border crossing facility, or other public or private facility approved as a congestion relief project by the Secretary of Transportation. In making such

approvals, the Secretary of Transportation shall—

''(A) consider the economic, environmental, mobility, and national security improvements to be realized through the project, and

''(B) give preference to projects with national or regional significance, including any projects sponsored by a coalition of States or a combination of States and private sector entities, in terms of generating economic benefits, supporting international commerce, or otherwise enhancing the national transportation system.

''(g) LIMITATION ON AMOUNT OF BONDS DESIGNATED; ALLOCATION OF BOND PROCEEDS.—

''(1) NATIONAL LIMITATION.—There is a Build America bond limitation for each calendar year. Such limitation is—

''(A) with respect to bonds described in subsection (e)(1)(A),

''(i) $11,000,000,000 for 2004,

''(ii) $16,000,000,000 for 2005,

''(iii) $16,000,000,000 for 2006,

''(iv) $6,000,000,000 for 2007,

''(v) $3,500,000,000 for 2008,

''(vi) $3,500,000,000 for 2009, and

''(vii) except as provided in paragraph (5), zero thereafter, plus

''(B) with respect to bonds described in subsection (e)(1)(B), such amount each calendar year as determined necessary by the Transportation Finance Corporation to provide funds in the Build America Trust Account for the repayment of Build America bonds at maturity.

''(2) CONGESTION RELIEF PROJECTS.—From Build America bonds issued under the annual limitation in paragraph (1)(A), $1,000,000,000 of net spendable proceeds shall be reserved for each of the calendar years 2004, 2005, 2006, 2007, 2008, and 2009 for allocation to congestion relief projects.

''(3) ALLOCATION OF BONDS FOR HIGHWAY AND PUBLIC TRANSPORTATION PURPOSES.—Except with respect to qualified projects described in subsection (j)(3), and subject to paragraphs (2) and (4)—

''(A) QUALIFIED HIGHWAY PROJECTS.—From Build America bonds issued under the annual limitation in paragraph (1)(A), the Transportation Finance Corporation shall allocate 80 percent of the net spendable proceeds to the States for qualified highway projects in the following manner:

''(i) 50 percent of such allocation shall be in accordance with the formulas for apportioning funds under sections 104(b) and 144 of title 23, United States Code.

''(ii) 50 percent of such allocation shall be for projects, including projects of national significance and high priority projects, designated by law.

''(B) QUALIFIED PUBLIC TRANSPORTATION PROJECTS.—From Build America bonds issued under the annual limitation in paragraph (1)(A), the Transportation Finance Corporation shall allocate 20 percent of the net spendable proceeds to the States for qualified public transportation projects in the following manner:

''(i) 50 percent of such allocation shall be in accordance with the distribution of public transportation formula grants under sections 5307, 5308, 5310, 5311, and 5327 of title 49, United States Code.

''(ii) 50 percent of such allocation shall be for projects, including projects of national significance and high priority projects, designated by law.

''(4) MINIMUM ALLOCATIONS TO STATES.—In making allocations for each calendar year under paragraph (3), the Transportation Finance Corporation shall ensure that the amount allocated for qualified projects located in each State for such calendar year is not less than 1 percent of the total amount allocated for such year.

''(5) CARRYOVER OF UNUSED ISSUANCE LIMITATION.—If for any calendar year the limitation amount imposed by paragraph (1) exceeds the amount of Build America bonds issued during such year, such excess shall be carried forward to one or more succeeding calendar years as an addition to the limitation imposed by paragraph (1) and until used by issuance of Build America bonds.

''(6) ISSUANCE OF SMALL DENOMINATION BONDS.—From the Build America bond limitation for each year, the Transportation Finance Corporation shall issue a limited quantity of Build America bonds in small denominations suitable for purchase as gifts by individual investors wishing to show their support for investing in America's infrastructure.

''(h) SPECIAL RULES RELATING TO ARBITRAGE.—

''(1) IN GENERAL.—Subject to paragraph (2), an issue shall be treated as meeting the requirements of this subsection if as of the date of issuance, the Transportation Finance Corporation reasonably expects—

''(A) to spend at least 85 percent of the net spendable proceeds from the sale of the issue for 1 or more qualified projects within the 5-year period beginning on such date,

''(B) to incur a binding commitment with a third party to spend at least 10 percent of the net spendable proceeds from the sale of the issue, or to commence construction, with respect to such projects within the 12-month period beginning on such date, and

''(C) to proceed with due diligence to complete such projects and to spend the net spendable proceeds from the sale of the issue.

''(2) SPENT PROCEEDS.—Net spendable proceeds are considered spent by the Transportation Finance Corporation when a sponsor of a qualified project obtains a reimbursement from the Transportation Finance Corporation for eligible project costs.

''(3) RULES REGARDING CONTINUING COMPLIANCE AFTER 5-YEAR DETERMINATION.—If at least 85 percent of the net spendable proceeds from the sale of the issue is not expended for 1 or more qualified projects within the 5-year period beginning on the date of issuance, but the requirements of paragraph (1) are otherwise met, an issue shall be treated as continuing to meet the requirements of this subsection if the Transportation Finance Corporation uses all unspent net spendable proceeds from the sale of the issue to redeem bonds of the issue within 90 days after the end of such 5-year period.

''(4) REALLOCATION.—In the event the recipient of an allocation under subsection (g) fails to demonstrate to the satisfaction of the Transportation Finance Corporation that its actions will allow the Transportation Finance Corporation to meet the requirements under this subsection, the Transportation Finance Corporation may redistribute the allocation meant for such recipient to other recipients.

''(i) RECAPTURE OF PORTION OF CREDIT WHERE CESSATION OF COMPLIANCE.—

''(1) IN GENERAL.—If any bond which when issued purported to be a Build America bond ceases to be such a qualified bond, the Transportation Finance Corporation shall pay to the United States (at the time required by the Secretary) an amount equal to the sum of—

''(A) the aggregate of the credits allowable under this section with respect to such bond (determined without regard to subsection (c)) for taxable years ending during the calendar year in which such cessation occurs and the 2 preceding calendar years, and

''(B) interest at the underpayment rate under section 6621 on the amount determined under subparagraph (A) for each calendar year for the period beginning on the first day of such calendar year.

''(2) FAILURE TO PAY.—If the Transportation Finance Corporation fails to timely pay the amount required by paragraph (1) with respect to such bond, the tax imposed by this chapter on each holder of any such bond which is part of such issue shall be increased (for the taxable year of the holder in which such cessation occurs) by the aggregate decrease in the credits allowed under this section to such holder for taxable years beginning in such 3 calendar years which would have resulted solely from denying any credit under this section with respect to such issue for such taxable years.

''(3) SPECIAL RULES.—

''(A) TAX BENEFIT RULE.—The tax for the taxable year shall be increased under paragraph (2) only with respect to credits allowed by reason of this section which were used to reduce tax liability. In the case of credits not so used to reduce tax liability, the carryforwards and carrybacks under section 39 shall be appropriately adjusted.

''(B) NO CREDITS AGAINST TAX.—Any increase in tax under paragraph (2) shall not be treated as a tax imposed by this chapter for purposes of determining—

''(i) the amount of any credit allowable under this part, or

''(ii) the amount of the tax imposed by section 55.

''(j) BUILD AMERICA TRUST ACCOUNT.—

''(1) IN GENERAL.—The following amounts shall be held in a Build America Trust Account by the Transportation Finance Corporation:

''(A) The proceeds from the sale of all bonds issued under this section.

''(B) The amount of any matching contributions with respect to such bonds.

''(C) The investment earnings on proceeds from the sale of such bonds.

''(D) Any earnings on any amounts described in subparagraph (A), (B), or (C).

''(2) USE OF FUNDS.—Amounts in the Build America Trust Account may be used only to pay costs of qualified projects, redeem Build America bonds, and fund the operations of the Transportation Finance Corporation, except that amounts withdrawn from the Build America Trust Account to pay costs of qualified projects may not exceed the aggregate proceeds from the sale of Build America bonds described in subsection (e)(1)(A).

''(3) USE OF REMAINING FUNDS IN BUILD AMERICA TRUST ACCOUNT.—Upon the redemption of all Build America bonds issued under this section, any remaining amounts in the Build America Trust Account shall be available to the Transportation Finance Corporation to pay the costs of any qualified project.

''(4) COSTS OF QUALIFIED PROJECTS.—For purposes of this section, the costs of qualified projects which may be funded by amounts in the Build America Trust Account may only relate to capital investments in depreciable assets and may not include any costs relating to operations, maintenance, or rolling stock.

''(5) APPLICABILITY OF FEDERAL LAW.—The requirements of any Federal law, including titles 23, 40, and 49 of the United States Code, which would otherwise apply to projects to which the United States is a party or to funds made available under such law and projects assisted with those funds shall apply to—

''(A) funds made available under the Build America Trust Account for similar qualified projects, including contributions required under subsection (k), and

''(B) similar qualified projects assisted by the Transportation Finance Corporation through the use of such funds.

''(6) INVESTMENT.—It shall be the duty of the Transportation Finance Corporation to invest in investment grade obligations such portion of the Build America Trust Account

as is not, in the judgment of the Board of Directors of the Transportation Finance Corporation, required to meet current withdrawals. Such investments may be made in State and local transportation bonds.

''(k) STATE CONTRIBUTION REQUIREMENTS.—

''(1) IN GENERAL.—For purposes of subsection (e)(3), the State contribution requirement of this subsection is met with respect to any qualified project if the Transportation Finance Corporation has received from 1 or more States, not later than the date of issuance of the bond, written commitments for matching contributions of not less than 20 percent of the cost of the qualified project.

''(2) STATE MATCHING CONTRIBUTIONS MAY NOT INCLUDE FEDERAL FUNDS.—For purposes of this subsection, State matching contributions shall not be derived, directly or indirectly, from Federal funds, including any transfers from the Highway Trust Fund under section 9503.

''(l) UTILIZATION OF UPDATED CONSTRUCTION TECHNOLOGY FOR QUALIFIED PROJECTS.—For purposes of subsection (e)(4), the requirement of this subsection is met if the appropriate State agency relating to the qualified project has updated its accepted construction technologies to match a list prescribed by the Secretary of Transportation and in effect on the date of the approval of the project as a qualified project.

''(m) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) ADMINISTRATIVE COSTS.—The term 'administrative costs' shall only include costs of issuance of Build America bonds and operation costs of the Transportation Corporation.

''(2) BOND.—The term 'bond' includes any obligation.

''(3) NET SPENDABLE PROCEEDS.—The term 'net spendable proceeds' means the proceeds from the sale of any Build America bond issued under this section reduced by not more than 5 percent of such proceeds for administrative costs.

''(4) STATE.—The term 'State' shall have the meaning given such term by section 101 of title 23, United States Code.

''(5) TREATMENT OF CHANGES IN USE.—For purposes of subsection (e)(1)(A), the net spendable proceeds from the sale of an issue shall not be treated as used for a qualified project to the extent that the Transportation Finance Corporation takes any action within its control which causes such proceeds not to be used for a qualified project. The Secretary shall specify remedial actions which may be taken (including conditions to taking such remedial actions) to prevent an action described in the preceding sentence from causing a bond to fail to be a Build America bond.

''(6) PARTNERSHIP; S CORPORATION; AND OTHER PASS-THRU ENTITIES.—In the case of a partnership, trust, S corporation, or other pass-thru entity, rules similar to the rules of section 41(g) shall apply with respect to the credit allowable under subsection (a).

''(7) BONDS HELD BY REGULATED INVESTMENT COMPANIES.—If any Build America bond is held by a regulated investment company, the credit determined under subsection (a) shall be allowed to shareholders of such company under procedures prescribed by the Secretary.

''(8) CREDITS MAY BE STRIPPED.—Under regulations prescribed by the Secretary—

''(A) IN GENERAL.—There may be a separation (including at issuance) of the ownership of a Build America bond and the entitlement to the credit under this section with respect to such bond. In case of any such separation, the credit under this section shall be allowed to the person who on the credit allowance date holds the instrument evidencing the entitlement to the credit and not to the holder of the bond.

''(B) CERTAIN RULES TO APPLY.—In the case of a separation described in subparagraph (A), the rules of section 1286 shall apply to the Build America bond as if it were a stripped bond and to the credit under this section as if it were a stripped coupon.

''(9) CREDITS MAY BE TRANSFERRED.—Nothing in any law or rule of law shall be construed to limit the transferability of the credit or bond allowed by this section through sale and repurchase agreements.

''(10) REPORTING.—The Transportation Finance Corporation shall submit reports similar to the reports required under section 149(e).

''(11) PROHIBITION ON USE OF HIGHWAY TRUST FUND.—Notwithstanding any other provision of law, no funds derived from the Highway Trust Fund established under section 9503 shall be used to pay costs associated with the Build America bonds issued under this section.''.

(b) AMENDMENTS TO OTHER CODE SECTIONS.—

(1) REPORTING.—Subsection (d) of section 6049 (relating to returns regarding payments of interest) is amended by adding at the end the following new paragraph:

''(8) REPORTING OF CREDIT ON BUILD AMERICA BONDS.—

''(A) IN GENERAL.—For purposes of subsection (a), the term 'interest' includes amounts includible in gross income under section 54(d) and such amounts shall be treated as paid on the credit allowance date (as defined in section 54(b)(4)).

''(B) REPORTING TO CORPORATIONS, ETC.—Except as otherwise provided in regulations, in the case of any interest described in subparagraph (A), subsection (b)(4) shall be applied without regard to subparagraphs (A), (H), (I), (J), (K), and (L)(i) of such subsection.

''(C) REGULATORY AUTHORITY.—The Secretary may prescribe such regulations as are necessary or appropriate to carry out the purposes of this paragraph, including regulations which require more frequent or more detailed reporting.''.

(2) TREATMENT FOR ESTIMATED TAX PURPOSES.—

(A) INDIVIDUAL.—Section 6654 (relating to failure by individual to pay estimated income tax) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

''(m) SPECIAL RULE FOR HOLDERS OF BUILD AMERICA BONDS.—For purposes of this section, the credit allowed by section 54 to a taxpayer by reason of holding a Build America bond on a credit allowance date shall be treated as if it were a payment of estimated tax made by the taxpayer on such date.''.

(B) CORPORATE.—Subsection (g) of section 6655 (relating to failure by corporation to pay estimated income tax) is amended by adding at the end the following new paragraph:

''(5) SPECIAL RULE FOR HOLDERS OF BUILD AMERICA BONDS.—For purposes of this section, the credit allowed by section 54 to a taxpayer by reason of holding a Build America bond on a credit allowance date shall be treated as if it were a payment of estimated tax made by the taxpayer on such date.''.

(c) CLERICAL AMENDMENTS.—

(1) The table of subparts for part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

''Subpart H. Nonrefundable Credit for Holders of Build America Bonds.''.

(2) Section 6401(b)(1) is amended by striking ''and G'' and inserting ''G, and H''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

SEC. 5674. TRANSPORTATION FINANCE CORPORATION.

(a) ESTABLISHMENT AND STATUS.—There is established a body corporate to be known as the ''Transportation Finance Corporation'' (hereafter in this section referred to as the ''Corporation''). The Corporation is not a department, agency, or instrumentality of the United States Government, and shall not be subject to title 31, United States Code.

(b) PRINCIPAL OFFICE; APPLICATION OF LAWS.—The principal office and place of business of the Corporation shall be in the District of Columbia, and, to the extent consistent with this section, the District of Columbia Business Corporation Act (D.C. Code 29–301 et seq.) shall apply.

(c) FUNCTIONS OF CORPORATION.—The Corporation shall—

(1) issue Build America bonds for the financing of qualified projects as required under section 54 of the Internal Revenue Code of 1986,

(2) establish and operate the Build America Trust Account as required under section 54(j) of such Code,

(3) act as a centralized entity to provide financing for qualified projects,

(4) leverage resources and stimulate public and private investment in transportation infrastructure,

(5) encourage States to create additional opportunities for the financing of transportation infrastructure and to provide technical assistance to States, if needed,

(6) perform any other function the sole purpose of which is to carry out the financing of qualified projects through Build America bonds, and

(7) not later than February 15 of each year submit a report to Congress—

(A) describing the activities of the Corporation for the preceding year, and

(B) specifying whether the amounts deposited and expected to be deposited in the Build America Trust Account are sufficient to fully repay at maturity the principal of any outstanding Build America bonds issued pursuant to such section 54.

(d) POWERS OF CORPORATION.—The Corporation—

(1) may sue and be sued, complain and defend, in its corporate name, in any court of competent jurisdiction,

(2) may adopt, alter, and use a seal, which shall be judicially noticed,

(3) may prescribe, amend, and repeal such rules and regulations as may be necessary for carrying out the functions of the Corporation,

(4) may make and perform such contracts and other agreements with any individual, corporation, or other private or public entity however designated and wherever situated, as may be necessary for carrying out the functions of the Corporation,

(5) may determine and prescribe the manner in which its obligations shall be incurred and its expenses allowed and paid,

(6) may, as necessary for carrying out the functions of the Corporation, employ and fix the compensation of employees and officers,

(7) may lease, purchase, or otherwise acquire, own, hold, improve, use, or otherwise deal in and with such property (real, personal, or mixed) or any interest therein, wherever situated, as may be necessary for carrying out the functions of the Corporation,

(8) may accept gifts or donations of services or of property (real, personal, or mixed), tangible or intangible, in furtherance of the purposes of this Act, and

(9) shall have such other powers as may be necessary and incident to carrying out this Act.

(e) NONPROFIT ENTITY; RESTRICTION ON USE OF MONEYS; CONFLICT OF INTERESTS; AUDITS.—

(1) NONPROFIT ENTITY.—The Corporation shall be a nonprofit corporation and shall have no capital stock.

(2) RESTRICTION.—No part of the Corporation's revenue, earnings, or other income or property shall inure to the benefit of any of its directors, officers, or employees, and such revenue, earnings, or other income or property shall only be used for carrying out the purposes of this Act.

(3) CONFLICT OF INTERESTS.—No director, officer, or employee of the Corporation shall in any manner, directly or indirectly participate in the deliberation upon or the determination of any question affecting his or her personal interests or the interests of any corporation, partnership, or organization in which he or she is directly or indirectly interested.

(4) AUDITS.—

(A) AUDITS BY INDEPENDENT CERTIFIED PUBLIC ACCOUNTANTS.—

(i) IN GENERAL.—The Corporation's financial statements shall be audited annually in accordance with generally accepted auditing standards by independent certified public accountants that are certified by a regulatory authority of a State or other political subdivision of the United States. The audits shall be conducted at the place or places where the accounts of the Corporation are normally kept. All books, accounts, financial records, reports, files, and all other papers, things, or property belonging to or in use by the Corporation and necessary to facilitate the audit shall be made available to the person or persons conducting the audits, and full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians shall be afforded to such person or persons.

(ii) REPORTING REQUIREMENTS.—The report of each annual audit described in clause (i) shall be included in the annual report required by subsection (c)(8).

(B) RECORD KEEPING REQUIREMENTS.—The Corporation shall ensure that each recipient of assistance from the Corporation keeps—

(i) separate accounts with respect to such assistance,

(ii) such records as may be reasonably necessary to fully disclose—

(I) the amount and the disposition by such recipient of the proceeds of such assistance,

(II) the total cost of the project or undertaking in connection with which such assistance is given or used, and the extent to which such costs are for a qualified project, and

(III) the amount and nature of that portion of the cost of the project or undertaking supplied by other sources, and

(iii) such other records as will facilitate an effective audit.

(C) AUDIT AND EXAMINATION OF BOOKS.—The Corporation shall ensure that the Corporation, or any of the Corporation's duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of any recipient of assistance from the Corporation that are pertinent to such assistance.

(f) EXEMPTION FROM TAXES.—

(1) IN GENERAL.—The Corporation, including its franchise, capital, reserves, surplus, sinking funds, mortgages or other security holdings, and income, shall be exempt from all taxation now or hereafter imposed by the United States, by any territory, dependency, or possession thereof, or by any State, county, municipality, or local taxing authority, except that any real property of the Corporation shall be subject to State, territorial, county, municipal, or local taxation to the same extent according to its value as other real property is taxed.

(2) FINANCIAL OBLIGATIONS.—Build America bonds or other obligations issued by the Corporation and the interest on or tax credits with respect to its bonds or other obligations shall not be subject to taxation by any State, county, municipality, or local taxing authority.

(g) ASSISTANCE FOR TRANSPORTATION PURPOSES.—

(1) IN GENERAL.—In order to carry out the corporate functions described in subsection (c), the Corporation shall be eligible to receive discretionary grants, contracts, gifts, contributions, or technical assistance from any Federal department or agency, to the extent permitted by law.

(2) AGREEMENT.—In order to receive any assistance described in this subsection, the Corporation shall enter into an agreement with the Federal department or agency providing such assistance, under which the Corporation agrees—

(A) to use such assistance to provide funding and technical assistance only for activities which the Board of Directors of the Corporation determines are consistent with the corporate functions described in subsection (c), and

(B) to review the activities of State transportation agencies and other entities receiving assistance from the Corporation to assure that the corporate functions described in subsection (c) are carried out.

(3) CONSTRUCTION.—Nothing in this section shall be construed to establish the Corporation as a department, agency, or instrumentality of the United States Government, or to establish the members of the Board of Directors of the Corporation, or the officers and employees of the Corporation, as officers or employees of the United States Government.

(h) MANAGEMENT OF CORPORATION.—

(1) BOARD OF DIRECTORS; MEMBERSHIP; DESIGNATION OF CHAIRPERSON AND VICE CHAIRPERSON; APPOINTMENT CONSIDERATIONS; TERM; VACANCIES.—

(A) BOARD OF DIRECTORS.—The management of the Corporation shall be vested in a board of directors composed of 15 members appointed by the President, by and with the advice and consent of the Senate.

(B) CHAIRPERSON AND VICE CHAIRPERSON.—The President shall designate 1 member of the Board to serve as Chairperson of the Board and 1 member to serve as Vice Chairperson of the Board.

(C) INDIVIDUALS FROM PRIVATE LIFE.—Eleven members of the Board shall be appointed from private life.

(D) FEDERAL OFFICERS AND EMPLOYEES.—Four members of the Board shall be appointed from among officers and employees of agencies of the United States concerned with infrastructure development.

(E) APPOINTMENT CONSIDERATIONS.—All members of the Board shall be appointed on the basis of their understanding of and sensitivity to infrastructure development processes. Members of the Board shall be appointed so that not more than 8 members of the Board are members of any 1 political party.

(F) TERMS.—Members of the Board shall be appointed for terms of 3 years, except that of the members first appointed, as designated by the President at the time of their appointment, 5 shall be appointed for terms of 1 year and 5 shall be appointed for terms of 2 years.

(G) VACANCIES.—A member of the Board appointed to fill a vacancy occurring before the expiration of the term for which that member's predecessor was appointed shall be appointed only for the remainder of that term. Upon the expiration of a member's term, the member shall continue to serve until a successor is appointed and is qualified.

(2) COMPENSATION, ACTUAL, NECESSARY, AND TRANSPORTATION EXPENSES.—Members of the Board shall serve without additional compensation, but may be reimbursed for actual and necessary expenses not exceeding $100 per day, and for transportation expenses, while engaged in their duties on behalf of the Corporation.

(3) QUORUM.—A majority of the Board shall constitute a quorum.

(4) PRESIDENT OF CORPORATION.—The Board of Directors shall appoint a president of the Corporation on such terms as the Board may determine.

SA 2341. Mr. TALENT (for himself, and Mr. WYDEN) submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 1005, line 22, strike all through page 1020, line 9, and insert the following:

SEC. 4602. ESTABLISHMENT OF BUILD AMERICA CORPORATION.

There is established a nonprofit corporation, to be known as the ''Build America Corporation''. The Build America Corporation is not an agency or establishment of the United States Government. The purpose of the Corporation is to support qualified projects described in section 4603(c)(2) through the issuance of Build America bonds. The Corporation shall be subject, to the extent consistent with this section, to the laws of the State of Delaware applicable to corporations not for profit.

SEC. 4603. FEDERAL BONDS FOR TRANSPORTATION INFRASTRUCTURE.

(a) USE OF BOND PROCEEDS.—The proceeds from the sale of—

(1) any bonds authorized, issued, or guaranteed by the Federal Government that are available to fund passenger rail projects pursuant to any Federal law (enacted before, on, or after the date of the enactment of this Act), and

(2) any Build America bonds issued by the Build America Corporation as authorized by section 4602,

may be used to fund a qualified project if the Secretary of Transportation determines that the qualified project is a more cost-effective alternative for efficiently maximizing mobility of individuals and goods than a passenger rail project.

(b) COMPLIANCE OF BENEFICIARIES WITH CERTAIN STANDARDS.—A recipient of proceeds of a grant, loan, Federal tax-credit bonds, or any other form of financial assistance provided under this title shall comply with the standards described in section 24312 of title 49, United States Code, as in effect on June 25, 2003, with respect to any qualified project described in subsection (c)(1) in the same manner that the National Passenger Railroad Corporation is required to comply with such standards for construction work financed under an agreement entered into under section 24308(a) of such title.

(c) QUALIFIED PROJECT DEFINED.—In this section—

(1) IN GENERAL.—Except as provided in paragraph (2), the term ''qualified project'' means any transportation infrastructure project of any governmental unit or other person that is proposed by a State, including a highway project, a transit system project, a railroad project, an airport project, a port project, and an inland waterways project.

(2) BUILD AMERICA CORPORATION PROJECTS.—

(A) IN GENERAL.—With respect to any Build America bonds issued by the Build America Corporation as authorized by section 4602, the term ''qualified project'' means any—

(i) qualified highway project,

(ii) qualified public transportation project, and

(iii) congestion relief project,

proposed by 1 or more States and approved by the Build America Corporation, which meets the requirements under clauses (i), (ii), and (iii) of subparagraph (D).

(B) QUALIFIED HIGHWAY PROJECT.—The term ''qualified highway project'' means a project for highway facilities or other facilities which are eligible for assistance under title 23, United States Code.

(C) QUALIFIED PUBLIC TRANSPORTATION PROJECT.—The term ''qualified public transportation project'' means a project for public transportation facilities or other facilities which are eligible for assistance under chapter 53 of title 49, United States Code.

(D) CONGESTION RELIEF PROJECT.—The term ''congestion relief project'' means an intermodal freight transfer facility, freight rail facility, freight movement corridor, intercity passenger rail or facility, intercity bus vehicle or facility, border crossing facility, or other public or private facility approved as a congestion relief project by the Secretary of Transportation. In making such approvals, the Secretary of Transportation shall—

(i) consider the economic, environmental, mobility, and national security improvements to be realized through the project, and

(ii) give preference to projects with national or regional significance, including any projects sponsored by a coalition of States or a combination of States and private sector entities, in terms of generating economic benefits, supporting international commerce, or otherwise enhancing the national transportation system.

(D) ADDITIONAL REQUIREMENTS FOR QUALIFIED PROJECTS.—For purposes of subparagraph (A)—

(i) COSTS OF QUALIFIED PROJECTS.—The requirement of this clause is met if the costs of the qualified project funded by Build America bonds only relate to capital investments in depreciable assets and do not include any costs relating to operations, maintenance, or rolling stock.

(ii) APPLICABILITY OF FEDERAL LAW.—The requirement of this clause is met if the requirements of any Federal law, including titles 23, 40, and 49 of the United States Code, which would otherwise apply to projects to which the United States is a party or to funds made available under such law and projects assisted with those funds are applied to—

(I) funds made available under Build America bonds for similar qualified projects, and

(II) similar qualified projects assisted by the Build America Corporation through the use of such funds.

(iii) UTILIZATION OF UPDATED CONSTRUCTION TECHNOLOGY FOR QUALIFIED PROJECTS.—The requirement of this clause is met if the appropriate State agency relating to the qualified project has updated its accepted construction technologies to match a list prescribed by the Secretary of Transportation and in effect on the date of the approval of the project as a qualified project.

PART 2—RAILROAD TRACK MODERNIZATION

SEC. 4631. SHORT TITLE.

This part may be cited as the ''Railroad Track Modernization Act of 2004''.

SEC. 4632. CAPITAL GRANTS FOR RAILROAD TRACK.

(a) AUTHORITY.—Chapter 223 of title 49, United States Code, is amended to read as follows:

''CHAPTER 223—CAPITAL GRANTS FOR RAILROAD TRACK

''Sec.

''22301. Capital grants for railroad track.

''§ 22301. Capital grants for railroad track

''(a) ESTABLISHMENT OF PROGRAM.—

''(1) ESTABLISHMENT.—The Secretary of Transportation shall establish a program of capital grants for the rehabilitation, preservation, or improvement of railroad track (including roadbed, bridges, and related track structures) of class II and class III railroads. Such grants shall be for rehabilitating, preserving, or improving track used primarily for freight transportation to a standard ensuring that the track can be operated safely and efficiently, including grants for rehabilitating, preserving, or improving track to handle 286,000 pound rail cars. Grants may be provided under this chapter—

''(A) directly to the class II or class III railroad; or

''(B) with the concurrence of the class II or class III railroad, to a State or local government.

''(2) STATE COOPERATION.—Class II and class III railroad applicants for a grant under this chapter are encouraged to utilize the expertise and assistance of State transportation agencies in applying for and administering such grants. State transportation agencies are encouraged to provide such expertise and assistance to such railroads.

''(3) REGULATIONS.—

''(A) IN GENERAL.—The Secretary shall prescribe regulations to carry out the program under this section.

''(B) CRITERIA.—In developing the regulations, the Secretary shall establish criteria that—

''(i) condition the award of a grant to a railroad on reasonable assurances by the railroad that the facilities to be rehabilitated and improved will be economically and efficiently utilized;

''(ii) ensure that the award of a grant is justified by present and probable future demand for rail services by the railroad to which the grant is to be awarded;

''(iii) ensure that consideration is given to projects that are part of a State-sponsored rail plan; and

''(iv) ensure that all such grants are awarded on a competitive basis.

''(b) MAXIMUM FEDERAL SHARE.—The maximum Federal share for carrying out a project under this section shall be 80 percent of the project cost. The non-Federal share may be provided by any non-Federal source in cash, equipment, or supplies. Other in-kind contributions may be approved by the Secretary on a case by case basis consistent with this chapter.

''(c) PROJECT ELIGIBILITY.—For a project to be eligible for assistance under this section the track must have been operated or owned by a class II or class III railroad as of the date of the enactment of the Railroad Track Modernization Act of 2004.

''(d) USE OF FUNDS.—Grants provided under this section shall be used to implement track capital projects as soon as possible. In no event shall grant funds be contractually obligated for a project later than the end of the third Federal fiscal year following the year in which the grant was awarded. Any funds not so obligated by the end of such fiscal year shall be returned to the Secretary for reallocation.

''(e) ADDITIONAL PURPOSE.—In addition to making grants for projects as provided in subsection (a), the Secretary may also make grants to supplement direct loans or loan guarantees made under title V of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 822(d)), for projects described in the last sentence of section 502(d) of such title. Grants made under this subsection may be used, in whole or in part, for paying credit risk premiums, lowering rates of interest, or providing for a holiday on principal payments.

''(f) EMPLOYEE PROTECTION.—The Secretary shall require as a condition of any grant made under this section that the recipient railroad provide a fair arrangement at least as protective of the interests of employees who are affected by the project to be funded with the grant as the terms imposed under section 11326(a), as in effect on the date of the enactment of the Railroad Track Modernization Act of 2001.

''(g) LABOR STANDARDS.—

''(1) PREVAILING WAGES.—The Secretary shall ensure that laborers and mechanics employed by contractors and subcontractors in construction work financed by a grant made under this section will be paid wages not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor under the Act of March 3, 1931 (known as the Davis-Bacon Act; 40 U.S.C. 276a et seq.). The Secretary shall make a grant under this section only after being assured that required labor standards will be maintained on the construction work.

''(2) WAGE RATES.—Wage rates in a collective bargaining agreement negotiated under the Railway Labor Act (45 U.S.C. 151 et seq.) are deemed for purposes of this subsection to comply with the Act of March 3, 1931 (known as the Davis-Bacon Act; 40 U.S.C. 276a et seq.).''.

(b) CONFORMING AMENDMENT.—The item relating to chapter 223 in the table of chapters of subtitle V of title 49, United States Code, is amended to read as follows:

''223. CAPITAL GRANTS FOR RAILROAD TRACK ..... 22301''.

SEC. 4633. REGULATIONS.

(a) REGULATIONS.—The Secretary of Transporation shall prescribe under subsection (a)(3) of section 22301 of title 49, United States Code (as added by section 4601), interim and final regulations for the administration of the grant program under such section as follows:

(1) INTERIM REGULATIONS.—The Secretary shall prescribe the interim regulations to implement the program not later than December 31, 2003.

(2) FINAL REGULATIONS.—The Secretary shall prescribe the final regulations not later than October 1, 2004.

(b) INAPPLICABILITY OF RULEMAKING PROCEDURE TO INTERIM REGULATIONS.—Subchapter II of chapter 5 of title 5, United States Code, shall not apply to the issuance of an interim regulation or to any amendment of such an interim regulation.

(c) CRITERIA.—The requirement for the establishment of criteria under subparagraph (B) of section 22301(a)(3) of title 49, United States Code, applies to the interim regulations as well as to the final regulations.

SEC. 4634. STUDY OF GRANT-FUNDED PROJECTS.

(a) REQUIREMENT FOR STUDY.—The Secretary of Transportation shall conduct a study of the projects carried out with grant assistance under section 22301 of title 49, United States Code (as added by section 4601), to determine the public interest benefits associated with the light density railroad networks in the States and their contribution to a multimodal transportation system.

(b) REPORT.—Not later than March 31, 2004, the Secretary shall submit to Congress a report on the results of the study under subsection (a). The report shall include any recommendations that the Secretary considers appropriate regarding the eligibility of light density rail networks for Federal infrastructure financing.

SEC. 4635. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary of Transportation $350,000,000 for each of fiscal years 2004, 2005, and 2006 for carrying out section 22301 of title 49, United States Code (as added by section 4601).

PART 3—OTHER RAIL TRANSPORTATION-RELATED PROVISIONS

SEC. 4661. CAPITAL GRANTS FOR RAIL LINE RELOCATION PROJECTS.

(a) ESTABLISHMENT OF PROGRAM.—

(1) PROGRAM REQUIREMENTS.—Chapter 201 of title 49, United States Code, is amended by adding at the end of subchapter II the following:

"§ 20154. Capital grants for rail line relocation projects

''(a) ESTABLISHMENT OF PROGRAM.—The Secretary of Transportation shall carry out a grant program to provide financial assistance for local rail line relocation projects.

''(b) ELIGIBILITY.—A State is eligible for a grant under this section for any project for the improvement of the route or structure of a rail line passing through a municipality of the State that—

''(1) is carried out for the purpose of mitigating the adverse effects of rail traffic on safety, motor vehicle traffic flow, or economic development in the municipality;

''(2) involves a lateral or vertical relocation of any portion of the rail line within the municipality to avoid a closing of a grade crossing or the construction of a road underpass or overpass; and

''(3) meets the costs-benefits requirement set forth in subsection (c).

''(c) COSTS-BENEFITS REQUIREMENT.—A grant may be awarded under this section for a project for the relocation of a rail line only if the benefits of the project for the period equal to the estimated economic life of the relocated rail line exceed the costs of the project for that period, as determined by the Secretary considering the following factors:

''(1) The effects of the rail line and the rail traffic on motor vehicle and pedestrian traffic, safety, and area commerce if the rail line were not so relocated.

''(2) The effects of the rail line, relocated as proposed, on motor vehicle and pedestrian traffic, safety, and area commerce.

''(3) The effects of the rail line, relocated as proposed, on the freight and passenger rail operations on the rail line.

''(d) CONSIDERATIONS FOR APPROVAL OF GRANT APPLICATIONS.—In addition to considering the relationship of benefits to costs in determining whether to award a grant to an eligible State under this section, the Secretary shall consider the following factors:

''(1) The capability of the State to fund the rail line relocation project without Federal grant funding.

''(2) The requirement and limitation relating to allocation of grant funds provided in subsection (e).

''(3) Equitable treatment of the various regions of the United States.

''(e) ALLOCATION REQUIREMENTS.—

''(1) GRANTS NOT GREATER THAN $20,000,000.—At least 50 percent of all grant funds awarded under this section out of funds appropriated for a fiscal year shall be provided as grant awards of not more than $20,000,000 each.

''(2) LIMITATION PER PROJECT.—Not more than 25 percent of the total amount available for carrying out this section for a fiscal year may be provided for any 1 project in that fiscal year.

''(f) FEDERAL SHARE.—The total amount of a grant awarded under this section for a rail line relocation project shall be 90 percent of the shared costs of the project, as determined under subsection (g)(4).

''(g) STATE SHARE.—

''(1) PERCENTAGE.—A State shall pay 10 percent of the shared costs of a project that is funded in part by a grant awarded under this section.

''(2) FORMS OF CONTRIBUTIONS.—The share required by paragraph (1) may be paid in cash or in kind.

''(3) IN-KIND CONTRIBUTIONS.—The in-kind contributions that are permitted to be counted under paragraph (2) for a project for a State are as follows:

''(A) A contribution of real property or tangible personal property (whether provided by the State or a person for the State).

''(B) A contribution of the services of employees of the State, calculated on the basis of costs incurred by the State for the pay and benefits of the employees, but excluding overhead and general administrative costs.

''(C) A payment of any costs that were incurred for the project before the filing of an application for a grant for the project under this section, and any in-kind contributions that were made for the project before the filing of the application, if and to the extent that the costs were incurred or in-kind contributions were made, as the case may be, to comply with a provision of a statute required to be satisfied in order to carry out the project.

''(4) COSTS NOT SHARED.—

''(A) IN GENERAL.—For the purposes of subsection (f) and this subsection, the shared costs of a project in a municipality do not include any cost that is defrayed with any funds or in-kind contribution that a source other than the municipality makes available for the use of the municipality without imposing at least 1 of the following conditions:

''(i) The condition that the municipality use the funds or contribution only for the project.

''(ii) The condition that the availability of the funds or contribution to the municipality is contingent on the execution of the project.

''(B) DETERMINATIONS OF THE SECRETARY.—The Secretary shall determine the amount of the costs, if any, that are not shared costs under this paragraph and the total amount of the shared costs. A determination of the Secretary shall be final.

''(h) MULTISTATE AGREEMENTS TO COMBINE AMOUNTS.—Two or more States (not including political subdivisions of States) may, pursuant to an agreement entered into by the States, combine any part of the amounts provided through grants for a project under this section if—

''(1) the project will benefit each of the States entering into the agreement; and

''(2) the agreement is not a violation of a law of any such State.

''(i) REGULATIONS.—The Secretary shall prescribe regulations for carrying out this section.

''(j) STATE DEFINED.—In this section, the term 'State' includes, except as otherwise specifically provided, a political subdivision of a State.

''(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for use in carrying out this section $350,000,000 for each of the fiscal years 2004 through 2008.''.

(2) CLERICAL AMENDMENT.—The chapter analysis for such chapter is amended by adding at the end the following:

''20154. Capital grants for rail line relocation projects.''.

(b) REGULATIONS.—

(1) INTERIM REGULATIONS.—Not later than October 1, 2003, the Secretary of Transportation shall issue temporary regulations to implement the grant program under section 20154 of title 49, United States Code, as added by subsection (a). Subchapter II of chapter 5 of title 5, United States Code, shall not apply to the issuance of a temporary regulation under this subsection or of any amendment of such a temporary regulation.

(2) FINAL REGULATIONS.—Not later than April 1, 2004, the Secretary shall issue final regulations implementing the program.

SA 2342. Mr. TALENT (for himself, Mr. ALLEN, and Mr. BURNS) submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 908, after line 23, add the following:

SEC. 4304A. DEFINITION OF INDIVIDUAL SHIPPER.

Section 13102 is amended—

(1) by redesignating paragraphs (12) through (24) as paragraphs (13) through (25), respectively; and

(2) by inserting after paragraph (11) the following new paragraph (12):

''(12) INDIVIDUAL SHIPPER.—The term 'individual shipper' means any person who is the shipper consignor or consignee of a household goods shipment, that is identified as either the shipper, consignor, or consignee on the face of the bill of lading, who owns the goods being or to be transported, and who pays his or her own tariff transportation charges. The term applies only to Cash-On-Deliver shippers of household goods.''.

On page 910, strike lines 3 through 13 and insert the following:

''(C) ADDITIONAL TRANSPORTATION SERVICES.—

''(i) IN GENERAL.—Clauses (i) and (ii) of subparagraph (A) shall not apply to tariff transportation charges for transportation services made necessary by impracticable operations, as defined in the applicable carrier tariff, or for additional services requested by the shipper that are not included in the estimate.

''(ii) RESPONSIBILITY FOR PAYMENT.—A shipper shall be responsible to pay a carrier for charges described in clause (i), in full either by cash or certified funds, before the carrier shall be required to relinquish possession of the household goods shipment.

''(iii) PAYMENT BY CREDIT CARD.—Notwithstanding clause (ii) or any payment arrangement between a shipper and a carrier before the date of the delivery of a household goods shipment, a shipper shall, upon pre-approval from a recognized credit institution, be allowed to pay by credit card for tariff transportation charges described in clause (i).

''(D) FAILURE TO MAKE PAYMENT.—

''(i) IN GENERAL.—If a shipper is not able to pay tariff transportation charges described in subparagraph (C)(i) in full before the carrier shall be required to relinquish possession of the household goods shipment, the carrier may relinquish possession of the household goods shipment for payment of an amount equal to 100 percent of the binding estimated charges or 110 percent of the nonbinding estimated charges.

''(ii) CONTINUING REFUSAL.—If a shipper refuses to pay the balance of the tariff transportation charges described in subparagraph (C)(i), or the additional charges that exceed the estimated charges provided for under clauses (i) and (ii) of subparagraph (A), under this subparagraph within 30 days of the date of delivery of the household goods shipment, the carrier is required to institute litigation to collect such charges, and the carrier is successful in such litigation, the shipper shall be liable to the carrier for its reasonable attorney fees in such litigation. If the

carrier is not successful in such litigation, the carrier shall be responsible for the reasonable attorney fees of the shipper in such litigation.''.

On page 911, beginning on line 16, strike ''. Before the execution'' and all that follows through ''provide the shipper'' and insert ''and''.

On page 912, line 1, strike ''The written'' and insert ''Unless waived in writing by the shipper, the written''.

On page 912, beginning on line 4, strike ''of the location'' and all that follows through ''preparing the estimate.'' and insert '', or within a one-hour driving radius, whichever is less, of the location of the carrier's disclosed household goods agent preparing the estimate.''.

On page 912, line 11, strike ''(e)'' and insert ''(d)''.

On page 912, strike line 14 and all that follows through page 913, line 3.

On page 913, line 4, strike ''(d)'' and insert ''(c)''.

On page 915, strike lines 5 through 9 and insert the following:

(2) by striking ''shippers of household goods concerning damage or loss to the household goods transported.'' and inserting ''individual shippers of household goods concerning damage or loss to the household goods transported, concerning disputes over tariff transportation charges, or concerning the delay of delivery of the household goods transported.''; and

On page 915, strike line 21 and all that follows through page 916, line 21.

On page 916, line 22, strike ''(c)'' and insert ''(b)''.

On page 917, line 20, strike ''(d)'' and insert ''(c)''.

On page 920, strike line 3 and all that follows through page 923, in the matter following line 14, and insert the following:

''§ 14710. Enforcement of Federal regulations by State attorneys general

''(a) IN GENERAL.—A State, as parens patriae, may bring a civil action on behalf of its residents in an appropriate district court of the United States—

''(1) to enforce a regulation or order of the Secretary or Board protecting an individual shipper of household goods, but only if such regulation or order governs the delivery of such household goods; or

''(2) to impose civil penalties authorized by section 14915 of this title whenever the attorney general of the State has reason to believe that the interests of its residents have been or are being threatened or adversely affected by—

''(A) a carrier or broker providing transportation of household goods subject to jurisdiction under subchapter I or III of chapter 135 of this title by a pattern of violations of section 14915 of this title; or

''(B) a foreign motor carrier providing transportation registered under section 13902 of this title that is engaged in household goods transportation on behalf of individuals by a pattern of violations of section 14915 of this title.

''(b) EXCEPTION.—A State, as parens patriae, may not initiate a class civil action on behalf of its residents to enforce a regulation or order of the Secretary or the Board.

''(c) ENFORCEMENT OF STATE LAW.—Nothing in this section shall prohibit an authorized State official from proceeding in State court to enforce a criminal statute of such State.''.

(2) CONFORMING AMENDMENT.—The analysis for chapter 147 is amended by inserting after the item relating to section 14709 the following new item:

''14710. Enforcement of Federal regulations by State attorneys general.''.

On page 923, beginning on line 23, strike ''and Federal and local law enforcement officials'' and insert ''Federal and local law enforcement officials, and industries involved in the transportation of household goods''.

On page 924, strike lines 7 through 9 and insert ''the working group shall consult with the public and other interested parties.''.

On page 925, strike line 18 and all that follows through page 927, line 20, and insert the following:

''The Secretary shall—

''(1) establish a system to file and log complaints made by shippers that relate to motor carrier transportation of household goods;

''(2) establish a database of such complaints; and

''(3) develop procedures—

''(A) to forward such a complaint to the motor carrier named in such complaint;

''(B) to permit motor carriers to challenge information in the database; and

''(C) to provide, for each motor carrier named in complaints in the database, the percentage of such complaints disputed by such motor carrier.''.

On page 928, line 15, insert ''and'' after the semicolon.

On page 928, strike lines 19 through 21 and insert the following:

goods.

SA 2343. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 1310, after line 4, insert the following:

TITLE VII—BUY AMERICAN ACT IMPROVEMENTS

SEC. 7001. SHORT TITLE.

This title may be cited as the ''Buy American Improvement Act of 2003''.

SEC. 7002. REQUIREMENTS FOR WAIVERS.

(a) IN GENERAL.—Section 2 of the Buy American Act (41 U.S.C. 10a) is amended—

(1) by striking ''Notwithstanding'' and inserting the following:

''(a) IN GENERAL.—Notwithstanding''; and

(2) by adding at the end the following:

''(b) SPECIAL RULES.—The following rules shall apply in carrying out the provisions of subsection (a):

''(1) PUBLIC INTEREST WAIVER.—A determination that it is not in the public interest to enter into a contract in accordance with this Act may not be made after a notice of solicitation of offers for the contract is published in accordance with section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) and section 8(e) of the Small Business Act (15 U.S.C. 637(e)).

''(2) DOMESTIC BIDDER.—A Federal agency entering into a contract shall give preference to a company submitting an offer on the contract that manufactures in the United States the article, material, or supply for which the offer is solicited, if—

''(A) that company's offer is substantially the same as an offer made by a company that does not manufacture the article, material, or supply in the United States; or

''(B) that company is the only company that manufactures in the United States the article, material, or supply for which the offer is solicited.

''(3) USE OUTSIDE THE UNITED STATES.—

''(A) IN GENERAL.—Subsection (a) shall apply without regard to whether the articles, materials, or supplies to be acquired are for use outside the United States if the articles, materials, or supplies are not needed on an urgent basis or if they are acquired on a regular basis.

''(B) COST ANALYSIS.—In any case where the articles, materials, or supplies are to be acquired for use outside the United States and are not needed on an urgent basis, before entering into a contract an analysis shall be made of the difference in the cost for acquiring the articles, materials, or supplies from a company manufacturing the articles, materials, or supplies in the United States (including the cost of shipping) and the cost for acquiring the articles, materials, or supplies from a company manufacturing the articles, materials, or supplies outside the United States (including the cost of shipping).

''(4) DOMESTIC AVAILABILITY.—The head of a Federal agency may not make a determination under subsection (a) that an article, material, or supply is not mined, produced, or manufactured, as the case may be, in the United States in sufficient and reasonably available commercial quantities and of satisfactory quality, unless the head of the agency has conducted a study and, on the basis of such study, determined that—

''(A) domestic production cannot be initiated to meet the procurement needs; and

''(B) a comparable article, material, or supply is not available from a company in the United States.

''(c) REPORTS.—

''(1) IN GENERAL.—Not later than 60 days after the end of each fiscal year, the head of each Federal agency shall submit to Congress a report on the acquisitions that were made of articles, materials, or supplies by the agency in that fiscal year from entities that manufacture the articles, materials, or supplies outside the United States.

''(2) CONTENT OF REPORT.—The report for a fiscal year under paragraph (1) shall separately indicate the following information:

''(A) The dollar value of any articles, materials, or supplies that were manufactured outside the United States.

''(B) An itemized list of all waivers granted with respect to such articles, materials, or supplies under this Act.

''(C) A summary of—

''(i) the total procurement funds expended on articles, materials, and supplies manufactured inside the United States; and

''(ii) the total procurement funds expended on articles, materials, and supplies manufactured outside the United States.

''(3) PUBLIC AVAILABILITY.—The head of each Federal agency submitting a report under paragraph (1) shall make the report publicly available by posting on an Internet website.''.

(b) DEFINITIONS.—Section 1 of the Buy American Act (41 U.S.C. 10c) is amended by striking subsection (c) and inserting the following:

''(c) FEDERAL AGENCY.—The term 'Federal agency' means any executive agency (as defined in section 4(1) of the Federal Procurement Policy Act (41 U.S.C. 403(1))) or any establishment in the legislative or judicial branch of the Government.''.

(c) CONFORMING AMENDMENTS.—

(1) Section 2 of the Buy American Act (41 U.S.C. 10a) is amended by striking ''department or independent establishment'' and inserting ''Federal agency''.

(2) Section 3 of such Act (41 U.S.C. 10b) is amended—

(A) by striking ''department or independent establishment'' in subsection (a), and inserting ''Federal agency''; and

(B) by striking ''department, bureau, agency, or independent establishment'' in subsection (b) and inserting ''Federal agency''.

(3) Section 633 of the National Military Establishment Appropriations Act, 1950 (41

U.S.C. 10d) is amended by striking ''department or independent establishment'' and inserting ''Federal agency''.

SEC. 7003. GAO REPORT AND RECOMMENDATIONS.

(a) REQUIREMENT FOR REPORT.—

(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Comptroller General of the United States shall report to Congress recommendations for determining, for purposes of applying the waiver provision of section 2(a) of the Buy American Act—

(A) unreasonable cost; and

(B) inconsistent with the public interest.

(2) REPORT TO INCLUDE RECOMMENDED DEFINITIONS.—The report shall include recommendations for a statutory definition of unreasonable cost and standards for determining inconsistency with the public interest.

(b) WAIVER PROCEDURES.—The report described in subsection (a) shall also include recommendations for establishing procedures for applying the waiver provisions of the Buy American Act that can be consistently applied.

SEC. 7004. DUAL-USE TECHNOLOGIES.

The head of a Federal agency (as defined in section 1(c) of the Buy American Act (as amended by section 7002)) may not enter into a contract, nor permit a subcontract under a contract of the Federal agency, with a foreign entity that involves giving the foreign entity plans, manuals, or other information that would facilitate the manufacture of a dual-use item on the Commerce Control List unless approval for providing such plans, manuals, or information has been obtained in accordance with the provisions of the Export Administration Act of 1979 (50 U.S.C. App. 2401 et seq.) and the Export Administration Regulations (15 C.F.R. part 730 et seq.).

SA 2344. Mr. DAYTON submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. 1815. RURAL ROAD SAFETY PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1814(a)), is amended by adding at the end the following:

''§ 176. Rural road safety program

''(a) FINDINGS.—Congress finds that it is in the vital interest of the Nation that a rural road safety program be established to ensure that the safety of the traveling public is enhanced on rural two-lane highways.

''(b) ESTABLISHMENT.—The Secretary shall establish and implement a rural road safety program in accordance with this section.

''(c) APPORTIONMENTS.—

''(1) IN GENERAL.—On October 1 of each fiscal year, the Secretary shall apportion to each State to carry out this section an amount in the ratio of the percentage of the centerline mileage of two-lane roads in rural areas functionally classified as minor and major collectors and arterials in each State bears to the total centerline mileage of two-lane roads in rural areas functionally classified as minor and major collectors and arterials in all the States.

''(2) ALLOCATION OF APPORTIONED FUNDS.—Within each State, funds for the rural road safety program for each fiscal year shall be allocated among State, county, city, and other levels of government commensurate with each entity's ownership ratio of eligible two-lane road mileage of two-lane roads in rural areas functionally classified as minor and major collectors and arterials.

''(d) LOCATION OF PROJECTS.—Funds authorized to carry out this section shall be available for expenditure only for activities described in subsection (g).

''(e) OBLIGATION OF FUNDS.—Funds authorized to be appropriated to carry out this section shall be available for obligation in the same manner and the same extent as if such funds were apportioned under section 104(b) of title 23, United States Code, except that the Secretary is authorized to waive provisions that the Secretary considers inconsistent with the purposes of this section.

''(f) COST SHARING.—The Federal share of a project under this section shall be 80 percent of the total cost for such project.

''(g) TRANSFERABILITY.—Notwithstanding any other provision of law no portion of a State's apportionment allocated for the rural road safety program may be transferred to any other apportionment of the State for such fiscal year.

''(h) USE OF FUNDS.—A State that receives an apportionment under this section may use funds—

''(1) to improve horizontal and vertical alignment;

''(2) to eliminate wheel lane rutting, increase skid resistance, and smooth roadways;

''(3) to improve sight distances;

''(4) to widen lanes and shoulders;

''(5) to install dedicated turn lanes;

''(6) to install and upgrade guardrails, traffic barriers, crash cushions, protective devices, and rumblestrips;

''(7) to install traffic and safety lights, improve signage and pavement markings; and

''(8) to implement other safety activities designated by the Secretary.

''(i) PROGRAM.—Not later than 180 days after the date of enactment of this Act, each State that receives an apportionment under this section shall conduct and systematically maintain an engineering survey of all two-lane rural roads classified as minor and major collectors and minor arterials—

''(1) to identify dangerous locations, sections, and elements, including roadside obstacles and unmarked or poorly marked roads, which may constitute a danger to motorists, bicyclists, pedestrians, impaired, and ''older'' drivers;

''(2) to assign priorities for the correction of such locations, sections, and elements; and

''(3) establish and implement a schedule of projects for improvement of such roads.

''(j) EVALUATION.—

''(1) IN GENERAL.—Each State shall establish an evaluation process approved by the Secretary to analyze and assess results achieved by safety improvement projects carried out in accordance with the procedures and criteria established by this section.

''(2) PRIORITIES.—Such evaluation process shall develop cost-benefit data for various types of corrections and treatments, which shall be used in setting priorities for safety improvement projects.

''(k) REPORTING.—

''(1) IN GENERAL.—Each State shall report to the Secretary not later than December 30 of each year, regarding the progress of implementing safety improvement projects for danger elimination and the effectiveness of such improvements.

''(2) STATE ASSESSMENT.—Each State report shall contain an assessment of the cost of, and safety benefits derived from, the various means and methods used to mitigate or eliminate dangers and the previous and subsequent accident experience at dangerous locations.

''(3) SECRETARY'S REPORT.—The Secretary shall submit a report to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives not later than April 1 of each year regarding the progress of the States in implementing the rural road safety program. The report shall—

''(A) include the number of projects undertaken, their distribution by cost range, road system, means and methods used, the previous and subsequent accident experience at improved locations and a cost-benefit analysis; and

''(B) analyze and evaluate each State's program, identify any State found not to be in compliance with the schedule of improvements required by subsection (a), and include recommendations for future implementation of the rural road safety program.

''(l) DEFINITION OF RURAL ROAD.—In this section, the term ''rural road'' means all roads in rural areas.

''(m) AUTHORIZATION OF APPROPRIATIONS RURAL ROAD SAFETY PROGRAM.—To carry out the rural road safety program under this section there are authorized to be appropriated $1,000,000,000 for each of fiscal years 2004 through 2009.''.

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter I of title 23, United States Code (as amended by section 1814(c)), is amended by adding at the end the following:

''176. Rural road safety program.''.

SA 2345. Mr. DAYTON submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. 16___. FEDERAL AGENCY ETHANOL-BLENDED GASOLINE AND BIODIESEL PURCHASING REQUIREMENT.

Title III of the Energy Policy Act of 1992 is amended by striking section 306 (42 U.S.C. 13215) and inserting the following:

''SEC. 306. FEDERAL AGENCY ETHANOL-BLENDED GASOLINE AND BIODIESEL PURCHASING REQUIREMENT.

''(a) ETHANOL-BLENDED GASOLINE.—The head of each Federal agency shall ensure that, in areas in which ethanol-blended gasoline is readily available at a generally competitive price, the Federal agency purchases ethanol-blended gasoline containing at least 10 percent ethanol rather than nonethanol-blended gasoline, for use in vehicles used by the agency.

''(b) BIODIESEL.—

''(1) DEFINITION OF BIODIESEL.—In this subsection, the term 'biodiesel' has the meaning given the term in section 312(f).

''(2) REQUIREMENT.—The head of each Federal agency shall ensure that the Federal agency purchases, for use in fueling fleet vehicles that use diesel fuel used by the Federal agency at the location at which fleet vehicles of the Federal agency are centrally fueled, in areas in which the biodiesel-blended diesel fuel described in subparagraphs (A) and (B) is available at a generally competitive price—

''(A) as of the date that is 5 years after the date of enactment of this section, biodiesel-blended diesel fuel that contains at least 2 percent biodiesel, rather than nonbiodiesel-blended diesel fuel; and

''(B) as of the date that is 10 years after the date of enactment of this section, biodiesel-blended diesel fuel that contains at least 20 percent biodiesel, rather than nonbiodiesel-blended diesel fuel, for use in vehicles used by the agency.

''(3) REQUIREMENT OF FEDERAL LAW.—This subsection does not constitute a requirement of Federal law for the purposes of section 312.

''(c) EXEMPTION.—This section does not apply to fuel used in vehicles described in subparagraphs (A) through (H) of section 301(9).''.

SA 2346. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 1–7, between lines 17 and 18, insert the following:

(17) WEATHER-RELATED REPAIR PROGRAM.—For the weather-related repair program established under section 1204—

(A) $1,000,000,000 for each of fiscal years 2004 through 2005; and

(B) $1,500,000,000 for each of fiscal years 2006 through 2009.

On page 2–19, after the matter following line 13, insert the following:

SEC. 1204. WEATHER-RELATED REPAIR PROGRAM.

(a) DEFINITIONS.—In this section:

(1) COLD STATE.—The term ''cold State'' means any State in which the average temperature in the preceding year was below the average temperature for all States in the preceding year.

(2) WARM STATE.—The term ''warm State'' means any State in which the average temperature in the preceding year was above the average temperature for all States in the preceding year.

(b) ESTABLISHMENT.—The Secretary shall establish a weather-related repair program.

(c) ELIGIBLE PROJECTS.—A State may obligate funds apportioned to the State under subsection (d) only for repair projects for the National Highway System that will—

(1) repair damage to pavement, bridges, or drainage systems that would not have been damaged but for weather conditions; and

(2) construct replacement facilities—

(A) to replace facilities that would otherwise have been subject to continuous repair because of weather conditions; and

(B) that would be less costly to maintain than the facilities being replaced because of the protection from inclement weather provided by the replacement facilities.

(c) APPORTIONMENT.—Of the amounts made available to carry out this section—

(1) at least 0.5 percent shall be set aside for warm States; and

(2) with respect to cold States—

(A) 50 percent shall be allocated based on the ratio that—

(i) the vehicle miles traveled on National Highway System routes in the State; bears to

(ii) the vehicle miles traveled on National Highway System routes in all cold States;

(B) 25 percent shall be allocated based on the ratio that—

(i) the amount of precipitation in the cold State; bears to

(ii) the precipitation in all cold States; and

(C) 25 percent shall be allocated based on the ratio that—

(i) the difference between the average temperature in the cold State and the average temperature for all cold States; bears to

(ii) the average temperature for all cold States.

SA 2347. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 841, strike line 19 and all that follows through page 849, line 19, and insert the following:

(a) REPEAL.—Section 1216(b) of the Transportation Equity Act for the 21st Century (23 U.S.C. 129 note; 112 Stat. 212) is repealed.

(b) LIMITATIONS ON TOLLING.—

(1) IN GENERAL.—Chapter 3 of title 23 is amended by striking section 301 and inserting the following:

''§ 301. Limitations on tolling

''(a) IN GENERAL.—Except as provided in subsection (b), there shall be no limitations on the imposition and collection of tolls with respect to highways constructed under this title.

''(b) EXCEPTIONS.—Notwithstanding subsection (a)—

''(1) the Secretary—

''(A) shall approve or disapprove any proposal to toll National Highway System roads that are not currently subject to a toll; and

''(B) in deciding whether to approve such a proposal, shall consider whether—

''(i) the proposed toll could negatively impact interstate commerce; and

''(ii) the proposed toll is likely to reduce congestion;

''(2) any toll program must attempt to mitigate congestion; and

''(3) any revenues from tolling shall be used to improve, maintain, or construct surface transportation.''.

(2) CONFORMING AMENDMENT.—The analysis for chapter 3 of title 23, United States Code, is amended by striking the matter relating to section 301 and inserting the following:

''301. Limitations on tolling.''.

SA 2348. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table as follows:

On page 690, between lines 9 and 10, insert the following:

''(J) a vital part of determining the future of the surface transportation system in the United States is determining the future financing of the system.''

On page 694, on line 1, insert the following:

(L) the future of financing the surface transportation system in the United States and the Highway Trust Fund over at least the next 30 years, including assessment of—

(i) the advantages and disadvantages of alternative revenue sources to meet anticipated Federal surface transportation financial requirements;

(ii) practicable recommendations for the most promising revenues to support long-term Federal surface transportation financing;

(iii) the impact of other Federal policies on the funds available for surface transportation;

(iv) the barriers to transportation investment created by the modal structure of transportation financing existing as of the date of enactment of this Act; and

(v) coordination of the Federal transportation program with other Federal programs to maximize the use of all revenue sources.

SA 2349. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 693, between lines 16 and 17, insert the following:

(J) the impacts of transportation investments on low-income communities;

On page 693, line 17, strike ''(J)'' and insert ''(K)''.

On page 2–10, line 22, strike ''(K)'' and insert ''(L)''.

SA 2350. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 765, line 19, strike ''and'' at the end.

On page 765, strike line 22 and insert the following: ''means, such as the World Wide Web; and

''(iv) develop a publicly available plan for involving economically disadvantaged populations.''.

SA 2351. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 971, line 13, strike ''Code—'' and insert ''Code, and section 2105 of this Act—''.

On page 1061, after line 15, add the following:

SEC. 2104. TRANSPORTATION EQUITY COOPERATIVE RESEARCH PROGRAM.

(a) IN GENERAL.—The Secretary shall carry out a transportation equity cooperative research program.

(b) ELIGIBILITY.—To be eligible to receive a grant under the program, a person shall be engaged in collaborative research efforts with community-based organizations, which may be based anywhere in the United States.

(c) RESEARCH ACTIVITIES.—The program shall include research designed to—

(1) improve analysis of the distribution of transportation funding in the statewide and metropolitan transportation planning process and the impact of funding decisions on low-income communities (including tribal and Alaska Native communities), with a particular emphasis on health and economic impacts;

(2) improve the analysis of the distribution of transportation funding in the statewide and metropolitan transportation planning process and the impact of funding decisions on transit-dependent populations in urban, suburban, and rural communities;

(3) better understand effective mechanisms for public involvement, engagement, and control in the statewide, metropolitan, and local transportation planning and project delivery process;

(4) develop indicators of economic, social, and environmental performance of transportation systems, with an emphasis on the needs of low-income communities (including tribal and Alaska Native communities) and on the needs of transit-dependent populations in urban and rural areas, to facilitate the analysis of potential alternatives; and

(5) meet additional priorities as determined by the advisory board established under subsection (d).

(d) ADVISORY BOARD.—

(1) ESTABLISHMENT.—In consultation with the Secretary of Health and Human Services, the Administrator of the Environmental Protection Agency, and the heads of other appropriate Federal agencies, the Secretary shall establish an advisory board to—

(A) recommend research under this section relating to surface transportation and community impacts; and

(B) advise, monitor, and coordinate research efforts undertaken by recipients of grants under the program under subsection (a).

(2) MEMBERSHIP.—The advisory board shall include—

(A) representatives of environmental, justice, civil rights, and community-based organizations;

(B) researchers in the field of transportation equity and environmental justice; and

(C) representatives of State transportation agencies, metropolitan planning organizations, transit operating agencies, and local government.

(e) NUMBER AND AMOUNT OF GRANTS.—For each of fiscal years 2004, 2005, 2006, 2007, 2008 and 2009, the Secretary shall make grants under the program of not more than $750,000 to each of 4 research centers.

SA 2352. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 976, strike lines 7 through 12 and insert the following:

(6) COMMERCIAL VEHICLE INTELLIGENT TRANSPORTATION SYSTEM INFRASTRUCTURE PROGRAM.—Of the amounts made available under subsection (a)(4), not less than $40,000,000 for each of fiscal years 2004 and 2005, $45,000,000 for each of fiscal years 2006 and 2007, and $50,000,000 for each of fiscal years 2008 and 2009 shall be available to carry out section 527 of title 23, United States Code.

On page 1079, line 18, insert ''permits'' after ''information''.

On page 1079, lines 25 and 26, insert '', including the exchange among the States of data that are not protected by taxpayer policy and the interoperability of systems among the States'' after ''development''.

On page 1081, line 22, strike ''intrastate,''.

On page 1081, line 23, strike ''requirements'' and insert ''permits''.

On page 1081, line 24, insert '', including intrastate activities'' after ''materials''.

Beginning on page 1083, strike line 15 and all that follows through page 1086, line 13, and insert the following:

''(d) APPORTIONMENTS.—

''(1) IN GENERAL.—The Secretary shall make funds available to all States for development, deployment, and operations and maintenance of commercial vehicle information systems and networks.

''(2) ELIGIBILITY.—To be eligible to receive funds under this section, a State shall—

''(A) have a commercial vehicle information systems and networks program plan and a top-level system design approved by the Secretary;

''(B) certify to the Secretary that the commercial vehicle information systems and networks deployment activities of the State, including hardware procurement, software and system development, and infrastructure modifications—

''(i) are consistent with the national intelligent transportation systems architecture, commercial vehicle information systems and networks architectures, and available standards; and

''(ii) promote interoperability and efficiency to the extent practicable;

''(C) agree to execute interoperability tests developed by the Federal Motor Carrier Safety Administration to verify that the systems in the State conform with the national intelligent transportation systems architecture, protocols for commercial vehicle information systems and networks, and applicable standards; and

''(D) limit the use of funds provided under this section to core deployment until the date on which all elements of core deployment are completed.

''(3) AMOUNT OF GRANTS.—

''(A) IN GENERAL.—Subject to subparagraph (B), for each fiscal year, the Secretary shall distribute available funds equally among eligible States.

''(B) LIMIT.—For each fiscal year, no State shall receive an amount greater than $3,650,000.''.

SA 2353. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 931, line 9, strike ''**Multistate**'' and insert ''**High priority**''.

On page 931, between lines 11 and 12, insert the following:

''(1) plan, develop, and construct high priority corridors identified in section 1105 (c) of the Intermodal Surface Transportation Act of 1991 (105 Stat. 2032);''.

On page 931, line 12, strike ''(1)'' and insert ''(2)''.

On page 931, line 14, strike ''(2)'' and insert ''(3)''.

On page 931, strike lines 20 through 22 and insert the following:

''(c) ELIGIBLE ACTIVITIES.—The Secretary shall make allocations under this program for coordinated planning, design, and construction of—

''(1) high priority corridors identified in section 1105 (c) of the Intermodal Surface Transportation Act of 1991 (105 Stat. 2032); and

''(2) multistate corridors.''.

On page 932, line 4, insert ''for multistate corridors,'' after ''program''.

SA 2354. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 678, between lines 5 and 6, insert the following:

(16) CONGESTION REDUCTION REWARD FUND.—For the congestion reduction reward fund established under section 129 of title 23, United States Code, $1,000,000,000 for the period of fiscal years 2004 through 2009.

On page 6–39, line 5, strike the closing quotation marks and the following period.

On page 6–39, between lines 5 and 6, insert the following:

''(5) CONGESTION REDUCTION REWARD FUND.—

''(A) ESTABLISHMENT OF FUND.—There is established in the Treasury of the United States a congestion reduction reward fund (referred to in this paragraph as the 'Fund') to carry out subparagraph (B), consisting of such amounts as are appropriated to the Fund under section 1101(17) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003.

''(B) GRANTS.—

''(i) IN GENERAL.—The Secretary may use amounts in the Fund to make competitive grants to States that implement a variable pricing program under this subsection.

''(ii) APPLICATION.—States shall submit to the Secretary applications for grants under clause (i).

''(iii) SELECTION.—From among applications submitted under clause (ii), the Secretary shall provide grants to applicants based on—

''(I) the size of the measurable reduction in congestion as a result of the variable pricing program;

''(II) the percentage reduction in congestion as a result of the variable pricing program;

''(III) the innovativeness of the variable pricing program;

''(IV) whether the variable pricing program addressed concerns relating to the social equity of the program; and

''(V) any other criteria that demonstrably improve the surface transportation system.

''(iv) USE OF FUNDS.—Any amounts provided in the form of grants under this subparagraph may be used for any transportation projects that the grant recipients determine to be appropriate.

''(v) NUMBER OF GRANTS.—The number of grants the Secretary provides under this subparagraph shall be determined by the Secretary, but the Secretary shall distribute all amounts available for grants to applicants selected under clause (iii).

''(vi) REDISTRIBUTION.—If no State implements a variable pricing program, any amounts in the congestion reduction reward fund shall be distributed in accordance with section 133.''.

SA 2355. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 934, strike line 6 and all that follows through page 942, line 5, and insert the following:

SEC. 1812. COORDINATED BORDER INFRASTRUCTURE PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1811(a)), is amended by adding at the end the following:

''§ 172 Coordinated border infrastructure program

''(a) DEFINITIONS.—In this section:

''(1) BORDER REGION.—The term ''border region'' means the portion of a border State that is located within 100 kilometers of a land border crossing with Canada or Mexico.

''(2) BORDER STATE.—The term ''border State'' means any State that has a boundary in common with Canada or Mexico.

''(3) COMMERCIAL VEHICLE.—The term ''commercial vehicle'' means a vehicle that has the primary purpose of transporting cargo in international or interstate commercial trade.

''(4) PASSENGER VEHICLE.—The term ''passenger vehicle'' means a vehicle that has the primary purpose of transporting individuals.

''(b) PROGRAM.—The Secretary shall establish and implement a coordinated border infrastructure program under which the Secretary shall make allocations to border States for projects within a border region to improve the safe movement of people and

goods at or across the border between the United States and Canada and the border between the United States and Mexico.

''(c) ELIGIBLE USES.—A State may use an allocations under this section in a border region only for—

''(1) improvements to transportation and supporting infrastructure that facilitate cross-border vehicle and cargo movements;

''(2) construction of highways and related safety and safety enforcement facilities that facilitate vehicle and cargo movements relating to international trade;

''(3) operational improvements, including improvements relating to electronic data interchange and use of telecommunications, to expedite cross-border vehicle and cargo movement;

''(4) international coordination of planning, programming, and border operation with Canada and Mexico relating to expediting cross-border vehicle and cargo movements;

''(5) projects in Canada or Mexico proposed by 1 or more border States that directly and predominantly facilitate cross-border vehicle and commercial cargo movements at the international gateways or ports of entry into a border region; and

''(6) planning and environmental studies relating to projects eligible under this section.

''(d) MANDATORY AND DISCRETIONARY PROGRAMS.—

''(1) MANDATORY PROGRAM.—

''(A) IN GENERAL.—For each fiscal year, the Secretary shall allocate among border States, in accordance with the formula described in subparagraph (B), funds to be used in accordance with subsection (c).

''(B) FORMULA.—Subject to subparagraph (C), the Secretary shall allocate funds to a border State under this paragraph as follows:

''(i) 25 percent shall be allocated in the ratio, as determined by the Secretary using data collected by the Bureau of Transportation Statistics Transborder Surface Freight Dataset and based on an average of the 3 most recent years for which data are available, that—

''(I) the weight in short tons of all cargo entering the border State by commercial vehicle across the international border with Canada or Mexico; bears to

''(II) the weight in short tons of all cargo entering the all border States by commercial vehicle across the international borders with Canada and Mexico.

''(ii) 25 percent shall be allocated in the ratio, as determined by the Secretary using data collected by the Bureau of Transportation Statistics Transborder Surface Freight Dataset and based on an average of the 3 most recent years for which data are available, that—

''(I) the trade value of all cargo entering the border State by commercial vehicle and all cargo exiting the border State by commercial vehicle across the international border with Canada or Mexico; bears to

''(II) the trade value of all cargo entering all border States by commercial vehicle and all cargo exiting the border States by commercial vehicle across the international borders with Canada and Mexico.

''(iii) 25 percent shall be allocated in the ratio, as determined by the Secretary using data collected by the Bureau of Transportation Statistics Transborder Surface Freight Dataset and based on an average of the 3 most recent years for which data are available, that—

''(I) the number of commercial vehicles annually entering the border State across the international border with Canada or Mexico; bears to

''(II) the number of all commercial vehicles annually entering all border States across the international borders with Canada and Mexico.

''(iv) 25 percent shall be allocated in the ratio, as determined by the Secretary using data collected by the Bureau of Transportation Statistics Transborder Surface Freight Dataset and based on an average of the 3 most recent years for which data are available, that—

''(I) the number of passenger vehicles annually entering the border State across the international border with Canada or Mexico; bears to

''(II) the number of all passenger vehicles annually entering all border States across the international borders with Canada and Mexico.

''(C) MINIMUM ALLOCATION.—Notwithstanding subparagraph (B), for each fiscal year, each border State shall receive at least half of 1 percent of the funds made available for allocation under this paragraph for the fiscal year.

''(2) OTHER FACTORS.—

''(A) IN GENERAL.—In addition to funds allocated under paragraph (1), the Secretary shall make allocations to border States under this paragraph based on the factors described in subparagraph (B).

''(B) FACTORS.—The factors in subparagraph (A) are, with respect to a project carried out under this section in a border State—

''(i) any expected reduction in commercial and other motor vehicle travel time through an international border crossing as a result of the project;

''(ii) strategies to increase the use of underused border crossing facilities and approaches;

''(iii) leveraging of Federal funds provided under this section, including—

''(I) the use of innovative financing;

''(II) the combination of Federal funds provided under this section with funding provided for other provisions of this title; and

''(III) the combination of Federal funds provided under this section with funds from other Federal, State, local, or private sources;

''(iv)(I) the degree of multinational involvement in the project; and

''(II) demonstrated coordination with other Federal agencies responsible for the inspection of vehicles, cargo, and persons crossing international borders and counterpart agencies in Canada and Mexico;

''(v) the degree of demonstrated coordination with Federal inspection agencies;

''(vi) the extent to which the innovative and problem-solving techniques of the proposed project would be applicable to other border stations or ports of entry;

''(vii) demonstrated local commitment to implement and sustain continuing comprehensive border or affected port of entry planning processes and improvement programs; and

''(viii) such other factors as the Secretary determines to be appropriate to promote border transportation efficiency and safety.

''(3) EQUITY BONUS.—Each of the mandatory programs under paragraph (1) and the discretionary program under paragraph (2) shall be included in the calculation of the minimum guarantee and equity bonus under section 105.

''(e) COST SHARING.—The Federal share of the cost of a project carried out using funds allocated under this section shall not exceed 80 percent.''.

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1811(b)), is amended by adding at the end the following:

''172. Coordinated border infrastructure program.''.

SEC. 1813. PUERTO RICO HIGHWAY PROGRAM.

SA 2356. Mr. CORNYN (for himself and Mrs. HUTCHISON) submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 82, between lines 21 and 22, insert the following:

SEC. 12___. MULTIMODAL TRANSPORTATION PROJECT DEMONSTRATION PROGRAM.

(a) DEFINITION OF MULTIMODAL TRANSPORTATION PROJECT.—In this section, the term ''multimodal transportation project'' means a project under chapter 1 of title 23, United States Code, that—

(1) is located in the State of Texas;

(2) is within a network of interconnected corridors;

(3) is privately financed, in whole or in part; and

(4) contains multiple surface transportation modes, including highway and rail and utility corridors.

(b) ESTABLISHMENT OF PROGRAM.—

(1) IN GENERAL.—The Secretary shall establish and implement in the State of Texas a demonstration program under which the Secretary, notwithstanding any other provision of law, may permit the State transportation department or a local transportation agency in the State of Texas to authorize a consultant under a contract for a multimodal transportation project to prepare an environmental impact assessment or analysis (including an environmental impact statement) relating to a segment of the project of less than independent utility and without logical termini.

(2) CONTRACT TERMS.—A contract for a multimodal transportation project under this subsection may provide for the simultaneous—

(A) design and construction of a segment of the project for which the environmental assessment or analysis has been completed; and

(B) environmental assessment or analysis of an adjoining segment of the project.

(c) LIMITATION ON WORK TO BE PERFORMED BY CONSULTANT.—

(1) IN GENERAL.—The work of the consultant under subsection (b) shall be performed under the direction of, and subject to oversight by, the State transportation department or local transportation agency.

(2) REVIEW.—The State transportation department or local transportation agency shall conduct a review that assesses the objectivity of the environmental assessment, environmental analysis, or environmental impact statement prepared under subsection (b) before its submission to the Secretary.

(d) FUNDING.—Notwithstanding any other provision of law—

(1) funds made available to the State of Texas under title 23, United States Code, to carry out the demonstration program authorized under this section may be used by the State of Texas to pay the costs of an eligible project under this section, without requirement for non-Federal funds; and

(2) an eligible project under this section shall be eligible for other forms of financial assistance available under that title, including loans, loan guarantees, and lines of credit.

(e) REGULATIONS.—The Secretary shall promulgate regulations that—

(1) provide guidelines regarding procedures to be followed by the State transportation

department or a coal transportation agency in the State of Texas in their direction of and oversight over any environmental impact assessments or analyses for a multimodal transportation project which are to be prepared by the contractor or its affiliates; and

(2) establish criteria for approving deviations from procedures established in regulations issued by the Secretary of Transportation implementing the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(f) IMPLEMENTATION BY OTHER FEDERAL AGENCIES.—Each Federal agency that—

(1) has jurisdiction by law over environment-related issues that may be affected by a project described in this section and the analysis of which would be part of any environmental document required by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); or

(2) may be required by Federal law to independently—

(A) conduct an environment-related review or analysis for a project described in this section;

(B) determine whether to issue a permit, license, or approval for the project; or

(C) render an opinion or recommendation on the environmental impact of the project; shall promulgate regulations providing for the expedited processing of, and approval of deviations from, the project by the agency.

(g) REPORTS AND SECRETARIAL REVIEW.—

(1) STATE OF TEXAS REPORT.—

(A) IN GENERAL.—Not later than 3 years after the date of enactment of this section, the State of Texas shall submit to the Secretary a report summarizing the use of the procedures authorized under this section.

(B) CONTENTS.—The report shall—

(i) describe the time and cost savings resulting from the use of those procedures as compared to the construction of surface transportation projects using the existing procedures authorized under the Federal-aid highway program and Federal law; and

(ii) recommend revisions necessary to further streamline and accelerate the construction of surface transportation projects.

(2) REPORT TO CONGRESS.—Not later than 180 days after the date of receipt of the report under paragraph (1), the Secretary shall submit to Congress a report that—

(A) evaluates the demonstration program conducted under this section and the ability of the program to streamline and accelerate the construction of surface transportation projects; and

(B) contains recommendations of the Secretary concerning whether the program should be expanded or made a part of the Federal-aid highway program.

SA 2357. Mr. CORNYN (for himself and Mrs. HUTCHISON) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 389, between lines 15 and 16, insert the following:

SEC. 18___. INNOVATIVE FINANCE DEMONSTRATION PROGRAM.

(a) IN GENERAL.—The Secretary shall establish and implement in the State of Texas an innovative finance demonstration program under which the Secretary, notwithstanding any provision of title 23, United States Code, may permit entities in the State of Texas to obtain credit assistance under the Transportation Infrastructure Finance and Innovation Act of 1998 (23 U.S.C. 181 et seq.), and permit the State of Texas to administer the State infrastructure bank established by the State of Texas, under the conditions and using the procedures authorized under this section.

(b) APPLICABILITY OF FEDERAL REQUIREMENTS.—

(1) ELIGIBLE PROJECT COSTS.—Compliance with Federal-aid procurement requirements shall not be a condition to eligibility of project costs and eligibility to receive financial assistance under subchapter II of chapter 1 of title 23, United States Code (23 U.S.C. 181 et seq.), provided that if a procurement does not involve adequate price competition, as determined by the Secretary, eligibility of costs under the contract resulting from such procurement shall be determined based on a price reasonableness analysis or cost analysis, as appropriate.

(2) APPLICABILITY OF FEDERAL LAW TO REPAYMENTS.—The requirements of titles 23 and 49, United States Code, shall not apply to repayments from non-Federal sources to the State infrastructure bank established by the State of Texas from projects assisted by the infrastructure bank. Such a repayment shall not be considered to be Federal funds.

(c) INVESTMENT-GRADE RATING REQUIREMENT.—The requirement that a project's senior obligations receive an investment-grade rating in order to receive financial assistance under sections 183 and 184 of title 23, United States Code, shall not apply to obligations issued to a project contractor as payment for its work.

(d) NONSUBORDINATION OF LOANS.—The prohibition against subordinating loans made under sections 183 and 184 of title 23, United States Code, to the claims of any holder of project obligations shall only apply in the event of bankruptcy, insolvency, or liquidation of the obligor that results in the abandonment, liquidation, or dissolution of the project.

(e) REGULATIONS.—The regulations issued by the Secretary under section 187 of title 23, United States Code shall—

(1) prescribe criteria for determining if the procurement relating to a project receiving financial assistance under subchapter II of chapter 1 of title 23, United States Code (23 U.S.C. 181 et seq.), involves adequate price competition; and

(2) provide guidelines regarding procedures to be followed in performing a price reasonableness analysis or cost analysis of proposals submitted under such a procurement.

(f) REPORTS.—

(1) REPORT TO SECRETARY.—

(A) IN GENERAL.—Not later than 3 years after the date of enactment of this section, the Governor of the State of Texas shall submit to the Secretary a report summarizing the use of the innovative finance procedures authorized under this section.

(B) REQUIREMENTS.—The report submitted under subparagraph (A) shall describe the time and cost savings resulting from the use of those procedures as compared to the construction of surface transportation projects using the existing procedures authorized under the Federal-aid highway program, and shall recommend revisions necessary to further streamline and accelerate the construction of surface transportation projects.

(2) REPORT TO CONGRESS.—Not later than 6 months after receipt of the report submitted under paragraph (1), the Secretary shall submit to Congress a report—

(A) evaluating the demonstration program conducted under this section and the ability of such program to streamline and accelerate the construction of surface transportation projects; and

(B) containing recommendations of the Secretary as to whether the program should be expanded or made a part of the Federal-aid highway program.

SA 2358. Mr. CORNYN (for himself and Mrs. HUTCHISON) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 389, between line 15 and line 16, insert the following:

SEC. 18___. INNOVATIVE CONTRACTING PRACTICES DEMONSTRATION PROGRAM.

(a) ESTABLISHMENT AND IMPLEMENTATION.—The Secretary shall establish and implement in the State of Texas an innovative contracting practices demonstration program under which the Secretary, notwithstanding any provision of title 23, United States Code, may permit the State transportation department or a local transportation agency in the State of Texas to use a design-build contract for the development of projects under chapter 1 of title 23, United States Code, that is awarded using any procurement process permitted by applicable State and local law.

(b) LIMITATION ON WORK TO BE PERFORMED UNDER DESIGN-BUILD CONTRACTS.—Construction of permanent improvements shall not commence under a design-build contract described in subsection (a) before compliance with section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332). The scope of the contractor's work may include assistance in the environmental review process for the project, including preparation of environmental impact assessments and analyses, provided that such work is performed under the direction of, and subject to oversight by, the State transportation department or local transportation agency, and the State transportation department or local transportation agency conducts a review that assesses the objectivity of the environmental assessment, environmental analysis, or environmental impact statement prior to its submission to the Secretary of Transportation.

(c) PROJECT APPROVAL.—If a design-build contract is to be awarded prior to compliance with section 102 of the National Environmental Policy Act of 1969, upon request by the State transportation department or local transportation agency, the Secretary shall concur in issuance of the procurement documents and any amendments thereto and in award of the contract and any amendments thereto. Such concurrence shall be considered a preliminary action that does not affect the environment. Project approval shall be provided only after compliance with section 102 of the National Environmental Policy Act of 1969.

(d) DESIGN-BUILD CONTRACT DEFINED.—In this section, the term ''design-build contract'' means an agreement that provides for design and construction of a project by a contractor, regardless of whether the agreement is in the form of a design-build contract, a franchise agreement, or any other form of contract approved by the Secretary.

(e) FUNDING.—

(1) USE.—Notwithstanding any other provision of law, funds made available to the State of Texas under title 23, United States Code, to carry out the demonstration program authorized under this section may be used by the State of Texas to pay the costs of an eligible project under this section, without requirement for non-Federal funds.

(2) AVAILABILITY OF OTHER FUNDING.—Notwithstanding any other provision of law, an

eligible project under this section shall be eligible for other forms of financial assistance available under title 23, United States Code, including loans, loan guarantees, and lines of credit.

(f) REGULATIONS.—The regulations authorized by section 1307(c) of Transportation Equity Act for the 21st Century (23 U.S.C. 112 note) shall apply in the following manner:

(1) Such regulations shall allow the State transportation department or a local transportation agency in the State of Texas to use any procurement process permitted by applicable State and local law in awarding design-build contracts, including allowing unsolicited proposals, negotiated procurements and multiple requests for final proposals. The Secretary may require reasonable justification to be provided for any sole source procurement. The preceding sentences shall not preclude the Secretary from providing ''best practices'' guidelines in the regulations.

(2) Such regulations shall not preclude the State transportation department and local transportation agencies in the State of Texas from allowing proposers to include alternative technical concepts in their ''base'' proposals.

(3) Such regulations shall not preclude the State transportation department and local transportation agencies in the State of Texas from issuing a Request for Proposals document, proceeding with award of a design-build contract, or issuing a notice to proceed with preliminary design work under such a contract, prior to compliance with section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332), provided that the design-build contractor may not proceed with construction of permanent improvements prior to such compliance.

(4) Such regulations shall provide guidelines regarding procedures to be followed by the State transportation department or a local transportation agency in the State of Texas in their direction of and oversight over any environmental impact assessments or analyses for the project which are to be prepared by the contractor or its affiliates.

(g) REPORTS.—

(1) STATE OF TEXAS REPORT.—Not later than 3 years after the date of enactment of this section, the State of Texas shall submit to the Secretary a report summarizing the use of the innovative contracting procedures authorized under this section. The report shall describe the time and cost savings resulting from the use of those procedures as compared to the construction of surface transportation projects using the existing procedures authorized under the Federal-aid highway program, and shall recommend revisions necessary to further streamline and accelerate the construction of surface transportation projects.

(2) REPORT BY SECRETARY.—Not later than 6 months after receipt of the report submitted under paragraph (1), the Secretary shall submit to Congress a report—

(A) evaluating the demonstration program conducted under this section and the ability of such program to streamline and accelerate the construction of surface transportation projects; and

(B) containing recommendations of the Secretary as to whether the program should be expanded or made a part of the Federal-aid highway program.

SA 2359. Mr. CORNYN (for himself and Mrs. HUTCHISON) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 389, between lines 15 and 16, insert the following:

SEC. 18___. LA ENTRADA AL PACIFICO CORRIDOR.

Section 1105(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102-240; 105 Stat 2032) is amended by adding at the end the following:

''(45) In the State of Texas, the La Entrada al Pacifico Corridor consisting of any portion of a highway in a corridor on 2 miles of either side of the center line of the highway and—

''(A) State Route 349 from Lamesa to the point on that highway that is closest to 32 degrees, 7 minutes, north latitude, by 102 degrees, 6 minutes, west longitude;

''(B) the segment or any roadway extending from the point described in subparagraph (A) to the point on Farm-to-Market Road 1788 closest to 32 degrees, 0 minutes, north latitude, by 102 degrees, 16 minutes, west longitude;

''(C) Farm-to-Market Road 1788 from the point described by subparagraph (B) to its intersection with Interstate Route 20;

''(D) Interstate Route 20 from its intersection with Farm-to-Market Road 1788 to its intersection with United States Route 385;

''(E) United States Route 385 from Odessa to Fort Stockton, including those portions that parallel United States Route 67 and Interstate Route 10; and

''(F) United States Route 67 from Fort Stockton to Presidio, including the portions that parallel Interstate Route 10 and United States Route 90.''.

SA 2360. Mr. CORNYN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 255, between lines 17 and 18, insert the following:

(c) TOLL CREDIT FOR NON-FEDERAL SHARE.—

(1) ELIGIBILITY.—Section 120(j)(1) of title 23, United States Code, is amended by striking the last sentence and inserting the following: ''The amount of the credit that is attributable to expenditures by such public, quasi-public, or private agencies to build, improve, or maintain facilities in which a portion of the costs are paid for with Federal funds shall be limited to the amount of non-Federal funds that are used to pay the costs of such facilities, except that such amount of the credit shall be increased to include the amount of Federal loans or other financial assistance that will be repaid by such public, quasi-public, or private agencies.''.

(2) MAINTENANCE OF EFFORT CALCULATION.—Section 120(j) of title 23, United States Code, is amended—

(A) by striking paragraph (2); and

(C) by redesignating paragraph (3) as paragraph (2).

SA 2361. Mr. CORNYN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 389, between line 15 and line 16, insert the following:

SEC. 18___. TOLLING PILOT PROGRAM.

(a) ESTABLISHMENT AND IMPLEMENTATION.—The Secretary shall establish and implement in the State of Texas a tolling pilot program under which the Secretary, notwithstanding any provision of title 23, United States Code, may permit—

(1) the State of Texas to collect tolls on a highway, bridge, or tunnel on the Interstate system; and

(2) the State transportation department or a local transportation agency in the State of Texas to use toll revenues received from the operation of a toll facility authorized under this section or under section 129 of title 23, United States Code, for any transportation related purpose permitted by applicable State and local law.

(b) REPAYMENT OF FEDERAL SHARE.—

(1) IN GENERAL.—Notwithstanding any provision of title 23, United States Code, the total amount of funds paid from the Highway Account of the Highway Trust Fund to the State of Texas for construction of a highway, bridge, or tunnel within the boundaries of the State of Texas may be repaid to the Secretary.

(2) DEPOSIT OF CREDIT.—The Secretary of Transportation shall deposit amounts repaid by the State of Texas pursuant to paragraph (1) into the Highway Account and credit such amount to the unobligated balance of Federal-aid highway funds available to the State of Texas for the same class of funds last apportioned or allocated to the State of Texas for construction of the highway, bridge, or tunnel. The amount so credited shall be in addition to all other funds then apportioned or allocated to the State of Texas during the fiscal year for which the credit is received and shall be available for expenditure by the State of Texas in accordance with the provisions of title 23, United States Code.

(3) DEREGULATION.—Upon the repayment under this subsection of all Federal-aid highway funds received by the State of Texas for construction of a highway, bridge, or tunnel, the highway, bridge, or tunnel—

(A) shall be removed by the Secretary from all Federal-aid highway programs;

(B) shall not be subject to any other provision of title 23, United States Code, including any regulation issued to carry out that title; and

(C) may be operated and maintained by a public authority having jurisdiction over the highway, bridge, or tunnel under applicable State or local law.

(c) FUNDING.—

(1) USE.—Notwithstanding any other provision of law, funds made available to the State of Texas under title 23, United States Code to carry out the pilot program authorized under this section may be used by the State of Texas to pay the costs of an eligible project under this section, the same class of funds last apportioned or allocated to the State of Texas without requirement for non-Federal funds.

(2) AVAILABILITY OF OTHER FUNDING.—Notwithstanding any other provision of law, an eligible project under this section shall be eligible for other forms of financial assistance available under title 23, United States Code, including loans, loan guarantees, and lines of credit.

(d) REPORTS.—

(1) STATE OF TEXAS REPORT.—Not later than 3 years after the date of enactment of this section, the State of Texas shall submit to the Secretary a report summarizing the construction, maintenance, and operation of projects and the use of toll revenue under this section. The report shall describe the time and cost savings resulting from the use of procedures authorized in this section as compared to the construction of surface transportation projects using the existing

procedures authorized under the Federal-aid highway program, and shall recommend revisions necessary to further streamline and accelerate the construction of surface transportation projects.

(2) REPORT BY SECRETARY.—Not later than 6 months after receipt of the report submitted under paragraph (1), the Secretary of Transportation shall submit to Congress a report—

(A) evaluating the demonstration program conducted under this section and the ability of such program to streamline and accelerate the construction of surface transportation projects; and

(B) containing recommendations of the Secretary of Transportation as to whether the program should be expanded or made a part of the Federal-aid highway program.

SA 2362. Mr. CORNYN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 461, line 13, strike the period and insert the following: ''of which the current Southwest Regional Transportation Center (Texas A&M, the University of Texas at Austin, and Texas Southern University) shall be one.''

SA 2363. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 39, between lines 22 and 23, insert the following:

(17) FINISH PROGRAM.—For the FINISH program under section 178 of that title, for each of fiscal years 2004 through 2009, an amount equal to 6.4 percent of the amounts received in the Highway Trust Fund (other than the Mass Transit Account) for the fiscal year under section 9503(b) of the Internal Revenue Code of 1986.

On page 389, between lines 15 and 16, insert the following:

SEC. 18___. FINISH PROGRAM.

(a) IN GENERAL.—Subtitle I of chapter 1 of title 23, United States Code (as amended by section 1815(a)), is amended by adding at the end the following:

''§ 178. FINISH program

''(a) IN GENERAL.—The Secretary shall establish and carry out a program, to be known as the 'FINISH program', under which the Secretary shall apportion funds to States for use in the acceleration and completion of coordinated planning, design, and construction of internationally significant highway projects, as determined by the Secretary.

''(b) ELIGIBLE PROJECTS.—The Secretary shall apportion funds under this section for highway projects described in subsection (a) that are located on any of the high priority corridors described in paragraphs (1) and (37), (18) and (20), (23), (26), (38), or (44) of section 1105(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2032), as determined by the applicable State and approved by the Secretary.

''(c) APPORTIONMENT.—For each of fiscal years 2004 through 2009, the Secretary shall apportion funds made available under this section for the fiscal year to each State in the proportion that, as determined by the applicable State and approved by the Secretary—

''(1) the estimated amount that may be obligated in the fiscal year for the completion of the eligible projects described in subsection (b) in the State; bears to

''(2) the total estimated amount that may be obligated in the fiscal year for the completion of eligible projects described in subsection (b) in all States.

''(d) AUTHORIZATION OF APPROPRIATIONS.—For each of fiscal years 2004 through 2009, there is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section an amount equal to 6.4 percent of the amounts received in the Highway Trust Fund (other than the Mass Transit Account) for the fiscal year under section 9503(b) of the Internal Revenue Code of 1986.''.

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(b)), is amended by adding at the end the following:

''178. FINISH program.''.

SA 2364. Mr. SCHUMER submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 5507 and insert the following:

SEC. 5507. UNIFORM DOLLAR LIMITATION FOR ALL TYPES OF TRANSPORTATION FRINGE BENEFITS; CLARIFICATION OF FEDERAL EMPLOYEE BENEFITS.

(a) UNIFORM DOLLAR LIMITATION FOR ALL TYPES OF TRANSPORTATION FRINGE BENEFITS.—

(1) IN GENERAL.—Section 132(f)(2) of the Internal Revenue Code of 1986 (relating to limitation on exclusion) is amended—

(A) by striking ''$100'' in subparagraph (A) and inserting ''$190'', and

(B) by striking ''$175'' in subparagraph (B) and inserting ''$190''.

(2) INFLATION ADJUSTMENT CONFORMING AMENDMENTS.—Subparagraph (A) of section 132(f)(6) of the Internal Revenue Code of 1986 (relating to inflation adjustment) is amended—

(A) by striking the last sentence,

(B) by striking ''1999'' and inserting ''2003'', and

(C) by striking ''1998'' and inserting ''2002''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 2003.

(b) CLARIFICATION OF FEDERAL EMPLOYEE BENEFITS.—Section 7905 of title 5, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (2)(C) by inserting ''and'' after the semicolon;

(B) in paragraph (3) by striking ''; and'' and inserting a period; and

(C) by striking paragraph (4); and

(2) in subsection (b)(2)(A) by amending subparagraph (A) to read as follows:

''(A) a qualified transportation fringe as defined in section 132(f)(1) of the Internal Revenue Code of 1986;''.

SA 2365. Mr. DORGAN submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert:

SEC. ___. TAX TREATMENT OF CONTROLLED FOREIGN CORPORATIONS ESTABLISHED IN TAX HAVENS.

(a) IN GENERAL.—Subchapter C of chapter 80 (relating to provisions affecting more than one subtitle), as amended by this Act, is amended by adding at the end the following new section:

''SEC. ___. 7875. CONTROLLED FOREIGN CORPORATIONS IN TAX HAVENS TREATED AS DOMESTIC CORPORATIONS.

''(a) GENERAL RULE.—If a controlled foreign corporation is a tax-haven CFC, then, notwithstanding section 7701(a)(4), such corporation shall be treated for purposes of this title as a domestic corporation.

''(b) TAX-HAVEN CFC.—For purposes of this section—

''(1) IN GENERAL.—The term 'tax-haven CFC' means, with respect to any taxable year, a foreign corporation which—

''(A) was created or organized under the laws of a tax-haven country, and

''(B) is a controlled foreign corporation (determined without regard to this section) for an uninterrupted period of 30 days or more during the taxable year.

''(2) EXCEPTION.—The term 'tax-haven CFC' does not include a foreign corporation for any taxable year if substantially all of its income for the taxable year is derived from the active conduct of trades or businesses within the country under the laws of which the corporation was created or organized.

''(c) TAX-HAVEN COUNTRY.—For purposes of this section—

''(1) IN GENERAL.—The term 'tax-haven country' means any of the following:

Andorra	Gibraltar	Netherlands Antilles
Anguilla	Grenada	Niue
Antigua and Barbuda	Guernsey	Panama
Aruba	Isle of Man	Samoa
Commonwealth of the Bahamas	Jersey	San Marino
Bahrain	Liberia	Federation of Saint Christopher and Nevis
Barbados	Principality of Liechtenstein	Saint Lucia
Belize	Republic of the Maldives	Saint Vincent and the Grenadines
Bermuda	Malta	Republic of the Seychelles
British Virgin Islands	Republic of the Marshall Islands	Tonga
Cayman Islands	Mauritius	Turks and Cãicos
Cook Islands	Principality of Monaco	Republic of Vanuatu
Cyprus	Montserrat	
Commonwealth of the Dominica	Republic of Nauru	

''(2) SECRETARIAL AUTHORITY.—The Secretary may remove or add a foreign jurisdiction from the list of tax-haven countries under paragraph (1) if the Secretary determines such removal or addition is consistent with the purposes of this section.''

(b) CONFORMING AMENDMENT.—The table of sections for subchapter C of chapter 80 is amended by adding at the end the following new item:

''Sec 7875. Controlled foreign corporations in tax havens treated as domestic corporations.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

SA 2366. Mr. DORGAN submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which

was ordered to lie on the table; as follows:

At the appropriate place insert the following:

SEC. ___. EXTENSION AND EXPANSION OF CREDIT FOR ELECTRICITY PRODUCED FROM CERTAIN RENEWABLE RESOURCES.

(a) EXPANSION OF QUALIFIED ENERGY RESOURCES.—Subsection (c) of section 45 of the Internal Revenue Code of 1986 (relating to electricity produced from certain renewable resources) is amended to read as follows:

''(c) QUALIFIED ENERGY RESOURCES.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified energy resources' means—

''(A) wind,

''(B) closed-loop biomass,

''(C) open-loop biomass,

''(D) geothermal energy,

''(E) solar energy,

''(F) small irrigation power, and

''(G) municipal solid waste.

''(2) CLOSED-LOOP BIOMASS.—The term 'closed-loop biomass' means any organic material from a plant which is planted exclusively for purposes of being used at a qualified facility to produce electricity.

''(3) OPEN-LOOP BIOMASS.—

''(A) IN GENERAL.—The term 'open-loop biomass' means—

''(i) any agricultural livestock waste nutrients, or

''(ii) any solid, nonhazardous, cellulosic waste material which is segregated from other waste materials and which is derived from—

''(I) any of the following forest-related resources: mill and harvesting residues, precommercial thinnings, slash, and brush,

''(II) solid wood waste materials, including waste pallets, crates, dunnage, manufacturing and construction wood wastes (other than pressure-treated, chemically-treated, or painted wood wastes), and landscape or right-of-way tree trimmings, but not including municipal solid waste, gas derived from the biodegradation of solid waste, or paper which is commonly recycled, or

''(III) agriculture sources, including orchard tree crops, vineyard, grain, legumes, sugar, and other crop by-products or residues.

Such term shall not include closed-loop biomass.

''(B) AGRICULTURAL LIVESTOCK WASTE NUTRIENTS.—

''(i) IN GENERAL.—The term 'agricultural livestock waste nutrients' means agricultural livestock manure and litter, including wood shavings, straw, rice hulls, and other bedding material for the disposition of manure.

''(ii) AGRICULTURAL LIVESTOCK.—The term 'agricultural livestock' includes bovine, swine, poultry, and sheep.

''(4) GEOTHERMAL ENERGY.—The term 'geothermal energy' means energy derived from a geothermal deposit (within the meaning of section 613(e)(2)).

''(5) SMALL IRRIGATION POWER.—The term 'small irrigation power' means power—

''(A) generated without any dam or impoundment of water through an irrigation system canal or ditch, and

''(B) the nameplate capacity rating of which is not less than 150 kilowatts but is less than 5 megawatts.

''(6) MUNICIPAL SOLID WASTE.—The term 'municipal solid waste' has the meaning given the term 'solid waste' under section 2(27) of the Solid Waste Disposal Act (42 U.S.C. 6903).''.

(b) EXTENSION AND EXPANSION OF QUALIFIED FACILITIES.—

(1) IN GENERAL.—Section 45 of the Internal Revenue Code of 1986 is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

''(d) QUALIFIED FACILITIES.—For purposes of this section—

''(1) WIND FACILITY.—In the case of a facility using wind to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service after December 31, 1993, and before January 1, 2007.

''(2) CLOSED-LOOP BIOMASS FACILITY.—

''(A) IN GENERAL.—In the case of a facility using closed-loop biomass to produce electricity, the term 'qualified facility' means any facility—

''(i) owned by the taxpayer which is originally placed in service after December 31, 1992, and before January 1, 2007, or

''(ii) owned by the taxpayer which before January 1, 2007, is originally placed in service and modified to use closed-loop biomass to co-fire with coal, with other biomass, or with both, but only if the modification is approved under the Biomass Power for Rural Development Programs or is part of a pilot project of the Commodity Credit Corporation as described in 65 Fed. Reg. 63052.

''(B) SPECIAL RULES.—In the case of a qualified facility described in subparagraph (A)(ii)—

''(i) the 10-year period referred to in subsection (a) shall be treated as beginning no earlier than January 1, 2004,

''(ii) the amount of the credit determined under subsection (a) with respect to the facility shall be an amount equal to the amount determined without regard to this clause multiplied by the ratio of the thermal content of the closed-loop biomass used in such facility to the thermal content of all fuels used in such facility, and

''(iii) if the owner of such facility is not the producer of the electricity, the person eligible for the credit allowable under subsection (a) shall be the lessee or the operator of such facility.

''(3) OPEN-LOOP BIOMASS FACILITIES.—

''(A) IN GENERAL.—In the case of a facility using open-loop biomass to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which—

''(i) in the case of a facility using agricultural livestock waste nutrients—

''(I) is originally placed in service after December 31, 2003, and before January 1, 2007, and

''(II) the nameplate capacity rating of which is not less than 150 kilowatts, and

''(ii) in the case of any other facility, is originally placed in service before January 1, 2007.

''(B) CREDIT ELIGIBILITY.—In the case of any facility described in subparagraph (A), if the owner of such facility is not the producer of the electricity, the person eligible for the credit allowable under subsection (a) shall be the lessee or the operator of such facility.

''(4) GEOTHERMAL OR SOLAR ENERGY FACILITY.—In the case of a facility using geothermal or solar energy to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service after December 31, 2003, and before January 1, 2007. Such term shall not include any property described in section 48(a)(3) the basis of which is taken into account by the taxpayer for purposes of determining the energy credit under section 48.

''(5) SMALL IRRIGATION POWER FACILITY.—In the case of a facility using small irrigation power to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service after December 31, 2003, and before January 1, 2007.

''(6) LANDFILL GAS FACILITIES.—In the case of a facility producing electricity from gas derived from the biodegradation of municipal solid waste, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service after December 31, 2003, and before January 1, 2007.

''(7) TRASH COMBUSTION FACILITIES.—In the case of a facility which burns municipal solid waste to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service after December 31, 2003, and before January 1, 2007.''.

(2) CONFORMING AMENDMENT.—Section 45(e) of such Code, as so redesignated, is amended by striking ''subsection (c)(3)(A)'' in paragraph (7)(A)(i) and inserting ''subsection (d)(1)''.

(c) SPECIAL CREDIT RATE AND PERIOD FOR ELECTRICITY PRODUCED AND SOLD AFTER ENACTMENT DATE.—Section 45(b) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

''(4) CREDIT RATE AND PERIOD FOR ELECTRICITY PRODUCED AND SOLD FROM CERTAIN FACILITIES.—

''(A) CREDIT RATE.—In the case of electricity produced and sold after the date of the enactment of this paragraph at any qualified facility described in paragraph (3), (5), (6), or (7) of subsection (d), the amount in effect under subsection (a)(1) for any calendar year beginning with the calendar year in which such date occurs (determined before the application of the last sentence of paragraph (2) of this subsection) shall be reduced by one-third.

''(B) CREDIT PERIOD.—

''(i) IN GENERAL.—Except as provided in clause (ii), in the case of any facility described in paragraph (3), (4), (5), (6), or (7) of subsection (d), the 5-year period beginning on the date the facility was originally placed in service shall be substituted for the 10-year period in subsection (a)(2)(A)(ii).

''(ii) CERTAIN OPEN-LOOP BIOMASS FACILITIES.—In the case of any facility described in subsection (d)(3)(A)(ii) placed in service before January 1, 2004, the 5-year period beginning on January 1, 2004, shall be substituted for the 10-year period in subsection (a)(2)(A)(ii).''.

(d) COORDINATION WITH SECTION 48.—Section 48(a)(3) of the Internal Revenue Code of 1986 (defining energy property) is amended by adding at the end the following new sentence: ''Such term shall not include any property which is part of a facility the production from which is allowed as a credit under section 45 for the taxable year or any prior taxable year.''.

(e) ELIMINATION OF CERTAIN CREDIT REDUCTIONS.—Section 45(b)(3) of the Internal Revenue Code of 1986 (relating to credit reduced for grants, tax-exempt bonds, subsidized energy financing, and other credits) is amended—

(1) by inserting ''the lesser of ½ or'' before ''a fraction'' in the matter preceding subparagraph (A), and

(2) by adding at the end the following new sentence: ''This paragraph shall not apply with respect to any facility described in subsection (d)(2)(A)(ii).''.

(f) CREDIT ALLOWED AGAINST REGULAR AND MINIMUM TAX.—

(1) IN GENERAL.—Subsection (c) of section 38 of the Internal Revenue Code of 1986 (relating to limitation based on amount of tax) is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

''(4) SPECIAL RULES FOR WIND ENERGY CREDIT.—

''(A) IN GENERAL.—In the case of any wind energy credit—

''(i) this section and section 39 shall be applied separately with respect to such credit, and

''(ii) in applying paragraph (1) to such credit—

''(I) the tentative minimum tax shall be treated as being zero, and

''(II) the limitation under paragraph (1) (as modified by subclause (I)) shall be reduced by the credit allowed under subsection (a) for the taxable year (other than the wind energy credit).

''(B) WIND ENERGY CREDIT.—For purposes of this subsection, the term 'wind energy credit' means the credit determined under section 45 to the extent that such credit is attributable to electricity produced—

''(i) at a facility which is originally placed in service after the date of the enactment of this paragraph, and

''(ii) during the 4-year period beginning on the date that such facility was originally placed in service.''.

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (2)(A)(ii)(II) of section 38(c) of such Code is amended by striking ''or'' and inserting a comma and by inserting '', and the wind energy credit'' after ''employee credit''.

(B) Paragraph (3)(A)(ii)(II) of section 38(c) of such Code is amended by inserting ''and the wind energy credit'' after ''employee credit''.

(g) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to electricity produced and sold after December 31, 2003, in taxable years ending after such date.

(2) CERTAIN BIOMASS FACILITIES.—With respect to any facility described in section 45(d)(3)(A)(ii) of the Internal Revenue Code of 1986, as added by subsection (b)(1), which is placed in service before January 1, 2004, the amendments made by this section shall apply to electricity produced and sold after December 31, 2003, in taxable years ending after such date.

(3) CREDIT RATE AND PERIOD FOR NEW FACILITIES.—The amendments made by subsection (c) shall apply to electricity produced and sold after the date of the enactment of this Act, in taxable years ending after such date.

(4) NONAPPLICATION OF AMENDMENTS TO PREEFFECTIVE DATE POULTRY WASTE FACILITIES.—The amendments made by this section shall not apply with respect to any poultry waste facility (within the meaning of section 45(c)(3)(C), as in effect on the day before the date of the enactment of this Act) placed in service before January 1, 2004.

(5) WIND CREDIT ALLOWED AGAINST REGULAR AND MINIMUM TAX.—The amendments made by subsection (f) shall apply to taxable years ending after the date of the enactment of this Act.

(h) GAO STUDY.—The Comptroller General of the United States shall conduct a study on the market viability of producing electricity from resources with respect to which credit is allowed under section 45 of the Internal Revenue Code of 1986 but without such credit. In the case of open-loop biomass and municipal solid waste resources, the study should take into account savings associated with not having to dispose of such resources. In conducting such study, the Comptroller shall estimate the dollar value of the environmental impact of producing electricity from such resources relative to producing electricity from fossil fuels using the latest generation of technology. Not later than June 30, 2006, the Comptroller shall report on such study to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

(i) EXTENSION OF CUSTOMS USER FEES.—Section 13031(j)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)) is amended by striking ''March 31, 2004'' and inserting ''December 31, 2013''.

SA 2367. Mr. AKAKA submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 715, strike line 1 and insert the following:

SEC. 3044. MEDICAL TRANSPORTATION DEMONSTRATION GRANTS.

(a) IN GENERAL.—Chapter 53 is amended by adding at the end the following:

''§ 5341. Medical transportation demonstration grants

''(a) GRANTS AUTHORIZED.—

''(1) IN GENERAL.—The Secretary may award demonstration grants to eligible entities to provide transportation services to individuals to access dialysis treatments and other medical treatments for diabetes or renal disease.

''(2) ELIGIBLE ENTITIES.—An entity shall be eligible to receive a grant under this section if the entity—

''(A) meets the conditions described in section 501(c)(3) of the Internal Revenue Code of 1986; or

''(B) is an agency of a State or unit of local government.

''(b) USE OF FUNDS.—Grant funds received under this section may be used to provide transportation services to individuals to access dialysis treatments and other medical treatments for diabetes or renal disease.

''(c) APPLICATION.—

''(1) IN GENERAL.—Each eligible entity desiring a grant under this section shall submit an application to the Secretary at such time, at such place, and containing such information as the Secretary may reasonably require.

''(2) SELECTION OF GRANTEES.—In awarding grants under this section, the Secretary shall give preference to eligible entities from communities with—

''(A) high incidence of diabetes;

''(B) high incidence of renal disease; and

''(C) limited access to dialysis facilities.

''(d) RULEMAKING.—The Secretary shall issue regulations to implement and administer the grant program established under this section.

''(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for each of fiscal year 2005 through 2009 to carry out this section, which shall remain available until expended.''.

(b) CONFORMING AMENDMENT.—The table of sections for chapter 53 is amended by adding at the end the following:

''5341. Medical transportation demonstration grants.''.

''SEC. 3045. INTERMODAL PASSENGER FACILITIES.

SA 2368. Mr. GRASSLEY (for himself and Mr. BAUCUS) submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 110, line 15, strike all through page 115, line 9.

SA 2369. Mr. GRASSLEY (for himself and Mr. BAUCUS) submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 110, line 15, strike all through page 115, line 9.

SA 2370. Ms. SNOWE (for herself and Ms. COLLINS) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of part 2 of subtitle A of title IV, add the following:

SEC. 4163. COMMERCIAL TRUCK HIGHWAY SAFETY DEMONSTRATION PROGRAM.

(a) SHORT TITLE.—This section may be cited as the ''Commercial Truck Highway Safety Demonstration Program Act of 2004''.

(b) FINDINGS.—Congress makes the following findings:

(1) Public safety on the highways of the United States is a paramount concern of all who use the highways and all who prescribe public policy for the use of those highways, including public policy on the operation of heavy commercial trucks on highways.

(2) Federal highway funding law effectively imposes a limit of 80,000 pounds on the weight of vehicles permitted to use Interstate System highways.

(3) The administration of this law in Maine has forced heavy tractor-trailer and tractor-semitrailer combination vehicles traveling into Maine from neighboring States and Canada to divert onto small State and local roads where higher vehicle weight limits apply under Maine law.

(4) The diversion of those vehicles onto such roads causes significant economic hardships and safety challenges for small communities located along those roads.

(5) Permitting heavy commercial vehicles, including tanker trucks carrying hazardous material and fuel oil, to travel on Interstate System highways in Maine—

(A) would enhance public safety by reducing—

(i) the number of heavy vehicles that use town and city streets in Maine; and

(ii) as a result, the number of dangerous interactions between those heavy vehicles and such other vehicles as school buses and private vehicles; and

(B) would reduce the net highway maintenance costs in Maine because the Interstate System highways, unlike the secondary roads of Maine, are built to accommodate heavy vehicles and are, therefore, more durable.

(c) DEFINITIONS.—In this section:

(1) COVERED INTERSTATE SYSTEM HIGHWAY.—

(A) IN GENERAL.—The term ''covered Interstate System highway'' means a highway within the State of Maine that is designated as a route on the Interstate System, except as provided in subparagraph (B).

(B) EXCEPTION.—The term does not include any portion of highway that, as of the date of the enactment of this section, is exempted from the requirements of subsection (a) of section 127 of title 23, United States Code, by the last sentence of such subsection.

(2) INTERSTATE SYSTEM.—The term ''Interstate System'' has the meaning given that term in section 101(a) of title 23, United States Code.

(d) MAINE TRUCK SAFETY DEMONSTRATION PROGRAM.—The Secretary of Transportation shall carry out a program, in the administration of this section, to demonstrate the effects on the safety of the overall highway network in the State of Maine that would result from permitting vehicles described in subsection (e)(2) to be operated on the Interstate System highways within the State.

(e) WAIVER OF HIGHWAY FUNDING REDUCTION RELATING TO WEIGHT OF VEHICLES USING INTERSTATE SYSTEM HIGHWAYS.—

(1) PROHIBITION RELATING TO CERTAIN VEHICLES.—Notwithstanding section 127(a) of title 23, United States Code, the total amount of funds apportioned to the State of Maine under section 104(b)(1) of such title for any period may not be reduced under such section 127(a) on the basis that the State of Maine permits a vehicle described in paragraph (2) to use a covered Interstate System highway.

(2) COMBINATION VEHICLES IN EXCESS OF 80,000 POUNDS.—A vehicle referred to in paragraph (1) is a vehicle having a weight in excess of 80,000 pounds that—

(A) consists of a 3-axle tractor unit hauling a single trailer or semitrailer; and

(B) does not exceed any vehicle weight limitation that is applicable under the laws of the State of Maine to the operation of such vehicle on highways in Maine not in the Interstate System, as such laws are in effect on the date of the enactment of this section.

(3) EFFECTIVE DATE AND TERMINATION.—

(A) EFFECTIVE DATE.—

(i) DATE OF SATISFACTION OF ADMINISTRATIVE CONDITIONS BY MAINE.—The prohibition in paragraph (1) shall take effect on the date on which the Secretary of Transportation notifies the Commissioner of Transportation of the State of Maine in writing that—

(I) the Secretary has received the plan described in subsection (f)(1); and

(II) the Commissioner has established a highway safety committee as described in subsection (f)(2) and has promulgated rules and procedures for the collection of highway safety data as described in subsection (f)(3).

(ii) PERMANENT EFFECT.—After taking effect, the prohibition in paragraph (1) shall remain in effect unless terminated under subparagraph (B).

(B) CONTINGENT TERMINATION.—The prohibition in paragraph (1) shall terminate 3 years after the effective date applicable under subparagraph (A) if, before the end of such 3-year period, the Secretary of Transportation—

(i) determines that—

(I) operation of vehicles described in paragraph (2) on covered Interstate System highways in Maine has adversely affected safety on the overall highway network in Maine; or

(II) the Commissioner of Transportation of the State of Maine has failed faithfully to use the highway safety committee as described in subsection (f)(2)(A) or to collect data as described in subsection (f)(3); and

(ii) publishes the determination, together with the date of the termination of the prohibition, in the Federal Register.

(4) CONSULTATION REGARDING TERMINATION FOR SAFETY.—In making a determination under paragraph (3)(B)(i)(I), the Secretary of Transportation shall consult with the highway safety committee established by the Commissioner in accordance with subsection (f).

(f) RESPONSIBILITIES OF THE STATE OF MAINE.—For the purposes of subsection (e), the State of Maine satisfies the conditions of this subsection if the Commissioner of Transportation of the State of Maine—

(1) submits to the Secretary of Transportation a plan for satisfying the conditions set forth in paragraphs (2) and (3);

(2) establishes and chairs a highway safety committee that—

(A) the Commissioner uses to review the data collected pursuant to paragraph (3); and

(B) consists of representatives of—

(i) agencies of the State of Maine that have responsibilities related to highway safety;

(ii) municipalities of the State of Maine;

(iii) organizations that have evaluation or promotion of highway safety among their principal purposes; and

(iv) the commercial trucking industry; and

(3) collects data on the net effects that the operation of vehicles described in subsection (e)(2) on covered Interstate System highways have on the safety of the overall highway network in Maine, including the net effects on single-vehicle and multiple-vehicle collision rates for such vehicles.

SA 2371. Ms. SNOWE (for herself and Ms. COLLINS) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 1020, between lines 9 and 10, insert the following:

SEC. 4663. USE OF CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT FUNDS FOR BOSTON TO PORTLAND PASSENGER RAIL SERVICE.

Notwithstanding any other provision of law, funds authorized to be appropriated under section 1101(5) that are made available to the State of Maine may be used to support, through September 30, 2009, the operation of passenger rail service between Boston, Massachusetts, and Portland, Maine, including any extension of such service.

SA 2372. Ms. SNOWE submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle A of title IV, add the following:

PART 3—MISCELLANEOUS SAFETY PROVISIONS

SEC. 4171. PROHIBITION ON PURCHASE, RENTAL, LEASE, OR USE OF NONCOMPLYING 15-PASSENGER VANS FOR USE AS SCHOOL BUSES.

(a) PROHIBITION.—Section 30112(a) of title 49, United States Code, is amended—

(1) by inserting ''(1)'' before ''Except as provided in this section''; and

(2) by adding at the end the following:

''(2) Except as provided in this section, sections 30113 and 30114 of this title, and subchapter III of this chapter, a person may not, after September 30, 2008, purchase, rent, lease, or use any motor vehicle designed or used to transport 9 to 15 passengers that the person knows or reasonably should know will be used to a significant extent to transport preschool, primary, and secondary school students to or from school or an event related to school, unless the motor vehicle complies with the motor vehicle standards prescribed for school buses under section 30125 of this title.''.

(b) ENFORCEMENT.—Section 113(f) of title 49, United States Code, is amended—

(1) in paragraph (1), by striking ''and'' at the end;

(2) by redesignating paragraph (2) as paragraph (3); and

(3) by inserting after paragraph (1) the following new paragraph (2):

''(2) the enforcement of the prohibition under section 30112(a)(2) of this title; and''.

(c) LIMITATION ON APPLICATION.—The prohibition under section 30112(a)(2) of title 49, United States Code, as added by subsection (a), shall not apply to any purchase, rental, lease, or use of a motor vehicle required under a contract that was entered into before the date of enactment of this Act.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the prohibition under section 30112(a)(2) of title 49, United States Code, as added by subsection (a).

SEC. 4172. FEDERAL OUTREACH EFFORTS.

Between the date of enactment of this Act and October 1, 2008, the Secretary of Transportation, in consultation with the Administrator of the National Highway Traffic Safety Administration and the Administrator of the Federal Motor Carrier Safety Administration, shall conduct an aggressive outreach campaign regarding the use of motor vehicles designed or used to transport 9 to 15 passengers as school buses. The outreach campaign shall be designed to ensure the broadest practicable dissemination of outreach campaign information to—

(1) State departments of transportation;

(2) State departments of education;

(3) local school districts;

(4) public and private school principals and administrators; and

(5) public and private child care providers.

SEC. 4173. PENALTY.

Section 30165(a)(1) of title 49, United States Code, is amended—

(1) by striking ''A'' before ''person'' and inserting ''(A) Except as provided in subparagraph (B) of this paragraph, a''; and

(2) by adding at the end the following:

''(B) The maximum amount of a civil penalty under this paragraph shall be $25,000, in the case of—

''(i) the manufacture, sale, offer for sale, introduction or delivery for introduction into interstate commerce, or importation of a schoolbus or schoolbus equipment (as those terms are defined in section 30125(a) of this title) in violation of section 30112(a)(1) of this title; or

''(ii) a violation of section 30112(a)(2) of this title.

''(C) Subparagraph (B) shall not affect the maximum penalty that may be imposed under subparagraph (A) for a related series of violations.

''(D) Notwithstanding section 3302(b) of title 31, penalties collected under subparagraph (B)—

''(i) shall be credited as offsetting collections to the account that funds the enforcement of subparagraph (B);

''(ii) shall be available for expenditure only to pay the costs of such enforcement; and

''(iii) shall remain available until expended.''.

SA 2373. Ms. SNOWE submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title III add the following new section:

SEC. 3045. FUNDS FOR CAPITAL INVESTMENT FOR PUBLIC TRANSPORTATION.

(a) REPEAL OF AUTHORITY TO MAKE LOANS.—Section 5309(a) is amended—

(1) in paragraph (1), by striking ''and loans''; and

(2) in paragraph (2), by striking ''and loans''.

(b) GRANTS FOR FERRYBOAT PROJECTS.—Paragraph (1)(F) of such section is amended to read as follows:

''(F) capital projects to replace, rehabilitate, and purchase buses, ferryboats, and related equipment and to construct bus-related and ferryboat-related facilities;''.

(c) REPEAL OF AUTHORITY TO MAKE LOANS FOR REAL PROPERTY INTERESTS.—Section 5309(b) is repealed.

SA 2374. Ms. SNOWE (for herself, Mr. NELSON of Florida, Ms. COLLINS, Mr. GRAHAM of Florida, and Mr. JOHNSON) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of part 1 of subtitle B of title IV, add the following:

SEC. 4251. INCREASED MCSAP PARTICIPATION IMPACT STUDY.

(a) IN GENERAL.—If a State that did not receive its full allocation of funding under the Motor Carrier Safety Assistance Program during fiscal year 2003 agrees to enter into a cooperative agreement with the Secretary of Transportation to evaluate the safety impact, costs, and benefits of allowing such State to continue to participate fully in the Motor Carrier Safety Assistance Program, then the Secretary of Transportation shall allocate to that State the full amount of funds to which it would otherwise be entitled for fiscal years 2004, 2005, 2006, 2007, 2008, and 2009. The Secretary of Transportation may not add conditions to the cooperative agreement other than those directly relating to the accurate and timely collection of inspection and crash data sufficient to ascertain the safety and effectiveness of such State's program.

(b) REQUIREMENTS.—

(1) REPORT.—The State shall annually submit to the Secretary of Transportation, the results of the safety evaluations described in subsection (a).

(2) TERMINATION BY SECRETARY.—If the Secretary of Transportation finds that a cooperative agreement entered into under this section is not in the public interest based on the results of the annual evaluations after 2 years of full participation by the State, the Secretary of Transportation may terminate the cooperative agreement.

(c) PROHIBITION OF ADOPTION OF LESSER STANDARDS.—No State may enact or implement motor carrier safety regulations that are determined by the Secretary of Transportation to be less strict than those in effect as of September 30, 2003.

SA 2375. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 1062, beginning with line 11, strike through line 2 on page 1064.

SA 2376. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 115, between lines 9 and 10, insert the following:

SEC. 1309. USE OF PROCEEDS FROM CERTAIN REAL PROPERTY SALES.

Subsection (c) of section 156 of title 23, United States, is amended to read as follows:

''(c) USE OF FEDERAL SHARE OF INCOME.—The Federal share of net proceeds obtained by a State under subsection (a) shall be treated as Federal funds and applied by the State to meet the Federal share for projects eligible to receive funding under this title.''.

SA 2377. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

In section 139 of title 23, United States Code, as added by section 1201 of the amendment—

(1) strike ''SET-ASIDE.—'' in subsection (b)(2) and insert ''FUNDING.—'';

(2) strike ''of the amounts made available'' in subsection (b)(2) and insert ''the amounts made available'';

(3) strike ''$439,000,000'' in subsection (b)(2);

(4) strike ''allocated'' in subsection (c)(1)(A) and insert ''apportioned'';

(5) strike ''subsection (d).'' in subsection (c)(1)(B) and insert ''subsection (e).'';

(6) redesignate subsections (d) and (e) as subsections (e) and (f), respectively, and insert the following after subsection (c):

''(d) DISTRIBUTION OF FUNDS.—On October 1 of each fiscal year, the Secretary shall apportion the funds available for allocation under this section among the several States according to the ratio that—

''(1) the total funds apportioned to each State under the Federal-aid Highway Program, bears to

''(2) the total funds apportioned to all States under the Federal-aid Highway Program.''; and

(7) strike subsection (e), as redesignated, and insert the following:

''(e) REDISTRIBUTION OF ALLOCATED FUNDS AND OBLIGATION AUTHORITY.—On the date that is 180 days after the date of apportionment, or as soon thereafter as practicable, for each fiscal year, the Secretary shall—

''(1) withdraw—

''(A) any funds allocated to a State under this section that remain unobligated; and

''(B) an equal amount of obligation authority provided for the use of the funds in accordance with section 1101(a)(14) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003; and

''(2) reallocate the funds and redistribute the obligation authority to those States that—

''(A) have fully obligated all amounts allocated under this section for the fiscal year; and

''(B) demonstrate that the State is able to obligate additional amounts for projects eligible under this section before the end of the fiscal year.''.

''(f) DISTRIBUTION OF FUNDS.—

''(1) INFRASTRUCTURE PERFORMANCE AND MAINTENANCE PROGRAM DISTRIBUTION.—Notwithstanding section 1101(13) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004, and in lieu of the amounts authorized by that section, there are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for carrying out the infrastructure performance and maintenance program under this section—

''(A) $2,000,000,000 for each of fiscal years 2004 and 2005; and

''(B) $1,750,000,000 for each of fiscal years 2006, 2007, and 2008.

SA 2378. Mr. McCAIN submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

In section 139 of title 23, United States Code, as added by section 1201 of the amendment—

(1) strike ''SET-ASIDE.—'' in subsection (b)(2) and insert ''FUNDING.—'';

(2) strike ''of the amounts made available'' in subsection (b)(2) and insert ''the amounts made available'';

(3) strike ''$439,000,000'' in subsection (b)(2);

(4) strike ''allocated'' in subsection (c)(1)(A) and insert ''apportioned'';

(5) strike ''subsection (d).'' in subsection (c)(1)(B) and insert ''subsection (e).'';

(6) redesignate subsections (d) and (e) as subsections (e) and (f), respectively, and insert the following after subsection (c):

(d) DISTRIBUTION OF FUNDS.—On October 1 of each fiscal year, the Secretary shall apportion the funds available for allocation under this section among the several States according to the ratio that—

''(1) the percentage of tax payments attributable to highway users in each State paid into the Highway Trust Fund (other than the Mass Transit Account), bears to

''(2) the 100 percent of tax payments attributable to highway users in all States paid into the Highway Trust Fund (other than the Mass Transit Account).''; and

(7) strike subsection (e), as redesignated, and insert the following:

''(e) REDISTRIBUTION OF ALLOCATED FUNDS AND OBLIGATION AUTHORITY.—On the date that is 180 days after the date of apportionment, or as soon thereafter as practicable, for each fiscal year, the Secretary shall—

''(1) withdraw—

''(A) any funds allocated to a State under this section that remain unobligated; and

''(B) an equal amount of obligation authority provided for the use of the funds in accordance with section 1101(a)(14) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003; and

''(2) reallocate the funds and redistribute the obligation authority to those States that—

''(A) have fully obligated all amounts, allocated under this section for the fiscal year; and

''(B) demonstrate that the State is able to obligate additional amounts for projects eligible under this section before the end of the fiscal year.

''(f) APPLICATION WITH SECTION 105.—Notwithstanding section 105(a)(2)(H) of this title, section 105(a) shall not apply to funds apportioned under this section.''.

''(g) DISTRIBUTION OF FUNDS.—

''(1) INFRASTRUCTURE PERFORMANCE AND MAINTENANCE PROGRAM DISTRIBUTION.—Notwithstanding section 1101(13) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004, and in lieu of the amounts authorized by that section, there are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for carrying out the infrastructure performance and maintenance program under this section—

''(A) $2,000,000,000 for each of fiscal years 2004 and 2005; and

''(B) $1,750,000,000 for each of fiscal years 2006, 2007, and 2008.

SA 2379. Mr. MCCAIN (for himself and Mr. HOLLINGS) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 299, strike lines 2 through 8.

SA 2380. Mr. MCCAIN (for himself and Mr. HOLLINGS) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 508, beginning with line 1, strike through line 25 on page 515.

SA 2381. Mr. MCCAIN (for himself and Mr. HOLLINGS) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highways safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 287, beginning with line 12, strike through line 2 on page 288.

SA 2382. Mr. MCCAIN (for himself and Mr. HOLLINGS) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highways safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 79, beginning with line 11, strike through line 3 on page 80.

SA 2383. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highways safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 4601.

SA 2384. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highways safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 1005, beginning with line 13, strike through line 9 on page 1020 and insert the following:

SUBTITLE F—AMTRAK REAUTHORIZATION

SEC. 4601. AUTHORIZATION OF APPROPRIATIONS.

The text of section 24104 of title 49, United States Code, is amended to read as follows:

''There are authorized to be appropriated to the Secretary of Transportation $2,000,000,000 for each of fiscal years 2004, 2005, 2006, 2007, 2008, and 2009 for the benefit of intercity rail passenger service for operating and capital expenses.''.

SA 2385. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

In section 139 of title 23, United States Code, as added by section 1201 of the amendment—

(1) strike ''SET-ASIDE.—'' in subsection (b)(2) and insert ''Funding.—'';

(2) strike ''of the amounts made available'' in subsection (b)(2) and insert ''the amounts made available'';

(3) strike ''$439,000,000'' in subsection (b)(2);

(4) strike ''allocated'' in subsection (c)(1)(A) and insert ''apportioned'';

(5) strike ''subsection (d).'' in subsection (c)(1)(B) and insert ''subsection (e).'';

(6) redesignate subsections (d) and (e) as subsections (e) and (f), respectively, and insert the following after subsection (c):

''(d) DISTRIBUTION OF FUNDS.—On October 1 of each fiscal year, the Secretary shall apportion the funds available for allocation under this section among the several States according to the ratio that—

''(1) the total funds apportioned to each State under the Federal-aid Highway Program, bears to

''(2) the total funds apportioned to all States under the Federal-aid Highway Program.''; and

(7) strike subsection (e), as redesignated, and insert the following:

''(e) REDISTRIBUTION OF ALLOCATED FUNDS AND OBLIGATION AUTHORITY.—On the date that is 180 days after the date of apportionment, or as soon thereafter as practicable, for each fiscal year, the Secretary shall—

''(1) withdraw—

''(A) any funds allocated to a State under this section that remain unobligated; and

''(B) an equal amount of obligation authority provided for the use of the funds in accordance with section 1101(a)(14) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003; and

''(2) reallocate the funds and redistribute the obligation authority to those States that—

''(A) have fully obligated all amounts allocated under this section for the fiscal year; and

''(B) demonstrate that the State is able to obligate additional amounts for projects eligible under this section before the end of the fiscal year.''.

SA 2386. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

In section 139 of title 23, United States Code, as added by section 1201 of the amendment—

(1) strike ''SET-ASIDE.—'' in subsection (b)(2) and insert ''FUNDING.—'';

(2) strike ''of the amounts made available'' in subsection (b)(2) and insert ''the amounts made available'';

(3) strike ''$439,000,000'' in subsection (b)(2);

(4) strike ''allocated'' in subsection (c)(1)(A) and insert ''apportioned'';

(5) strike ''subsection (d).'' in subsection (c)(1)(B) and insert ''subsection (e).'';

(6) redesignate subsections (d) and (e) as subsections (e) and (f), respectively, and insert the following after subsection (c):

''(d) DISTRIBUTION OF FUNDS.—On October 1 of each fiscal year, the Secretary shall apportion the funds available for allocation under this section among the several States according to the ratio that—

''(1) the percentage of tax payments attributable to highway users in each State paid into the Highway Trust Fund (other than the Mass Transit Account), bears to

''(2) the 100 percent of tax payments attributable to highway users in all States paid into the Highway Trust Fund (other than the Mass Transit Account).''; and

(7) strike subsection (e), as redesignated, and insert the following:

''(e) REDISTRIBUTION OF ALLOCATED FUNDS AND OBLIGATION AUTHORITY.—On the date that is 180 days after the date of apportionment, or as soon thereafter as practicable, for each fiscal year, the Secretary shall—

''(1) withdraw—

''(A) any funds allocated to a State under this section that remain unobligated; and

''(B) an equal amount of obligation authority provided for the use of the funds in accordance with section 1101(a)(14) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003; and

''(2) reallocate the funds and redistribute the obligation authority to those States that—

''(A) have fully obligated all amounts allocated under this section for the fiscal year; and

''(B) demonstrate that the State is able to obligate additional amounts for projects eligible under this section before the end of the fiscal year.

''(f) APPLICATION WITH SECTION 105.—Notwithstanding section 105(a)(2)(H) of this title, section 105(a) shall not apply to funds apportioned under this section.''.

SA 2387. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highways safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

SEC. 1104. EQUITY PROVISION.

(a) IN GENERAL.—Section 105 of title 23, United States Code, is amended to read as follows:

''§ 105. Equity provision

''(a) GENERAL RULE.—For each of fiscal years 2004 through 2009, the Secretary shall ensure that the percentage of apportionments of each State is sufficient to ensure that, based on the percentage of tax payments attributable to highway users in each State paid into the Highway Trust Fund (other than the Mass Transit Account) in the latest fiscal year for which data are available, no State's percentage return from the Highway Trust Fund is less than 100 percent.

''(b) APPORTIONMENTS.—In making an apportionment described in subsection (a) for a fiscal year, the Secretary shall ensure that the rate of return of each State from the Highway Trust Fund includes the total apportionments made for the fiscal year for—

''(1) the Interstate maintenance program under section 119;

''(2) the National Highway System under section 103;

''(3) the bridge program under section 144;

''(4) the surface transportation program under section 133;

''(5) the congestion mitigation and air quality improvement program under section 149;

''(6) the highway safety improvement program under section 148;

''(7) the Appalachian development highway system program under section 170;

''(8) the recreational trails program under section 206;

''(9) the metropolitan planning program under section 104(f);

''(10) the safe routes to school program under section 150; and

''(11) the railway-highway crossings under section 130.

''(c) ADJUSTMENTS.—

''(1) IN GENERAL.—If in any of fiscal years 2004 through 2009, the total of the amounts authorized under (a) and (b) is more than the amounts listed in paragraph (2), then the Secretary shall proportionally reduce the amounts apportioned under paragraphs (1) through (6) so that the total equals the amount listed under paragraph (2). In making such reductions, the Secretary shall ensure that no State's percentage return from the Highway Trust Fund (other than the Mass Transit Account) is less than 100 percent.

''(2) AMOUNTS.—The amount listed in this paragraph is as follows:

''(A) the amount for 2004 is $35,419,162,743.

''(B) the amount for 2005 is $38,142,851,998.

''(C) the amount for 2006 is $39,323,247,546.

''(D) the amount for 2007 is $39,084,010,054.

''(E) the amount for 2008 is $39,386,404,896.

''(F) the amount for 2009 is $44,789,782,206.

''(3) NEGATIVE AMOUNTS.—If the reduction required by paragraph (1) for any fiscal year would result in zero or a negative number, then the Secretary shall apportion the amount for that fiscal year set forth in paragraph (2) among the several States using the formula in subsection (a).

''(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) such sums as may be necessary to carry out this section for each of fiscal years 2004 through 2009.

''(e) PROGRAMMATIC DISTRIBUTION OF FUNDS.—

''(1) INITIAL DISTRIBUTION.—The Secretary shall apportion $2,500,000,000 of the amounts made available under this section to each State in accordance with section 119.

''(2) REMAINDER DISTRIBUTION.—The Secretary shall apportion the remainder of the amounts made available under this section so that the amount apportioned to each State for each program referred to in paragraphs (1) through (6) of subsection (b) is equal to the amount determined by multiplying the amount to be apportioned under this paragraph by the ratio that—

(A) the amount of funds apportioned to each State for each program referred to in those paragraphs for a fiscal year, bears to

(B) the total amount of funds apportioned to each State for such program for that fiscal year.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 104(b) of title 23, United States Code, is amended—

(A) by inserting ''50 percent of'' after ''Highway, and'' in paragraph (1)(A);

(B) by redesignating subparagraph (B) of paragraph (1) as subparagraph (C) and inserting the following after subparagraph (A):

''(B) The remaining 50 percent of the funds apportioned under subparagraph (A) shall be apportioned in the ratio described in paragraph (3)(A).'';

(C) by striking paragraph (3)(A) and inserting the following:

''(A) IN GENERAL.—For the surface transportation program, in the ratio that—

''(i) the estimated tax payments attributable to highway users in each State paid into the Highway Trust fund (other than the Mass Transit Account) in the latest fiscal year for which data are available, bears to

''(ii) the estimated tax payments attributable to highway users in all States paid into the Highway Trust fund (other than the Mass Transit Account) in the latest fiscal year for which data are available.'';

(D) by striking ''For'' in paragraph (4) and inserting ''Fifty percent of the funds for''; and

(E) by adding at the end of paragraph (4) the following:

''(The remaining 50 percent of such funds shall be apportioned in the ratio described in paragraph (3)(A).''.

(2) The chapter analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 105 and inserting the following:

''105. Equity provision''.

Strike paragraph (13) of section 1101 of the amendment and redesignate paragraphs (14) and (15) as paragraphs (13) and (14), respectively.

SA 2388. Mrs. HUTCHISON (for herself, Mr. KYL, Mr. LEVIN, Mr. GRAHAM of Florida, Mr. MCCAIN, Ms. STABENOW, and Mrs. FEINSTEIN) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

In section 139 of title 23, United States Code, as added by section 1201 of the amendment—

(1) strike ''SET-ASIDE.—'' in subsection (b)(2) and insert ''FUNDING.—''

(2) strike ''of the amounts made available'' in subsection (b)(2) and insert ''the amounts made available'';

(3) strike ''$439,000,000'' in subsection (b)(2);

(4) strike ''allocated'' in subsection (c)(1)(A) and insert ''apportioned'';

(5) strike ''subsection (d).'' in subsection (c)(1)(B) and insert ''subsection (e).'';

(6) redesignate subsections (d) and (e) as subsections (e) and (f), respectively, and insert the following after subsection (c):

''(d) DISTRIBUTION OF FUNDS.—

''(1) INFRASTRUCTURE PERFORMANCE AND MAINTENANCE PROGRAM DISTRIBUTION.—Nothwithstanding subsection 1101(13) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004, and in lieu of the amounts authorized by that section, there are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for carrying out the infrastructure performance and maintenance program under this section—

''(A) $2,000,000,000 for each of fiscal years 2004 and 2005; and

''(B) $1,750,000,000 for each of fiscal years 2006, 2007, and 2008.

''(2) EQUITY DISTRIBUTION.—On October 1 of each fiscal year, the Secretary shall reserve a sufficient amount of the funding available to carry out this section to provide a final equity adjustment, after making the apportionment under section 105 of this title, for each State to increase the percentage return of all highway apportionments, as compared to the tax payments attributable to the States paid into the Highway Trust Fund (other than the Mass Transit Account), to—

''(A) for fiscal year 2005, 91 percent;

''(B) for fiscal year 2006, 92 percent;

''(C) for fiscal year 2007, 93 percent;

''(D) for fiscal year 2008, 94 percent;

''(E) for fiscal year 2009, 95 percent.

''(3) REMAINDER DISTRIBUTION.—On October 1 of each fiscal year, the Secretary shall apportion the funds available for allocation under this section among the several States, after the application of paragraph (1), according to the ratio that—

''(1) the percentage of tax payments attributable to highway users in each State paid into the Highway Trust Fund (other than the Mass Transit Account), bears to

''(2) 100 percent of tax payments attributable to highway users in all States paid into the Highway Trust Fund (other than the Mass Transit Account).''; and

(7) strike subsection (e), as redesignated, and insert the following:

''(e) REDISTRIBUTION OF ALLOCATED FUNDS AND OBLIGATION AUTHORITY.—On the date that is 180 days after the date of apportionment, or as soon thereafter as practicable, for each fiscal year, the Secretary shall—

''(1) withdraw—

''(A) any funds allocated to a State under this section that remain unobligated; and

''(B) an equal amount of obligation authority provided for the use of the funds in accordance with section 1101(a)(13) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003; and

''(2) reallocate the funds and redistribute the obligation authority to those States that—

''(A) have fully obligated all amounts allocated under this section for the fiscal year; and

''(B) demonstrate that the State is able to obligate additional amounts for projects eligible under this section before the end of the fiscal year.

''(f) APPLICATION WITH SECTION 105.—Notwithstanding section 105(a)(2)(H) of this title, section 105(a) shall not apply to funds apportioned under this section.''.

SA 2389. Mrs. HUTCHISON submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title IV, add the following:

SEC. 4663. AMTRAK CAPITAL EXPENDITURES NORTHEAST CORRIDOR LIMIT.

Notwithstanding any other provision of law, Amtrak may not expend more than 50 percent of its total expenditures for capital projects in any fiscal year for such projects on any one Corridor.

SA 2390. Mrs. HUTCHISON submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ———. SECTION 49(f) POLICY ON LANDS, WILDLIFE AND WATERFOWL REFUGES, AND HISTORIC SITES.

(a) IN GENERAL.—Section 138 of title 23, United States Code, and section 303 of title

49, United States Code, are each amended by adding at the end the following matter with appropriate subsection designation:

''( ) TREATMENT OF HISTORIC SITES.—The requirements of this section are deemed to be satisfied where the treatment of an historic site (other than a National Historic Landmark) has been agreed upon in accordance with section 106 of the National Historic Preservation Act (16 U.S.C. 470f). The Secretary, in consultation with the Advisory Council on Historic Preservation, shall develop administrative procedures to review the implementation of this subsection to ensure that the objectives of the National Historic Preservation Act are being met.''.

(b) ADMINISTRATION.—

(1) APPROVAL OF STATE REQUESTS FOR FUNDS.—The Secretary of Transportation may approve a request by a State to provide funds made available under chapter 1 of title 23, United States Code, to a State historic preservation office, Tribal historic preservation office, or to the Advisory Council on Historic Preservation to provide the resources necessary to expedite the historic preservation review and consultation process under section 138 of title 23, section 303 of title 49, and under section 470f of title 16, United States Code.

(2) STATE FUNDING.—The Secretary shall encourage States to provide such funding to State historic preservation officers, Tribal historic preservation officers or the Advisory Council on Historic Preservation where the investment of such funds will accelerate completion of a project or classes of projects or programs by reducing delays in historic preservation review and consultation.

(3) ADDITIONAL AMOUNTS.—The Secretary may approve requests under paragraph (1) only—

(A) for the additional amounts that the Secretary determines are necessary for a State historic preservation office, Tribal historic preservation office, or the Advisory Council on Historic Preservation to expedite the review and consultation process; and

(B) only where the Secretary determines that such additional amounts will permit completion of the historic preservation process in less than the time customarily required for such process.

SA 2391. Mrs. HUTCHISON submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title IV, add the following:

SEC. 4663. AMTRAK EXPENDITURES NORTHEAST CORRIDOR LIMIT.

Notwithstanding any other provision of law, Amtrak may not expend more than 50 percent of its total expenditures for capital projects and operations in any fiscal year for such projects and operations on any one Corridor.

SA 2392. Mr. BURNS submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 487, after line 23, insert the following:

SEC. 2105. WIDEBAND MULTI-BAND MOBILE PILOT PROJECTS.

(a) IN GENERAL.—The Secretary shall make grants for wideband multi-media mobile pilot projects to demonstrate emergency communications systems that provide wideband, two-way information transfer capabilities utilizing the public safety spectrum made available by the Federal Communications Commission in the 700 MHz radio frequency band and that are compliant with the public safety wideband data standard TIA–902 as recommended as the wideband data interoperability standard by the Public Safety National Coordinating Committee to the Federal Communications Commission.

(b) LOCATIONS.—Not later than 90 days after the date of enactment of this Act, the Secretary shall establish locations for pilot projects under this section. In determining pilot project locations, the Secretary shall certify that pilot project locations awarded grants have spectrum available for public safety purposes and are in the 700 MHz band pursuant to the Federal Communications Commission's rules.

(c) LIMIT ON TIME.—Grants under this section shall be awarded not later than 12 months after the date of enactment of this Act.

(d) FUNDING.—Of amounts made available under section 2001(a)(4), $40,000,000 shall be available to carry out this section.

SA 2393. Mr. BURNS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 764, between lines 4 and 5, insert the following new subsection:

''(i) MINIMUM APPORTIONMENT AND CRITERIA.—

''(1) MINIMUM APPORTIONMENT.—Notwithstanding any other provision of this section, the Secretary shall grant to any State that qualifies under paragraph (2) and has not received, as a result of other provisions of this section, at least ½ of 1 percent of the total funds authorized for a fiscal year for grants under this section, such additional funds as are necessary to result in such State receiving ½ of 1 percent of the total funds authorized for grants under this section for that fiscal year. Funds for grants under this subsection shall be derived from pro-rata reduction of grant amounts that otherwise would be awarded pursuant to other subsections of this section.

''(2) CRITERIA.—To qualify for a grant under this subsection, a State—

''(A) shall meet the requirements of subsection (a)(2) of this section; and

''(B) shall—

''(i) meet 4 of the 7 criteria for qualifying for grants under subsection (b)(1) of this section (as that subsection was as in effect for fiscal year 2003 funding);

''(ii) for the most recent year for which data is available, have an alcohol-related fatality rate per 100 million vehicle miles traveled that is either lower than the national average for that year or lower than the rate in that State in the second most recent year for which data is available; or

''(iii) for the most recent 3 years for which data is available, have an average alcohol-related fatality rate per 100 million vehicle miles traveled that is either lower than the average of the national rate for those 3 years or lower than the average of such rate in that State for the fourth, fifth, and sixth most recent years for which data is available.

''(3) USES OF FUNDS.—Grants under this subsection may be used for—

''(A) any activity that was an eligible use of grants under this section for fiscal year 2003;

''(B) any activity otherwise eligible under this section; and

''(C) any other activity undertaken by the State for the purpose of reducing impaired driving unless disapproved by the Secretary on the basis that it bears no relation to that objective.''

SA 2394. Mr. DAYTON submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, add the following:

SEC. 1106. ADDITIONAL FUNDING.

(a) IN GENERAL.—In addition to the funds made available for each surface transportation program by this Act and amendments made by this Act, there shall be available for each such program for the period beginning on the date of enactment of this Act and ending September 30, 2009, from the general fund of the Treasury, an amount equal to the difference between—

(1) the amount of funds made available for the program under this Act (other than this section) and amendments made by this Act; and

(2) the amount of funds made available for the program under the Transportation Equity Act for the 21st Century (Public Law 105–178) and amendments made by that Act.

(b) ADMINISTRATIVE ACTION.—

(1) IN GENERAL.—Not later than 2 business days after the date of enactment of this Act, the Secretary of the Treasury shall transfer to the Secretary the total amount made available for Federal-aid highway programs by subsection (a).

(2) RECEIPT, ACCEPTANCE, AND TREATMENT OF FUNDS.—The Secretary shall—

(A) be entitled to receive, and shall accept, the funds transferred under paragraph (1), without further appropriation; and

(B) apportion, allocate, deduct, or set aside, as the case may be, in accordance with title 23, United States Code (as in effect on the day before the date of enactment of this Act), the funds transferred under paragraph (1).

(c) OBLIGATION AUTHORITY.—Funds made available by this section shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code.

SA 2395. Mr. MCCAIN (for himself and Mr. HOLLINGS) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 1020, between lines 9 and 10, insert the following:

SUBTITLE C—INTERMODAL EQUIPMENT SAFETY

SEC. 181. FINDINGS.

The Congress finds the following:

(1) Promoting the safety of our Nation's highways is a national priority. The Department of Transportation has promulgated the Federal Motor Carrier Safety Regulations to further this purpose. The systematic maintenance, repair, and inspection of equipment

traveling in interstate and foreign commerce are an integral part of the safety regime.

(2) Motor carriers and their drivers that receive intermodal chassis and trailers from others, generally do not have an opportunity to perform the systematic maintenance of such equipment.

(3) Available evidence indicates that intermodal chassis and trailers operated on the highways in interstate and foreign commerce are sometimes out of compliance with the Federal Motor Carrier Safety Regulations, but no party is clearly held responsible for the systematic maintenance of the intermodal chassis and trailers prior to operation on the highways.

(4) Responsibility for compliance with the Federal Motor Carrier Safety Regulations must be shared between the owners or others that make intermodal chassis and trailers available for transport and the motor carriers that transport such equipment.

SEC. 182. DEFINITIONS.

Section 31132 of title 49, United States Code, is amended by adding at the end the following:

''(11) 'Intermodal equipment' means equipment that is commonly used in the intermodal transportation of freight over public highways as an instrumentality of interstate or foreign commerce, including trailers, chassis, and any similar devices.

''(12) 'Intermodal equipment interchange agreement' means a written document executed by an intermodal equipment provider or its agent and a motor carrier or its agent, whose primary purpose it is to which establish the responsibilities and liabilities of both parties with respect to the interchange of the intermodal equipment.

''(13) 'Intermodal equipment provider' means any party with any legal right, title, interest, or contractual obligation in intermodal equipment that interchanges such equipment to a motor carrier and registers such equipment with the United States Department of Transportation pursuant to this subtitle.

''(14) 'Interchange' means the act of providing intermodal equipment to a motor carrier for the purpose of transporting the equipment for loading or unloading by any party or repositioning the equipment for the benefit of the equipment provider. Such term does not mean the leasing of equipment to a motor carrier for use in the motor carrier's over-the-road freight hauling operations.''.

SEC. 183. JURISDICTION OVER EQUIPMENT PROVIDERS; PROHIBITION ON RETALIATION.

Section 31136 of title 49, United States Code, is amended by adding at the end the following:

''(g) INSPECTION, REPAIR, AND MAINTENANCE OF INTERMODAL EQUIPMENT.—

''(1) AUTHORITY TO REGULATE.—The term 'commercial motor vehicle' as defined in section 31132(1) of this title includes intermodal equipment commonly used in the road transportation of intermodal freight, including trailers, chassis and associated devices. The Secretary, or an employee designated by the Secretary, may on demand and display of proper credentials to inspect intermodal equipment and inspect and copy related maintenance and repair records.

''(2) RESPONSIBILITY FOR MAINTENANCE, REPAIR, AND INSPECTION.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), notwithstanding any provision in an intermodal equipment interchange agreement to the contrary, an intermodal equipment provider shall be responsible for the systematic inspection, maintenance, and repair of intermodal equipment interchanged, or intended for interchange, to ensure that such equipment complies with all applicable Federal Motor Carrier Safety Regulations.

''(B) MOTOR CARRIER LEASES.—Notwithstanding subparagraph (A), a motor carrier that leases intermodal equipment from an intermodal equipment provider shall be responsible for the systematic maintenance, repair, and inspection of such equipment for the duration of the lease.

''(3) NEGLIGENCE; WILLFUL MISCONDUCT.—Notwithstanding paragraph (2), an intermodal equipment provider shall not be responsible for noncompliance with the Federal Motor Carrier Safety Regulations caused by the negligence or willful misconduct of a motor carrier or its agent to which intermodal equipment has been interchanged.

''(h) PROHIBITION ON RETALIATION.—An intermodal equipment provider may not take any action to threaten, coerce, discipline, discriminate, or otherwise retaliate against a driver or motor carrier in response to a report or complaint made by a driver or motor carrier that the maintenance or repair of intermodal equipment intended for interchange, or actually interchanged, failed to comply with the applicable Federal Motor Carrier Safety Regulations. It shall not be a violation of this subsection for an intermodal equipment provider to refuse to interchange intermodal equipment to a driver or motor carrier for legitimate business reasons, as determine by the Secretary, including a driver's or motor carrier's failure to pay debts owed to an intermodal equipment provider.''.

SEC. 184. PREEMPTION OF STATE LAWS.

(a) COMPATIBILITY.—

(1) The first sentence of section 31141(c)(1) of title 49, United States Code, is amended to read as follows: ''Except as provided by subsection (h) of this section, the Secretary shall review State laws and regulations on commercial motor vehicle safety.''.

(2) Section 31141 of title 49, United States Code, is amended by adding at the end the following:

''(h) PREEMPTION GENERALLY.—Except as otherwise authorized by Federal law, a law, regulation, order or other requirement of a State, a political subdivision of a State, or a tribal organization, is preempted if compliance with such law, regulation, order, or other requirement would exceed or otherwise be inconsistent with a requirement imposed under or pursuant to this chapter.''.

SEC. 185. IMPLEMENTING REGULATIONS.

(a) REGULATIONS.—the Secretary of Transportation, after notice and opportunity for comment, shall issue regulations implementing the provisions of section 31136(g) of title 49, United States Code. The regulations shall be issued as part of the Federal Motor Carrier Safety Regulations of the Department of Transportation and shall include—

(1) a requirement to identify providers of intermodal equipment that is interchanged or intended for interchange to motor carriers in intermodal transportation;

(2) a requirement to match such intermodal equipment readily to the intermodal equipment provider through a unique identifying number;

(3) a requirement to ensure that each intermodal equipment provider maintains a system of maintenance and repair records for such equipment;

(4) a requirement to evaluate the compliance of intermodal equipment providers with the applicable Federal Motor Carrier Safety Regulations;

(5) a provision that—

(A) establishes a civil penalty structure consistent with section 521(b) of title 49, United States Code, for intermodal equipment providers that fail to attain satisfactory compliance with applicable Federal Motor Carrier Safety Regulations; and

(B) prohibits intermodal equipment providers from placing intermodal equipment on the public highways if such providers are found to be unfit under section 31144 of this title;

(6) a process by which motor carriers and agents of motor carriers may confidentially petition the Federal Motor Carrier Safety Administration to undertake an investigation of noncompliant intermodal equipment provider;

(7) a process by which an equipment provider or its agent may confidentially petition the Federal Motor Carrier Safety Administration to undertake an investigation of noncompliant motor carriers;

(8) a process by which drivers or motor carriers would be required to report any damage or defect in intermodal equipment at the time the equipment is returned to the equipment provider; and

(9) an inspection and audit program of intermodal equipment providers.

(b) TIME FOR ISSUING REGULATIONS.—The regulations required under subsection (a) shall be developed pursuant to a rulemaking proceeding initiated not later than 120 days after the date of enactment of this Act and shall be issued not later than 1 year after such date of enactment.

SEC. 186. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Federal Motor Carrier Safety Administration $1,500,000 for the establishment and implementation of the inspection program described in section 185(a)(7) of this subtitle.

SA 2396. Mr. DEWINE submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 792, between lines 15 and 16, insert the following:

PART 3—MISCELLANEOUS PROVISIONS

SEC. 4171. DRIVER LICENSING AND EDUCATION.

(a) NATIONAL OFFICE OF DRIVER LICENSING AND EDUCATION.—Section 105 of title 49, United States Code, is amended by adding at the end the following new subsection:

''(f)(1) There is a National Office of Driver Licensing and Education in the National Highway Traffic Safety Administration.

''(2) The head of the National Office of Driver Licensing and Education is the Director.

''(3) The functions of the National Office of Driver Licensing and Education are as follows:

''(A) To provide States with services for coordinating the motor vehicle driver training and licensing programs of the States.

''(B) To develop and make available to the States a recommended comprehensive model for motor vehicle driver education and graduated licensing that incorporates the best practices in driver education and graduated licensing, including best practices with respect to—

''(i) vehicle handling and crash avoidance;

''(ii) driver behavior and risk reduction;

''(iii) roadway features and associated safety implications;

''(iv) roadway interactions involving all types of vehicles and road users, such as car-truck and pedestrian-car interactions;

''(v) parent education; and

''(vi) other issues identified by the Director.

''(C) To carry out such research (pursuant to cooperative agreements or otherwise) and undertake such other activities as the Director determines appropriate to develop and, on an ongoing basis, improve the recommended comprehensive model.

''(D) To provide States with technical assistance for the implementation and deployment of the motor vehicle driver education and licensing comprehensive model recommended under subparagraph (B).

''(E) To develop and recommend to the States methods for harmonizing the presentation of motor vehicle driver education and licensing with the requirements of multistage graduated licensing systems, including systems described in section 410(c)(4) of title 23, and to demonstrate and evaluate the effectiveness of those methods in selected States.

''(F) To assist States with the development and implementation of programs to certify driver education instructors, including the development and implementation of proposed uniform certification standards.

''(G) To provide States with financial assistance under section 412 of title 23 for—

''(i) the implementation of the motor vehicle driver education and licensing comprehensive model recommended under subparagraph (B);

''(ii) the establishment or improved administration of multistage graduated licensing systems; and

''(iii) the support of other improvements in motor vehicle driver education and licensing programs.

''(H) To evaluate the effectiveness of the comprehensive model recommended under subparagraph (B).

''(I) To examine different options for delivering driver education in the States.

''(J) To perform such other functions relating to motor vehicle driver education or licensing as the Secretary may require.

''(4) Not later than 42 months after the date of the enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004, the Director shall submit to Congress a report on the progress made by the National Office of Driver Licensing and Education with respect to the functions under paragraph (3).''.

(b) GRANT PROGRAM FOR IMPROVEMENT OF DRIVER EDUCATION AND LICENSING.—

(1) AUTHORITY.—

(A) IN GENERAL.—Chapter 4 of title 23, United States Code, is amended by adding at the end the following new section:

''SEC. 412. DRIVER EDUCATION AND LICENSING.

''(a) AUTHORITY.—

''(1) IN GENERAL.—The Secretary shall carry out a program to provide States, by grant, with financial assistance to support the improvement of motor vehicle driver education programs and the establishment and improved administration of graduated licensing systems, including systems described in section 410(c)(4) of this title.

''(2) ADMINISTRATIVE OFFICE.—The Secretary shall administer the program under this section through the Director of the National Office of Driver Licensing and Education.

''(b) ELIGIBILITY REQUIREMENTS.—

''(1) REGULATIONS.—The Secretary shall prescribe in regulations the eligibility requirements, application and approval procedures and standards, and authorized uses of grant proceeds for the grant program under this section. The regulations shall, at a minimum, authorize use of grant proceeds for the following activities:

''(A) Quality assurance testing, including follow-up testing to monitor the effectiveness of—

''(i) driver licensing and education programs;

''(ii) instructor certification testing; and

''(iii) other statistical research designed to evaluate the performance of driver education and licensing programs.

''(B) Improvement of motor vehicle driver education curricula.

''(C) Training of instructors for motor vehicle driver education programs.

''(D) Testing and evaluation of motor vehicle driver performance.

''(E) Public education and outreach regarding motor vehicle driver education and licensing.

''(F) Improvements with respect to State graduated licensing programs, as well as related enforcement activities.

''(2) CONSULTATION REQUIREMENT.—In prescribing the regulations, the Secretary shall consult with the following:

''(A) The Administrator of the National Highway Traffic Safety Administration.

''(B) The heads of such other departments and agencies of the United States as the Secretary considers appropriate on the basis of relevant interests or expertise.

''(C) Appropriate officials of the governments of States and political subdivisions of States.

''(D) Other relevant experts.

''(c) MAXIMUM AMOUNT OF GRANT.—The maximum amount of a grant of financial assistance for a program, project, or activity under this section may not exceed 75 percent of the total cost of such program, project, or activity.''.

(B) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

''412. Driver education and licensing.''.

(2) TIME FOR PROMULGATION OF REGULATIONS.—The Secretary of Transportation shall promulgate the regulations under section 412(b) of title 23, United States Code (as added by paragraph (1)), not later than October 1, 2005.

(c) GRANT PROGRAM FOR PUBLIC AWARENESS OF ORGAN DONATION THROUGH DRIVER LICENSING PROGRAMS.—

(1) AUTHORITY.—

(A) IN GENERAL.—Chapter 4 of title 23, United States Code (as amended by subsection (b)), is further amended by adding at the end the following new section:

''SEC. 413. ORGAN DONATION THROUGH DRIVER LICENSING.

''(a) AUTHORITY.—

''(1) IN GENERAL.—The Secretary shall carry out a program to provide eligible recipients, by grant, with financial assistance to carry out campaigns to increase public awareness of, and training on, authority and procedures under State law to provide for the donation of organs through a declaration recorded on a motor vehicle driver license.

''(2) ADMINISTRATIVE OFFICE.—The Secretary shall administer the program under this section through the Director of the National Office of Driver Licensing and Education.

''(b) ELIGIBILITY REQUIREMENTS.—

''(1) REGULATIONS.—The Secretary shall prescribe in regulations the eligibility requirements, application and approval procedures and standards, and authorized uses of grant proceeds for the grant program under this section.

''(2) CONSULTATION REQUIREMENT.—In prescribing the regulations, the Secretary shall consult with the following:

''(A) The Administrator of the National Highway Traffic Safety Administration.

''(B) The heads of such other departments and agencies of the United States as the Secretary considers appropriate on the basis of relevant interests or expertise.

''(C) Appropriate officials of the governments of States and political subdivisions of States.

''(D) Representatives of private sector organizations recognized for relevant expertise.''.

(B) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

''413. Organ donation through driver licensing.''.

(2) TIME FOR PROMULGATION OF REGULATIONS.—The Secretary of Transportation shall promulgate the regulations under section 413(b) of title 23, United States Code (as added by paragraph (1)), not later than October 1, 2005.

(d) STUDY OF NATIONAL DRIVER EDUCATION STANDARDS.—

(1) REQUIREMENT FOR STUDY.—The Secretary of Transportation shall carry out a study to determine whether the establishment and imposition of nationwide minimum standards of motor vehicle driver education would improve national highway traffic safety or the performance and legal compliance of novice drivers.

(2) TIME FOR COMPLETION OF STUDY.—The Secretary shall complete the study not later than 2 years after the date of the enactment of this Act.

(3) REPORT.—The Secretary shall publish a report on the results of the study under this section not later than 2 years after the study is completed.

(e) AUTHORIZATION OF APPROPRIATIONS.—Of the amounts available to carry out section 403 of title 23, United States Code, for each of the fiscal years 2005 through 2010, $5,000,000 may be made available for each such fiscal year to carry out sections 412 and 413 of title 23, United States Code (as added by subsections (b) and (c), respectively).

SEC. 4172. AMENDMENT OF AUTOMOBILE INFORMATION DISCLOSURE ACT.

(a) SAFETY LABELING REQUIREMENT.—Section 3 of the Automobile Information Disclosure Act (15 U.S.C. 1232) is amended by adding at the end the following:

''(g) if one or more safety ratings for such automobile have been assigned and formally published or released by the National Highway Traffic Safety Administration under the New Car Assessment Program, information about safety ratings that—

''(1) includes a graphic depiction of the number of stars that corresponds to each such assigned safety rating displayed in a clearly differentiated fashion from stars indicating the unattained safety rating;

''(2) refers to frontal impact crash tests, side impact crash tests, and rollover resistance tests (whether or not such automobile has been assigned a safety rating for such tests), including statements that—

''(A) frontal impact crash test ratings are based on risk of head and chest injury;

''(B) side impact crash test ratings are based on risk of chest injury; and

''(C) rollover resistance ratings are based on risk of rollover in the event of a single automobile crash;

''(3) is presented in a legible, visible, and prominent fashion and covers at least—

''(A) 8 percent of the total area of the label; or

''(B) an area with a minimum length of 4 ½ inches and a minimum height of 3 ½ inches; and

''(4) contains a heading titled 'Government Safety Information' and a disclaimer including the following text: 'Star ratings for frontal impact crash tests can only be compared to other vehicles in the same weight class and those plus or minus 250 pounds. Side impact and rollover ratings can be compared across all vehicle weights and classes. For more information on safety and testing, please visit http://www.nhtsa.dot.gov'; and

''(h) if an automobile has not been tested by the National Highway Traffic Safety Administration under the New Car Assessment Program, or safety ratings for such automobile have not been assigned in one or more rating categories, a statement to that effect.''.

(b) REGULATIONS.—Not later than January 1, 2005, the Secretary of Transportation shall prescribe regulations to implement the labeling requirements under subsections (g)

and (h) of section 3 of such Act (as added by subsection (a)).

(c) CONFORMING AND TECHNICAL AMENDMENTS.—Section 3 of such Act is further amended—

(1) in subsection (e), by striking ''and'' after the semicolon; and

(2) in subsection (f)—

(A) by adding ''and'' at the end of paragraph (3); and

(B) by striking the period at the end and inserting a semicolon.

(d) APPLICABILITY.—The labeling requirements under subsections (g) and (h) of section 3 of such Act (as added by subsection (a)), and the regulations prescribed under subsection (b), shall apply to new automobiles delivered on or after—

(1) September 1, 2005, if the regulations under subsection (b) are prescribed not later than August 31, 2004; or

(2) September 1, 2006, if the regulations under subsection (b) are prescribed after August 31, 2004.

SEC. 4173. CHILD SAFETY.

(a) INCORPORATION OF CHILD DUMMIES IN SAFETY TESTS.—

(1) RULEMAKING REQUIRED.—Not later than 2 years after the date of the enactment of this Act, the Administrator of the National Highway Traffic Safety Administration shall conduct a rulemaking to increase utilization of child dummies, including Hybrid-III child dummies, in motor vehicle safety tests, including crash tests, conducted by the Administration.

(2) CRITERIA.—In conducting the rulemaking under subsection (a), the Administrator shall select motor vehicle safety tests in which the inclusion of child dummies will lead to—

(A) increased understanding of crash dynamics with respect to children; and

(B) measurably improved child safety.

(3) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary of Transportation shall publish a report regarding the implementation of this section.

(b) CHILD SAFETY IN ROLLOVER CRASHES.—

(1) CONSUMER INFORMATION PROGRAM.—Not later than 2 years after the date of the enactment of this Act, the Secretary of Transportation shall implement a consumer information program relating to child safety in rollover crashes. The Secretary shall make information related to the program available to the public following completion of the program.

(2) CHILD DUMMY DEVELOPMENT.—

(A) IN GENERAL.—The Administrator of the National Highway Traffic Safety Administration shall initiate the development of a biofidelic child crash test dummy capable of measuring injury forces in a simulated rollover crash.

(B) REPORTS.—The Secretary shall submit to Congress a report on progress related to such development—

(i) not later than 1 year after the date of the enactment of this Act; and

(ii) not later than 3 years after the date of the enactment of this Act.

(c) REPORT ON ENHANCED VEHICLE SAFETY TECHNOLOGIES.—Not later than 2 years after the date of the enactment of this Act, the Secretary of Transportation shall submit to Congress a report that describes, evaluates, and determines the relative effectiveness of—

(1) currently available and emerging technologies, including auto-reverse functions and child-safe window switches, that are designed to prevent and reduce the number of injuries and deaths to children left unattended inside parked motor vehicles, including injuries and deaths that result from hyperthermia or are related to power windows or power sunroofs; and

(2) currently available and emerging technologies that are designed to improve the performance of safety belts with respect to the safety of occupants aged between 4 and 8 years old.

(d) COMPLETION OF RULEMAKING REGARDING POWER WINDOWS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Transportation shall—

(1) complete the rulemaking initiated by the National Highway Traffic Safety Administration that is ongoing on the date of the enactment of this Act and relates to a requirement that window switches be designed to reduce the accidental closing by children of power windows; and

(2) issue performance-based regulations to take effect not later than September 1, 2006, requiring that window switches or related technologies be designed to prevent the accidental closing by children of power windows.

(e) DATABASE ON INJURIES AND DEATHS IN NONTRAFFIC, NONCRASH EVENTS.—

(1) IN GENERAL.—The Secretary of Transportation shall establish a new database of, and collect data regarding, injuries and deaths in nontraffic, noncrash events involving motor vehicles. The database shall include information regarding—

(A) the number, types, and proximate causes of injuries and deaths resulting from such events;

(B) the characteristics of motor vehicles involved in such events;

(C) the characteristics of the motor vehicle operators and victims involved in such events; and

(D) the presence or absence in motor vehicles involved in such events of advanced technologies designed to prevent such injuries and deaths.

(2) RULEMAKING.—The Secretary shall conduct a rulemaking regarding how to structure and compile the database.

(3) AVAILABILITY.—The Secretary shall make the database available to the public.

SEC. 4174. SAFE INTERSECTIONS.

(a) IN GENERAL.—Chapter 2 of title 18, United States Code, is amended by adding at the end the following:

''§ 39. Traffic signal preemption transmitters

''(a) OFFENSES.—

''(1) SALE.—A person who provides for sale to unauthorized users a traffic signal preemption transmitter in or affecting interstate or foreign commerce shall be fined not more than $10,000, imprisoned not more than 1 year, or both.

''(2) POSSESSION.—A person who is an unauthorized user in possession of a traffic signal preemption transmitter in or affecting interstate or foreign commerce shall be fined not more than $10,000, imprisoned not more than 6 months, or both.

''(b) DEFINITIONS.—In this section, the following definitions apply:

''(1) TRAFFIC SIGNAL PREEMPTION TRANSMITTER.—The term 'traffic signal preemption transmitter' means any device or mechanism that can change a traffic signal's phase.

''(2) UNAUTHORIZED USER.—The term 'unauthorized user' means a user of a traffic signal preemption transmitter who is not a government approved user.''.

(b) CHAPTER ANALYSIS.—The chapter analysis for chapter 2 of title 18, United States Code, is amended by adding at the end the following:

''39. Traffic signal preemption transmitters.''.

SEC. 4175. STUDY ON INCREASED SPEED LIMITS.

(a) STUDY.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary shall conduct a study to examine the effects of increased speed limits enacted by States after 1995.

(2) REQUIREMENTS.—The study shall collect empirical data regarding—

(A) increases or decreases in driving speeds on Interstate highways since 1995;

(B) correlations between changes in driving speeds and accident, injury, and fatality rates;

(C) correlations between posted speed limits and observed driving speeds;

(D) the overall impact on motor vehicle safety resulting from the repeal of the national maximum speed limit in 1995; and

(E) such other matters as the Secretary determines to be appropriate.

(b) REPORT.—Not later than 1 year after the date of completion of the study under subsection (a), the Secretary shall submit to Congress a report that describes the results of the study.

SA 2397. Mr. CAMPBELL (for himself and Mr. INOUYE) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 20, strike line 7 and all that follows through page 31, line 15, and insert the following:

''(13) INDIAN LAND.—The term 'Indian land' means—

''(A) any land located within the boundaries of an Indian reservation, pueblo, or rancheria;

''(B) any land not located within the boundaries of an Indian reservation, pueblo, or rancheria, the title to which is held—

''(i) in trust by the United States for the benefit of an Indian tribe;

''(ii) by an Indian tribe, subject to restriction by the United States against alienation; or

''(iii) by a dependent Indian community; and

''(C) land conveyed as part of an original conveyance to a Native Corporation in accordance with the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).

''(14) INDIAN RESERVATION.—The term 'Indian reservation' includes—

''(A) an Indian reservation in existence as of the date of enactment of the Indian Tribal Surface Transportation Improvement Act of 2003;

''(B) a public domain Indian allotment;

''(C) a former reservation in the State of Oklahoma;

''(D) a parcel of land conveyed as part of an original conveyance to a Native Corporation in accordance with the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.); and

''(E) a dependent Indian community located within the borders of the United States, regardless of whether the community is located—

''(i) on original or acquired territory of the community; or

''(ii) within or outside the boundaries of any particular State.

''(15) INDIAN RESERVATION ROAD.—

''(A) IN GENERAL.—The term 'Indian reservation road' means a public road that is located within or provides access to an area described in subparagraph (B) on which or in which reside Indians or Alaskan Natives that, as determined by the Secretary of the Interior, are eligible for services generally available to Indians under Federal laws specifically applicable to Indians.

''(B) AREAS.—The areas referred to in subparagraph (A) are—

''(i) an Indian reservation;

''(ii) Indian trust land or restricted Indian land that is not subject to fee title alienation without the approval of the Federal Government; and

''(16) INDIAN TRIBE.—The term 'Indian tribe' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

''(17) INTERSTATE SYSTEM.—The term 'Interstate System' means the Dwight D. Eisenhower National System of Interstate and Defense Highways described in section 103(c).

''(18) MAINTENANCE.—

''(A) IN GENERAL.—The term 'maintenance' means the preservation of a highway.

''(B) INCLUSIONS.—The term 'maintenance' includes the preservation of—

''(i) the surface, shoulders, roadsides, and structures of a highway; and

''(ii) such traffic-control devices as are necessary for safe, secure, and efficient use of a highway.

''(19) MAINTENANCE AREA.—The term 'maintenance area' means an area that was designated as a nonattainment area, but was later redesignated by the Administrator of the Environmental Protection Agency as an attainment area, under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)).

''(20) NATIONAL FOREST SYSTEM ROAD OR TRAIL.—The term 'National Forest System road or trail' means a forest road or trail that is under the jurisdiction of the Forest Service.

''(21) NATIONAL HIGHWAY SYSTEM.—The term 'National Highway System' means the Federal-aid highway system described in section 103(b).

''(22) OPERATING COSTS FOR TRAFFIC MONITORING, MANAGEMENT, AND CONTROL.—The term 'operating costs for traffic monitoring, management, and control' includes—

''(A) labor costs;

''(B) administrative costs;

''(C) costs of utilities and rent;

''(D) costs incurred by transportation agencies for technology to monitor critical transportation infrastructure for security purposes; and

''(E) other costs associated with transportation systems management and operations and the continuous operation of traffic control, such as—

''(i) an integrated traffic control system;

''(ii) an incident management program; and

''(iii) a traffic control center.

''(23) OPERATIONAL IMPROVEMENT.—

''(A) IN GENERAL.—The term 'operational improvement' means—

''(i) a capital improvement for installation or implementation of—

''(I) a transportation system management and operations program;

''(II) traffic and transportation security surveillance and control equipment;

''(III) a computerized signal system;

''(IV) a motorist information system;

''(V) an integrated traffic control system;

''(VI) an incident management program;

''(VII) equipment and programs for transportation response to manmade and natural disasters; or

''(VIII) a transportation demand management facility, strategy, or program; and

''(ii) such other capital improvements to a public road as the Secretary may designate by regulation.

''(B) EXCLUSIONS.—The term 'operational improvement' does not include—

''(i) a resurfacing, restorative, or rehabilitative improvement;

''(ii) construction of an additional lane, interchange, or grade separation; or

''(iii) construction of a new facility on a new location.

''(24) PARK ROAD.—The term 'park road' means a public road (including a bridge built primarily for pedestrian use, but with capacity for use by emergency vehicles) that is located within, or provides access to, an area in the National Park System with title and maintenance responsibilities vested in the United States.

''(25) PARKWAY.—The term 'parkway' means a parkway authorized by an Act of Congress on land to which title is vested in the United States.

''(26) PROJECT.—The term 'project' means—

''(A)(i) an undertaking to construct a particular portion of a highway; or

''(ii) if the context so implies, a particular portion of a highway so constructed; and

''(B) any other undertaking eligible for assistance under this title.

''(27) PROJECT AGREEMENT.—The term 'project agreement' means the formal instrument to be executed by the Secretary and recipient of funds under this title.

''(28) PUBLIC AUTHORITY.—The term 'public authority' means a Federal, State, county, town, or township, Indian tribe, municipal or other local government or instrumentality with authority to finance, build, operate, or maintain toll or toll-free facilities.

''(29) PUBLIC FOREST SERVICE ROAD.—The term 'public Forest Service road' means a classified forest road—

''(A) that is open to public travel;

''(B) for which title and maintenance responsibility is vested in the Federal Government; and

''(C) that has been designated a public road by the Forest Service.

''(30) PUBLIC LANDS DEVELOPMENT ROADS AND TRAILS.—The term 'public lands development roads and trails' means roads and trails that the Secretary of the Interior determines are of primary importance for the development, protection, administration, and use of public lands and resources under the control of the Secretary of the Interior.

''(31) PUBLIC LANDS HIGHWAY.—The term 'public lands highway' means—

''(A) a forest road that is—

''(i) under the jurisdiction of, and maintained by, a public authority; and

''(ii) open to public travel; and

''(B) any highway through unappropriated or unreserved public land, nontaxable Indian land, or any other Federal reservation (including a main highway through such land or reservation that is on the Federal-aid system) that is—

''(i) under the jurisdiction of, and maintained by, a public authority; and

''(ii) open to public travel.

''(32) PUBLIC ROAD.—The term 'public road' means any road or street that is—

''(A) under the jurisdiction of, and maintained by, a public authority; and

''(B) open to public travel.

''(33) RECREATIONAL ROAD.—The term 'recreational road' means a public road—

''(A) that provides access to a museum, lake, reservoir, visitors center, gateway to a major wilderness area, public use area, or recreational or historic site; and

''(B) for which title is vested in the Federal Government.

''(34) REFUGE ROAD.—The term 'refuge road' means a public road—

''(A) that provides access to or within a unit of the National Wildlife Refuge System or a national fish hatchery; and

''(B) for which title and maintenance responsibility is vested in the United States Government.

''(35) RURAL AREA.—The term 'rural area' means an area of a State that is not included in an urban area.

''(36) SECRETARY.—The term 'Secretary' means the Secretary of Transportation.

''(37) STATE.—The term 'State' means—

''(A) a State;

''(B) the District of Columbia; and

''(C) the Commonwealth of Puerto Rico.

''(38) STATE FUNDS.—The term 'State funds' includes funds that are—

''(A) raised under the authority of the State (or any political or other subdivision of a State); and

''(B) made available for expenditure under the direct control of the State transportation department.

''(39) STATE TRANSPORTATION DEPARTMENT.—The term 'State transportation department' means the department, agency, commission, board, or official of any State charged by the laws of the State with the responsibility for highway construction.

''(40) TERRITORIAL HIGHWAY SYSTEM.—The term 'territorial highway system' means the system of arterial highways, collector roads, and necessary interisland connectors in American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, and the United States Virgin Islands that have been designated by the appropriate Governor or chief executive officer of a territory, and approved by the Secretary, in accordance with section 215.

''(41) TRANSPORTATION ENHANCEMENT ACTIVITY.—The term 'transportation enhancement activity' means, with respect to any project or the area to be served by the project, any of the following activities as the activities relate to surface transportation:

''(A) Provision of facilities for pedestrians and bicycles.

''(B) Provision of safety and educational activities for pedestrians and bicyclists.

''(C) Acquisition of scenic easements and scenic or historic sites (including historic battlefields).

''(D) Scenic or historic highway programs (including the provision of tourist and welcome center facilities).

''(E) Landscaping and other scenic beautification.

''(F) Historic preservation.

''(G) Rehabilitation and operation of historic transportation buildings, structures, or facilities (including historic railroad facilities and canals).

''(H) Preservation of abandoned railway corridors (including the conversion and use of the corridors for pedestrian or bicycle trails).

''(I) Control and removal of outdoor advertising.

''(J) Archaeological planning and research.

''(K) Environmental mitigation—

''(i) to address water pollution due to highway runoff; or

''(ii) reduce vehicle-caused wildlife mortality while maintaining habitat connectivity.

''(L) Establishment of transportation museums.

''(42) TRANSPORTATION SYSTEMS MANAGEMENT AND OPERATIONS.—

''(A) IN GENERAL.—The term 'transportation systems management and operations' means an integrated program to optimize the performance of existing infrastructure through the implementation of multimodal and intermodal, cross-jurisdictional systems, services, and projects designed to preserve capacity and improve security, safety, and reliability of the transportation system.

''(B) INCLUSIONS.—The term 'transportation systems management and operations' includes—

''(i) regional operations collaboration and coordination activities between transportation and public safety agencies; and

''(ii) improvements to the transportation system such as traffic detection and surveillance, arterial management, freeway management, demand management, work zone management, emergency management, electronic toll collection, automated enforcement, traffic incident management, roadway weather management, traveler information services, commercial vehicle operations, traffic control, freight management, and coordination of highway, rail, transit, bicycle, and pedestrian operations.

''(43) TRIBAL TRANSPORTATION FACILITY.—The term 'tribal transportation facility' means any transportation-related project, facility, or physical infrastructure for an Indian tribe that is funded under this title.

SA 2398. Mr. CAMPBELL (for himself and Mr. INOUYE) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 321, strike line 14 and all that follows through page 334, line 14, and insert the following:

''(B) FUNDING.—

''(i) RESERVATION OF FUNDS.—Notwithstanding any other provision of law, there is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) $15,000,000 for each of fiscal years 2004 through 2009 to carry out planning, design, engineering, preconstruction, construction, and inspection of projects to replace,''; and

(B) by adding at the end the following:

''(ii) AVAILABILITY.—Funds made available to carry out this subparagraph—

''(I) shall be available for obligation in the same manner as if the funds were apportioned under chapter 1; and

''(II) shall not be available to the Bureau of Indian Affairs to pay administrative costs.''; and

(5) by adding at the end the following:

''(f) ADMINISTRATION OF INDIAN RESERVATION ROADS.—

''(1) CONTRACT AUTHORITY.—

''(A) IN GENERAL.—Notwithstanding any other provision of law, for any fiscal year, not more than 6 percent of the contract authority amounts made available from the Highway Trust Fund to the Bureau of Indian Affairs under this title shall be used to pay the administrative expenses of the Bureau for the Indian reservation roads program (including the administrative expenses relating to individual projects that are associated with the program).

''(B) AVAILABILITY.—Amounts made available to pay administrative expenses under subparagraph (A) shall be made available to an Indian tribal government, on the request of the government, to be used for the associated administrative functions assumed by the Indian tribe under contracts and agreements entered into under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b et seq.).

''(2) HEALTH AND SAFETY ASSURANCES.—Notwithstanding any other provision of law, an Indian tribe or tribal organization may commence road and bridge construction under the Transportation Equity Act for the 21st Century (Public Law 105–178) or its successor Act of Congress that is funded through a contract or agreement under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b et seq.) if the Indian tribe or tribal organization—

''(A) provides assurances in the contract or agreement that the construction will meet or exceed applicable health and safety standards;

''(B) obtains the advance review of the plans and specifications from a licensed professional that has certified that the plans and specifications meet or exceed the applicable health and safety standards; and

''(C) provides a copy of the certification under subparagraph (B) to the Assistant Secretary for Indian Affairs.''.

(d) PLANNING AND AGENCY COORDINATION.—Section 204 of title 23, United States Code, is amended—

(1) in subsection (a)(1), by inserting ''refuge roads, recreation roads,'' after ''parkways,'';

(2) by striking subsection (b) and inserting the following:

''(b) USE OF FUNDS.—

''(1) IN GENERAL.—Funds available for public lands highways, recreation roads, park roads and parkways, forest highways, and Indian reservation roads shall be used by the Secretary and the Secretary of the appropriate Federal land management agency to pay the cost of transportation planning, research, engineering, operation and maintenance of transit facilities, and construction of the highways, roads, parkways, forest highways, and transit facilities located on public land, national parks, and Indian reservations.

''(2) CONTRACT.—In connection with an activity described in paragraph (1), the Secretary and the Secretary of the appropriate Federal land management agency may enter into a construction contract or other appropriate agreement with—

''(A) a State (including a political subdivision of a State); or

''(B) an Indian tribe.

''(3) INDIAN RESERVATION ROADS.—In the case of an Indian reservation road—

''(A) Indian labor may be used, in accordance with such rules and regulations as may be promulgated by the Secretary of the Interior, to carry out any construction or other activity described in paragraph (1); and

''(B) funds made available to carry out this section may be used to pay bridge preconstruction costs (including planning, design, and engineering).

''(4) FEDERAL EMPLOYMENT.—No maximum on Federal employment shall be applicable to construction or improvement of Indian reservation roads.

''(5) AVAILABILITY OF FUNDS.—Funds available under this section for each class of Federal lands highway shall be available for any kind of transportation project eligible for assistance under this title that is within or adjacent to, or that provides access to, the areas served by the particular class of Federal lands highway.

''(6) RESERVATION OF FUNDS.—The Secretary of the Interior may reserve funds from administrative funds of the Bureau of Indian Affairs that are associated with the Indian reservation road program to finance the Indian technical centers authorized under section 504(b).''; and

(3) in subsection (k)(1)—

(A) in subparagraph (B)—

(i) by striking ''(2), (5),'' and inserting ''(2), (3), (5),''; and

(ii) by striking ''and'' after the semicolon;

(B) in subparagraph (C), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

''(D) maintenance of public roads in national fish hatcheries under the jurisdiction of the United States Fish and Wildlife Service;

''(E) the non-Federal share of the cost of any project funded under this title or chapter 53 of title 49 that provides access to or within a wildlife refuge; and

''(F) maintenance and improvement of recreational trails (except that expenditures on trails under this subparagraph shall not exceed 5 percent of available funds for each fiscal year).''.

(e) SAFETY.—

(1) ALLOCATIONS.—Section 202 of title 23, United States Code (as amended by subsection (c)(5)), is amended by adding at the end the following:

''(g) SAFETY.—Subject to paragraph (2), on October 1 of each fiscal year, the Secretary shall allocate the sums authorized to be appropriated for the fiscal year for safety as follows:

''(1) 12 percent to the Bureau of Reclamation.

''(2) 18 percent to the Bureau of Indian Affairs.

''(3) 17 percent to the Bureau of Land Management.

''(4) 17 percent to the Forest Service.

''(5) 7 percent to the United States Fish and Wildlife Service.

''(6) 17 percent to the National Park Service.

''(7) 12 percent to the Corps of Engineers.''.

(2) AVAILABILITY OF FUNDS.—Section 203 of title 23, United States Code, is amended by inserting ''safety projects or activities,'' after ''refuge roads,'' each place it appears.

(3) USE OF FUNDING.—Section 204 of title 23, United States Code, is amended by adding at the end the following:

''(l) SAFETY ACTIVITIES.—

''(1) IN GENERAL.—Notwithstanding any other provision of this title, funds made available for safety under this title shall be used by the Secretary and the head of the appropriate Federal land management agency only to pay the costs of carrying out—

''(A) transportation safety improvement activities;

''(B) activities to eliminate high-accident locations;

''(C) projects to implement protective measures at, or eliminate, at-grade railway-highway crossings;

''(D) collection of safety information;

''(E) transportation planning projects or activities;

''(F) bridge inspection;

''(G) development and operation of safety management systems;

''(H) highway safety education programs; and

''(I) other eligible safety projects and activities authorized under chapter 4.

''(2) CONTRACTS.—In carrying out paragraph (1), the Secretary and the Secretary of the appropriate Federal land management agency may enter into contracts or agreements with—

''(A) a State;

''(B) a political subdivision of a State; or

''(C) an Indian tribe.

''(3) EXCEPTION.—The cost sharing requirements under the Federal Water Project Recreation Act (16 U.S.C. 460*l*–12 et seq.) shall not apply to funds made available to the Bureau of Reclamation under this subsection.''.

(f) RECREATION ROADS.—

(1) AUTHORIZATIONS.—Section 201 of title 23, United States Code, is amended in the first sentence by inserting ''recreation roads,'' after ''public lands highways,''.

(2) ALLOCATIONS.—Section 202 of title 23, United States Code (as amended by subsection (e)(1)), is amended by adding at the end the following:

''(h) RECREATION ROADS.—

''(1) IN GENERAL.—Subject to paragraphs (2) and (3), on October 1 of each fiscal year, the Secretary, after completing the transfer under subsection 204(i), shall allocate the

sums authorized to be appropriated for the fiscal year for recreation roads as follows:

''(A) 8 percent to the Bureau of Reclamation.

''(B) 9 percent to the Corps of Engineers.

''(C) 13 percent to the Bureau of Land Management.

''(D) 70 percent to the Forest Service.

''(2) ALLOCATION WITHIN AGENCIES.—Recreation road funds allocated to a Federal agency under paragraph (1) shall be allocated for projects and activities of the Federal agency according to the relative needs of each area served by recreation roads under the jurisdiction of the Federal agency, as indicated in the approved transportation improvement program for each Federal agency.''.

(3) AVAILABILITY OF FUNDS.—Section 203 of title 23, United States Code, is amended—

(A) in the first sentence, by inserting ''recreation roads,'' after ''Indian reservation roads,''; and

(B) in the fourth sentence, by inserting '', recreation roads,'' after ''Indian roads''.

(4) USE OF FUNDING.—Section 204 of title 23, United States Code (as amended by subsection (e)(3)), is amended by adding at the end the following:

''(m) RECREATION ROADS.—

''(1) IN GENERAL.—Notwithstanding any other provision of this title, funds made available for recreation roads under this title shall be used by the Secretary and the Secretary of the appropriate Federal land management agency only to pay the cost of—

''(A) maintenance or improvements of existing recreation roads;

''(B) maintenance and improvements of eligible projects described in paragraph (1), (2), (3), (5), or (6) of subsection (h) that are located in or adjacent to Federal land under the jurisdiction of—

''(i) the Department of Agriculture; or

''(ii) the Department of the Interior;

''(C) transportation planning and administrative activities associated with those maintenance and improvements; and

''(D) the non-Federal share of the cost of any project funded under this title or chapter 53 of title 49 that provides access to or within Federal land described in subparagraph (B).

''(2) CONTRACTS.—In carrying out paragraph (1), the Secretary and the Secretary of the appropriate Federal land management agency may enter into contracts or agreements with—

''(A) a State;

''(B) a political subdivision of a State; or

''(C) an Indian tribe.

''(3) NEW ROADS.—No funds made available under this section shall be used to pay the cost of the design or construction of new recreation roads.

''(4) COMPLIANCE WITH OTHER ENVIRONMENTAL LAWS.—A maintenance or improvement project that is funded under this subsection, and that is consistent with or has been identified in a land use plan for an area under the jurisdiction of a Federal agency, shall not require any additional environmental reviews or assessments under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) if—

''(A) the Federal agency that promulgated the land use plan analyzed the specific proposal for the maintenance or improvement project under that Act; and

''(B) as of the date on which the funds are to be expended, there are—

''(i) no significant changes to the proposal bearing on environmental concerns; and

''(ii) no significant new information.

''(5) EXCEPTION.—The cost sharing requirements under the Federal Water Project Recreation Act (16 U.S.C. 460*l*–12 et seq.) shall not apply to funds made available to the Bureau of Reclamation under this subsection.''.

(g) CONFORMING AMENDMENTS.—

(1) Sections 120(e) and 125(e) of title 23, United States Code, are amended by striking ''public lands highways,'' each place it appears and inserting ''public lands highways, recreation roads,''.

(2) Sections 120(e), 125(e), 201, 202(a), and 203 of title 23, United States Code, are amended by striking ''forest development roads'' each place it appears and inserting ''National Forest System roads''.

(3) Section 202(e) of title 23, United States Code, is amended by striking ''Refuge System,'' and inserting ''Refuge System and the various national fish hatcheries,''.

(4) Section 204 of title 23, United States Code, is amended—

(A) in subsection (a)(1), by striking ''public lands highways,'' and inserting ''public lands highways, recreation roads, forest highways,''; and

(B) in subsection (i), by striking ''public lands highways'' each place it appears and inserting ''public lands highways, recreation roads, and forest highways''.

(5) Section 205 of title 23, United States Code, is amended—

(A) by striking the section heading and inserting the following:

''§ 205. National Forest System roads and trails'';

and

(B) in subsections (a) and (d), by striking ''forest development roads'' each place it appears and inserting ''National Forest System roads''.

(6) The analysis for chapter 2 of title 23, United States Code, is amended by striking the item relating to section 205 and inserting the following:

''205. National Forest System roads and trails.''.

(7) Section 217(c) of title 23, United States Code, is amended by inserting ''refuge roads,'' after ''Indian reservation roads,''.

SEC. 18___. INDIAN TRIBAL SURFACE TRANSPORTATION.

(a) FUNDING FOR INDIAN RESERVATION ROADS PROGRAM.—Section 1101(a)(8) of the Transportation Equity Act for the 21st Century (112 Stat. 112) is amended by striking subparagraph (A) and inserting the following:

''(A) INDIAN RESERVATION ROADS.—

''(i) IN GENERAL.—Subject to clause (ii), for Indian reservation roads under section 204 of that title—

''(I) $330,000,000 for each of fiscal years 2004 through 2005;

''(II) $425,000,000 for each of fiscal years 2006 through 2007; and

''(III) $550,000,000 for each of fiscal years 2008 through 2009.

''(ii) MAINTENANCE.—Of the amounts made available for each fiscal year under clause (i), not less than $50,000,000 shall be used—

''(I) to maintain roads on Indian land; and

''(II) to maintain tribal transportation facilities serving Indian communities.''.

(b) OBLIGATION CEILING.—Section 1102(c)(1) of the Transportation Equity Act for the 21st Century (23 U.S.C. 104 note; 112 Stat. 116) is amended—

(1) by striking ''distribute obligation'' and inserting the following: ''distribute—

''(A) obligation'';

(2) by inserting ''and'' after the semicolon at the end; and

(3) by adding at the end of the following:

''(B) for each of fiscal years 2004 through 2009, any amount of obligation authority made available for Indian reservation road bridges under section 202(d)(4), and for Indian reservation roads under section 204, of title 23, United States Code.''.

(c) TRIBAL CONTRACTING DEMONSTRATION PROJECT.—

(1) IN GENERAL.—Section 202(d)(3) of title 23, United States Code, is amended by adding at the end the following:

''(C) FEDERAL LANDS HIGHWAY PROGRAM DEMONSTRATION PROJECT.—

''(i) IN GENERAL.—The Secretary shall establish a demonstration project under which all funds made available under this chapter for Indian reservation roads and for highway bridges located on Indian reservation roads as provided for in subparagraph (A) shall be made available, on the request of an affected Indian tribal government, to the Indian tribal government for use in carrying out, in accordance with the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b et seq.), contracts and agreements for the planning, research, engineering, and construction described in that subparagraph.

''(ii) EXCLUSION OF AGENCY PARTICIPATION.—In accordance with subparagraph (B), all funds for Indian reservation roads and for highway bridges located on Indian reservation roads to which clause (i) applies shall be paid without regard to the organizational level at which the Federal lands highway program has previously carried out the programs, functions, services, or activities involved.

''(iii) SELECTION OF PARTICIPATING TRIBES.—

''(I) PARTICIPANTS.—

''(aa) IN GENERAL.—In addition to those Indian tribes or tribal organizations already contracting or compacting for any Indian reservation road function or program, for each fiscal year, the Secretary may select up to 15 Indian tribes from the applicant pool described in subclause (II) to participate in the demonstration project carried out under clause (i).

''(bb) CONSORTIA.—Two or more Indian tribes that are otherwise eligible to participate in a program or activity to which this title applies may form a consortium to be considered as a single Indian tribe for the purpose of becoming part of the applicant pool under subclause (II).

''(cc) FUNDING.—An Indian tribe participating in the pilot program under this subparagraph shall receive funding in an amount equal to the sum of the funding that the Indian tribe would otherwise receive in accordance with the funding formula established under the other provisions of this subsection, and an additional percentage of that amount equal to the percentage of funds withheld during the applicable fiscal year for the road program management costs of the Bureau of Indian Affairs under subsection (f)(1).

''(II) APPLICANT POOL.—The applicant pool described in this subclause shall consist of each Indian tribe (or consortium) that—

''(aa) has successfully completed the planning phase described in subclause (IV);

''(bb) has requested participation in the demonstration project under this subparagraph through the adoption of a resolution or other official action by the tribal governing body; and

''(cc) has demonstrated financial stability and financial management capability in accordance with subclause (III) during the 3-fiscal-year period immediately preceding the fiscal year for which participation under this subparagraph is being requested.

''(III) CRITERIA FOR DETERMINING FINANCIAL STABILITY AND FINANCIAL MANAGEMENT CAPACITY.—For the purpose of subclause (II), evidence that, during the 3-year period referred to in subclause (II)(cc), an Indian tribe had no uncorrected significant and material audit exceptions in the required annual audit of the Indian tribe's self-determination contracts or self-governance funding agreements with any Federal agency shall be conclusive

evidence of the required stability and capability.

''(IV) PLANNING PHASE.—

''(aa) IN GENERAL.—An Indian tribe (or consortium) requesting participation in the demonstration project under this subparagraph shall complete a planning phase that shall include legal and budgetary research and internal tribal government and organization preparation.

''(bb) ELIGIBILITY.—A tribe (or consortium) described in item (aa) shall be eligible to receive a grant under this subclause to plan and negotiate participation in a project described in that item.

''(V) REPORT TO CONGRESS.—Not later than September 30, 2006, the Secretary shall prepare and submit to Congress a report describing the implementation of the demonstration project and any recommendations for improving the project.''.

(2) CONFORMING AMENDMENTS.—

(A) Section 4 of the Indian Self-Determination andEducation Assistance Act (25 U.S.C. 450b(i)) is amended by striking subsection (i) and inserting the following:

''(i) SECRETARY.—Except as otherwise provided, the term 'Secretary' means any 1 or more of the following, as appropriate:

''(1) The Secretary of Health and Human Services.

''(2) The Secretary of the Interior.

''(3) The Secretary of Transportation.''

(B) Section 401 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 458aa) is amended—

(i) by striking ''The Secretary'' and inserting ''(a) IN GENERAL.—The Secretary''; and

(ii) by adding at the end the following:

''(b) SECRETARY OF TRANSPORTATION.—Notwithstanding any other provision of law, the Secretary of Transportation may enter into self-governance compacts and annual funding agreements with Indian tribes and tribal organizations to carry out tribal transportation programs (including transit programs) authorized under title 23 or 49, United States Code, in accordance with the terms, conditions, and procedures of this Act (including regulations promulgated under this Act (part 1000 of title 25 Code of Federal Regulations)).''.

(d) INDIAN RESERVATION ROAD PLANNING.—Section 204(j) of title 23, United States Code, is amended in the first sentence by striking ''2 percent'' and inserting ''5 percent''.

(e) ALASKA NATIVE VILLAGE TRANSPORTATION PROGRAM.—Section 204 of title 23, United States Code (as amended by section 1816), is amended by adding at the end the following:

''(p) ALASKA NATIVE VILLAGE TRANSPORTATION PROGRAM.—

''(1) DEFINITIONS.—In this subsection:

''(A) COMMISSION.—The term 'Commission' means the Alaska Native Transportation Commission established under paragraph (4)(A).

''(B) NATIVE.—The term 'Native' has the meaning given the term in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602).

''(C) NATIVE AUTHORITY.—The term 'Native authority' means a governing board of a Regional Corporation, a regional Native nonprofit entity, a tribal government, or an alternative regional entity that is designated by the Secretary as a Native regional transportation authority under paragraph (3)(A).

''(D) NATIVE VILLAGE.—The term 'Native village' has the meaning given the term in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602).

''(E) PROGRAM.—The term 'program' means the Alaska Native village transportation program established under paragraph (2).

''(F) REGION.—The term 'region' means a region in the State specified in section 11(b)(1) of the Alaska Native Claims Settlement Act (43 U.S.C 1610(b)(1)).

''(G) REGIONAL CORPORATION.—The term 'Regional Corporation' has the meaning given the term in section 2 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602).

''(H) STATE.—The term 'State' means the State of Alaska.

''(2) ESTABLISHMENT.—The Secretary shall establish an Alaska Native village transportation program to pay the costs of planning, design, construction, and maintenance of road and other surface transportation facilities identified in accordance with this section.

''(3) ALASKA NATIVE REGIONAL TRANSPORTATION AUTHORITIES.—

''(A) DESIGNATION.—The Secretary shall designate a Native authority for each region.

''(B) RESPONSIBILITIES.—A Native authority shall, with respect to each Native village or region, as appropriate, covered by the Native authority—

''(i) prepare—

''(I) a regional transportation plan for the Native village; and

''(II) a comprehensive transportation plan for the region;

''(ii) prioritize and select projects to be funded with amounts made available under this section for the region;

''(iii) coordinate transportation planning with other regions, the State, and other governmental entities; and

''(iv) ensure that transportation projects under this section are constructed and implemented.

''(4) ALASKA NATIVE TRANSPORTATION COMMISSION.—

''(A) ESTABLISHMENT.—As soon as practicable after the date of enactment of this subsection, the Secretary shall establish a commission, to be known as the 'Statewide Alaska Native Transportation Commission', consisting of 1 representative selected from each Native authority designated by the Secretary under paragraph (3)(A).

''(B) DUTIES.—The Commission shall—

''(i) allocate funds made available under this section among regions in accordance with paragraph (5);

''(ii) coordinate transportation planning among the regions, the State, and other governmental entities; and

''(iii) facilitate transportation projects involving 2 or more regions.

''(5) ALLOCATION OF FUNDING.—

''(A) FISCAL YEAR 2004.—Funds made available for the program for fiscal year 2004 shall be allocated to each region by the Secretary as follows:

''(i) 50 percent of the funds shall be allocated based on the proportion that—

''(I) the Native population of Native villages in the region; bears to

''(II) the Native population of all Native villages in the State.

''(ii) 50 percent of the funds shall be allocated as equally as practicable among all Native villages in the region.

''(B) FISCAL YEAR 2005 AND SUBSEQUENT FISCAL YEARS.—Funds made available for the program for fiscal year 2005 and each fiscal year thereafter shall be allocated among regions by the Commission, in accordance with a formula to be developed by the Commission after taking into consideration—

''(i) the health, safety, and economic needs of each region for transportation infrastructure, as identified through the regional planning process;

''(ii) the relative costs of construction in each region; and

''(iii) the extent to which transportation projects for each region are ready to proceed to design and construction.

''(6) TRIBAL CONTRACTING.—Funds allocated among regions under this subsection may be contracted or compacted in accordance with the Indian Self Determination and Education Assistance Act (25 U.S.C. 450b et seq.).

''(7) MATCHING FUNDS.—Notwithstanding any other provision of law, funds made available under this subsection may be used to pay a matching share required for receipt of any other Federal funds that would further a purpose for which allocations under this section are made.

''(8) MAINTENANCE.—

''(A) IN GENERAL.—At the request of a Native authority or Native village, the Secretary may increase an amount of funds provided under this subsection for a construction project by an additional amount equal to 100 percent of the total cost of construction of the project, as determined by the Secretary.

''(B) USE OF RETAINED FUNDS.—An increase in funds provided under subparagraph (A) for a construction project shall be retained, and used only, for future maintenance of the construction project.''.

(f) INDIAN RESERVATION ROAD SAFETY PROGRAM.—

(1) IN GENERAL.—Chapter 4 of title 23, United States Code, is amended by adding at the end the following:

''SEC. 412. INDIAN RESERVATION ROAD SAFETY PROGRAM.

''(a) PROGRAM.—

''(1) IN GENERAL.—The Secretary shall carry out a program to provide to eligible Indian tribes (as determined by the Secretary) competitive grants for use in establishing tribal transportation safety programs on—

''(A) Indian reservations; and

''(B) other land under the jurisdiction of an Indian tribe.

''(2) USE OF FUNDS.—Funds from a grant provided under paragraph (1) may be used to carry out a project or activity—

''(A) to prevent the operation of motor vehicles by intoxicated individuals;

''(B) to promote increased seat belt use rates;

''(C) to eliminate hazardous locations and conditions on, or hazardous sections or elements of—

''(i) a public road;

''(ii) a public surface transportation facility;

''(iii) a publicly-owned bicycle or pedestrian pathway or trail; or

''(iv) a traffic calming measure;

''(D) to eliminate hazards relating to railway-highway crossings; or

''(E) to increase transportation safety by any other means, as determined by the Secretary.

''(b) FEDERAL SHARE.—The Federal share of the cost of carrying out the program under this section shall be 100 percent.

''(c) FUNDING.—Notwithstanding any other provision of law, there are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section—

''(1) $6,000,000 for each of fiscal years 2004 and 2005; and

''(2) $9,000,000 for each of fiscal years 2006 through 2009.''.

(2) CONFORMING AMENDMENT.—The analysis for chapter 4 of title 23, United States Code, is amended by inserting after the item relating to section 411 the following:

''412. Indian reservation road safety program.''.

(g) INDIAN RESERVATION RURAL TRANSIT PROGRAM.—Section 5311 of title 49, United States Code, is amended by adding at the end the following:

''(k) INDIAN RESERVATION RURAL TRANSIT PROGRAM.—

''(1) IN GENERAL.—The Secretary shall establish and carry out a program to provide

competitive grants to Indian tribes to establish rural transit programs on reservations or other land under the jurisdiction of the Indian tribes.

''(2) AMOUNT OF GRANTS.—The amount of a grant provided to an Indian tribe under subparagraph (A) shall be based on the need of the Indian tribe, as determined by the Secretary of Transportation.

''(3) AUTHORIZATION OF FUNDING.—For each of fiscal years 2004 through 2009, of the amount made available under section 5338, $15,000,000 shall be made available to carry out this subsection.''.

(h) COMMERCIAL VEHICLE DRIVING TRAINING PROGRAM.—

(1) DEFINITIONS.—In this section:

(A) COMMERCIAL VEHICLE DRIVING.—The term ''commercial vehicle driving'' means the driving of—

(i) a vehicle that is a tractor-trailer truck; or

(ii) any other vehicle (such as a bus or a vehicle used for the purpose of construction) the driving of which requires a commercial license.

(B) SECRETARY.—The term ''Secretary'' means the Secretary of Labor.

(2) GRANTS.—The Secretary shall provide grants, on a competitive basis, to entities described in paragraph (3)(A) to support programs providing training and certificates leading to the licensing of Native Americans with respect to commercial vehicle driving.

(3) ELIGIBILITY.—To be eligible to receive a grant under paragraph (1), an entity shall—

(A) be a tribal college or university (as defined in section 316(b)(3) of the Higher Education Act (20 U.S.C. 1059(b)(3)); and

(B) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(4) PRIORITY.—In providing grants under paragraph (1), the Secretary shall give priority to grant applications that—

(A) propose training that exceeds proposed minimum standards for training tractor-trailer drivers of the Department of Transportation;

(B) propose training that exceeds the entry level truck driver certification standards set by the Professional Truck Driver Institute; and

(C) propose an education partnership with a private trucking firm, trucking association, or similar entity in order to ensure the effectiveness of the grant program under this section.

(5) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $5,000,000 for the period of fiscal years 2004 through 2009.

SA 2399. Mr. GRASSLEY (for himself and Mr. BAUCUS) submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Section 5212 is amended to read as follows:

SEC. 5212. TRANSFER OF CERTAIN AMOUNTS FROM THE AIRPORT AND AIRWAY TRUST FUND TO THE HIGHWAY TRUST FUND TO REFLECT HIGHWAY USE OF JET FUEL.

(a) IN GENERAL.—Section 9502(d) is amended by adding at the end the following new paragraph:

''(7) TRANSFERS FROM THE TRUST FUND TO THE HIGHWAY TRUST FUND.—

''(A) IN GENERAL.—The Secretary shall pay annually from the Airport and Airway Trust Fund into the Highway Trust Fund an amount (as determined by him) equivalent to amounts received in the Airport and Airway Trust Fund which are attributable to fuel that is used primarily for highway transportation purposes.

''(B) AMOUNTS TRANSFERRED TO MASS TRANSIT ACCOUNT.—The Secretary shall transfer 11 percent of the amounts paid into the Highway Trust Fund under subparagraph (A) to the Mass Transit Account established under section 9503(e).''.

(b) CONFORMING AMENDMENTS.—

(1) Subsection (a) of section 9503 is amended—

(A) by striking ''appropriated or credited'' and inserting ''paid, appropriated, or credited'', and

(B) by striking ''or section 9602(b)'' and inserting '', section 9502(d)(7), or section 9602(b)''.

(2) Subsection (e)(1) of section 9503 is amended by striking ''or section 9602(b)'' and inserting '', section 9502(d)(7), or section 9602(b)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

SA 2400. Mr. GRASSLEY (for himself and Mr. BAUCUS) submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Part IV of subtitle C of title V is amended by inserting at the end the following new section:

SEC. 5246. ELECTRONIC REPORTING.

(a) IN GENERAL.—Section 4101(d), as amended by section 5273 of this Act, is amended by adding at the end the following new sentence: ''Any person who is required to report under this subsection and who has 25 or more reportable transactions in a month shall file such report in electronic format.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply on October 1, 2004.

SA 2401. Mr. STEVENS (for himself and Mr. INOUYE) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 717, line 10, strike ''transportation,'' and insert ''transportation (and, in Alaska and Hawaii, includes regularly scheduled intrastate bus service for the general public),''.

SA 2402. Mr. THOMAS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 321, line 7, strike ''and'' and all that follows through line 13, and insert the following:

(C) in paragraph (3)(A), by striking ''under this title'' and inserting ''under this chapter and section 125(e)''; and

(D) in paragraph (4)—

(i) in subparagraph (B)—

(I) by striking ''(B) RESERVATION.—Of the amounts'' and all that follows through ''to replace,'' and inserting the following:

SA 2403. Mr. HOLLINGS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 539, line 12 strike ''airport operations''.

SA 2404. Mr. HOLLINGS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 818, beginning in line 11, strike ''Federal Railroad Administration, Federal Motor Carrier Safety Administration, or the Federal Aviation Administration'' and insert the following, ''Federal Railroad Administration or the Motor Carrier Safety Administration''.

SA 2405. Mr. HOLLINGS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 819, beginning in line 1, strike ''Federal Railroad Administration, the Federal Motor Carrier Safety Administration, and the Federal Aviation Administration'' and insert the following: ''Federal Railroad Administration and the Motor Carrier Safety Administration.''.

SA 2406. Mr. INHOFE submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 321, strike line 7 and all that follows through page 326, line 12 and insert the following:

Secretary.'';

(C) in paragraph (3)—

(i) in subparagraph (A), by striking ''under this title'' and inserting ''under this chapter and section 125(e)''; and

(ii) by adding at the end the following:

''(C) FEDERAL LANDS HIGHWAY PROGRAM DEMONSTRATION PROJECT.—

''(i) IN GENERAL.—The Secretary shall establish a demonstration project under which all funds made available under this chapter for Indian reservation roads and for highway bridges located on Indian reservation roads as provided for in subparagraph (A) shall be made available, on the request of an affected Indian tribal government, to the Indian tribal government for use in carrying out, in accordance with the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b et seq.), contracts and agreements for the planning, research, engineering, and construction described in that subparagraph.

''(ii) EXCLUSION OF AGENCY PARTICIPATION.—In accordance with subparagraph (B),

all funds for Indian reservation roads and for highway bridges located on Indian reservation roads to which clause (i) applies shall be paid without regard to the organizational level at which the Federal lands highway program has previously carried out the programs, functions, services, or activities involved.

''(iii) SELECTION OF PARTICIPATING TRIBES.—

''(I) PARTICIPANTS.—

''(aa) IN GENERAL.—In addition to Indian tribes or tribal organizations that, as of the date of enactment of this subparagraph, are contracting or compacting for any Indian reservation road function or program, for each fiscal year, the Secretary may select up to 15 Indian tribes from the applicant pool described in subclause (II) to participate in the demonstration project carried out under clause (i).

''(bb) CONSORTIA.—Two or more Indian tribes that are otherwise eligible to participate in a program or activity to which this title applies may form a consortium to be considered as a single Indian tribe for the purpose of becoming part of the applicant pool under subclause (II).

''(cc) FUNDING.—An Indian tribe participating in the pilot program under this subparagraph shall receive funding in an amount equal to the sum of the funding that the Indian tribe would otherwise receive in accordance with the funding formula established under the other provisions of this subsection, and an additional percentage of that amount equal to the percentage of funds withheld during the applicable fiscal year for the road program management costs of the Bureau of Indian Affairs under subsection (f)(1).

''(II) APPLICANT POOL.—The applicant pool described in this subclause shall consist of each Indian tribe (or consortium) that—

''(aa) has successfully completed the planning phase described in subclause (IV);

''(bb) has requested participation in the demonstration project under this subparagraph through the adoption of a resolution or other official action by the tribal governing body; and

''(cc) has demonstrated financial stability and financial management capability in accordance with subclause (III) during the 3-fiscal-year period immediately preceding the fiscal year for which participation under this subparagraph is being requested.

''(III) CRITERIA FOR DETERMINING FINANCIAL STABILITY AND FINANCIAL MANAGEMENT CAPACITY.—For the purpose of subclause (II), evidence that, during the 3-year period referred to in subclause (II)(cc), an Indian tribe had no uncorrected significant and material audit exceptions in the required annual audit of the Indian tribe's self-determination contracts or self-governance funding agreements with any Federal agency shall be conclusive evidence of the required stability and capability.

''(IV) PLANNING PHASE.—

''(aa) IN GENERAL.—An Indian tribe (or consortium) requesting participation in the demonstration project under this subparagraph shall complete a planning phase that shall include legal and budgetary research and internal tribal government and organization preparation.

''(bb) ELIGIBILITY.—An Indian tribe (or consortium) described in item (aa) shall be eligible to receive a grant under this subclause to plan and negotiate participation in a project described in that item.

''(V) REPORT TO CONGRESS.—Not later than September 30, 2006, the Secretary shall submit to Congress a report describing the implementation of the demonstration project and any recommendations for improving the project.''; and

(D) in paragraph (4)—

(i) in subparagraph (B)—

(I) by striking ''(B) RESERVATION.—Of the amounts'' and all that follows through ''to replace,'' and inserting the following:

''(B) FUNDING.—

''(i) RESERVATION OF FUNDS.—Of the amounts authorized to be appropriated for Indian reservation roads for each fiscal year, the Secretary, in cooperation with the Secretary of the Interior, shall reserve not less than $15,000,000 for each of fiscal years 2004 through 2009 to carry out planning, design, engineering, preconstruction, construction, and inspection of projects to replace,''; and

(II) by adding at the end the following:

''(ii) AVAILABILITY.—Funds made available to carry out this subparagraph shall be available for obligation in the same manner as if the funds were apportioned under chapter 1.''; and

(ii) by striking subparagraph (D) and inserting the following:

''(D) APPROVAL REQUIREMENT.—

''(i) IN GENERAL.—Subject to clause (ii), on request by an Indian tribe or the Secretary of the Interior, the Secretary may make funds available under this subsection for preliminary engineering for Indian reservation road bridge projects.

''(ii) CONSTRUCTION AND CONSTRUCTION ENGINEERING.—The Secretary may make funds available under clause (i) for construction and construction engineering only after approval by the Secretary of applicable plans, specifications, and estimates.''; and

(5) by adding at the end the following:

''(f) ADMINISTRATION OF INDIAN RESERVATION ROADS.—

''(1) CONTRACT AUTHORITY.—Notwithstanding any other provision of law, for any fiscal year, not more than 6 percent of the contract authority amounts made available from the Highway Trust Fund to the Bureau of Indian Affairs under this title shall be used to pay the expenses incurred by the Bureau in administering the Indian reservation roads program (including the administrative expenses relating to individual projects associated with the Indian reservation roads program).

''(2) HEALTH AND SAFETY ASSURANCES.—Notwithstanding any other provision of law, an Indian tribe or tribal organization may commence road and bridge construction under the Transportation Equity Act for the 21st Century (Public Law 105-178) or the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 that is funded through a contract or agreement under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b et seq.) if the Indian tribe or tribal organization—

''(A) provides assurances in the contract or agreement that the construction will meet or exceed applicable health and safety standards;

''(B) obtains the advance review of the plans and specifications from a licensed professional that has certified that the plans and specifications meet or exceed the applicable health and safety standards; and

''(C) provides a copy of the certification under subparagraph (B) to the Assistant Secretary for Indian Affairs.''.

(d) PLANNING AND AGENCY COORDINATION.—Section 204 of title 23, United States Code, is amended—

(1) in subsection (a)(1), by inserting ''refuge roads, recreation roads,'' after ''parkways,'';

(2) by striking subsection (b) and inserting the following:

''(b) USE OF FUNDS.—

''(1) IN GENERAL.—Funds available for public lands highways, recreation roads, park roads and parkways, forest highways, and Indian reservation roads shall be used by the Secretary and the Secretary of the appropriate Federal land management agency to pay the cost of transportation planning, research, engineering, operation and maintenance of transit facilities, and construction of the highways, roads, parkways, forest highways, and transit facilities located on public land, national parks, and Indian reservations.

''(2) CONTRACT.—In connection with an activity described in paragraph (1), the Secretary and the Secretary of the appropriate Federal land management agency may enter into a construction contract or other appropriate agreement with—

''(A) a State (including a political subdivision of a State); or

''(B) an Indian tribe.

''(3) INDIAN RESERVATION ROADS.—In the case of an Indian reservation road—

''(A) Indian labor may be used, in accordance with such rules and regulations as may be promulgated by the Secretary of the Interior, to carry out any construction or other activity described in paragraph (1); and

''(B) funds made available to carry out this section may be used to pay bridge preconstruction costs (including planning, design, and engineering).

''(4) FEDERAL EMPLOYMENT.—No maximum on Federal employment shall be applicable to construction or improvement of Indian reservation roads.

''(5) AVAILABILITY OF FUNDS.—Funds available under this section for each class of Federal lands highway shall be available for any kind of transportation project eligible for assistance under this title that is within or adjacent to, or that provides access to, the areas served by the particular class of Federal lands highway.

''(6) RESERVATION OF FUNDS.—The Secretary of the Interior may reserve funds from administrative funds of the Bureau of Indian Affairs that are associated with the Indian reservation road program to finance the Indian technical centers authorized under section 504(b).''; and

(3) in subsection (k)(1)—

(A) in subparagraph (B)—

(i) by striking ''(2), (5),'' and inserting ''(2), (3), (5),''; and

(ii) by striking ''and'' after the semicolon;

(B) in subparagraph (C), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

''(D) maintenance of public roads in national fish hatcheries under the jurisdiction of the United States Fish and Wildlife Service;

''(E) the non-Federal share of the cost of any project funded under this title or chapter 53 of title 49 that provides access to or within a wildlife refuge; and

''(F) maintenance and improvement of recreational trails (except that expenditures on trails under this subparagraph shall not exceed 5 percent of available funds for each fiscal year).''.

(e) MAINTENANCE OF INDIAN RESERVATION ROADS.—Section 204(c) of title 23, United States Code, is amended by striking the second and third sentences and inserting the following: ''Notwithstanding any other provision of this title, of the amount of funds apportioned for Indian reservation roads from the Highway Trust Fund, an Indian tribe may expend for the purpose of maintenance not more than the greater of $250,000 or 25 percent of the apportioned amount. The Bureau of Indian Affairs shall continue to retain primary responsibility, including annual funding request responsibility, for road maintenance programs on Indian reservations. The Secretary shall ensure that funding made available under this subsection for maintenance of Indian reservation roads for each fiscal year is supplementary to and not

in lieu of any obligation of funds by the Bureau of Indian Affairs for road maintenance programs on Indian reservations.''.

(f) AUTHORIZATION OF CONTRACT AUTHORITY FOR STATES WITH INDIAN RESERVATIONS.—Section 1214(d)(5)(A) of the Transportation Equity Act for the 21st Century (23 U.S.C. 202 note; 112 Stat. 206) is amended by striking ''$1,500,000 for each of fiscal years 1998 through 2003'' and inserting ''$1,800,000 for each of fiscal years 2004 through 2009''.

(g) INDIAN RESERVATION RURAL TRANSIT PROGRAM.—Section 5311 of title 49, United States Code, is amended by adding at the end the following:

''(k) INDIAN RESERVATION RURAL TRANSIT PROGRAM.—

''(1) IN GENERAL.—The Secretary shall establish and carry out a program to provide competitive grants to Indian tribes to establish rural transit programs on reservations or other land under the jurisdiction of the Indian tribes.

''(2) AMOUNT OF GRANTS.—The amount of a grant provided to an Indian tribe under subparagraph (A) shall be based on the need of the Indian tribe, as determined by the Secretary of Transportation.

''(3) AUTHORIZATION OF FUNDING.—For each of fiscal years 2004 through 2009, of the amount made available under section 5338, $15,000,000 shall be made available to carry out this subsection.''.

SA 2407. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

TITLE ___ SURFACE TRANSPORTATION AND TRANSIT EMPOWERMENT

SEC. ___1. SHORT TITLE.

This title may be cited as the ''Surface Transportation and Transit Empowerment Act''.

SEC. ___2. DEFINITIONS.

In this title, the following definitions apply:

(1) CORE HIGHWAY PROGRAMS.—The term ''core highway programs'' means the following programs:

(A) The Interstate maintenance program under section 119 of title 23, United States Code.

(B) Highway bridge replacement and rehabilitation (excluding off-System bridges) under section 144 of that title.

(C)(i) Indian reservation roads under section 204 of that title.

(ii) Public lands highways under section 204 of that title.

(iii) Parkways and park roads under section 204 of that title.

(D) Highway safety programs under section 402 of that title.

(E) Highway safety research and development under section 403 of that title.

(F) Motor carrier safety grants under section 31104 of title 49, United States Code.

(G) Metropolitan planning under section 104(f) of title 23, United States Code.

(H) National defense highways under section 311 of that title.

(I) Emergency relief under section 125 of that title.

(2) CORE PROGRAM STATE.—The term ''core program State'' means a State which makes an election under section ___3.

(3) ELECTION PERIOD.—The term ''election period'' means the period beginning with the fiscal year determined under section ___3(b) and ending not later than with fiscal year 2009.

(4) FUTURE INVESTMENT ACCOUNT.—The term ''Future Investment Account'' means the Future Investment Account established under section 9503(f) of the Internal Revenue Code of 1986.

(5) HIGHWAY ACCOUNT.—The term ''Highway Account'' means the portion of the Highway Trust Fund established under section 9503 of the Internal Revenue Code of 1986 which is not the Mass Transit Account or the Future Investment Account.

(6) MASS TRANSIT ACCOUNT.—The term ''Mass Transit Account'' means the Mass Transit Account established under section 9503(e) of the Internal Revenue Code of 1986.

(7) SURFACE TRANSPORTATION.—The term ''surface transportation'' includes mass transit and rail.

(8) TIER I CORE PROGRAM STATE.—The term ''tier I core program State'' means a core program State that is eligible for a core highway programs payment and a non-core highway programs block grant under section ___3.

(9) TIER II CORE PROGRAM STATE.—The term ''tier II core program State'' means a core program State that is eligible for a core highway programs payment under section ___3 and that elects under section ___3(e) to reduce its Federal fuel tax rate with a corresponding reduction in its non-core highway programs block grant.

(10) TIER I MASS TRANSIT STATE.—The term ''tier I mass transit State'' means a State that is eligible for a mass transit block grant under section ___4.

(11) TIER II MASS TRANSIT STATE.—The term ''tier II mass transit State'' means a State that elects under section ___4(c) to eliminate its mass transit fuel tax rate with a corresponding elimination of its mass transit block grant.

SEC. ___3. FUNDING OF HIGHWAY PROGRAMS IN CORE PROGRAM STATES.

(a) ELECTION TO BECOME A CORE PROGRAM STATE.—Each State which makes an election described in subsection (b) shall be eligible with respect to each fiscal year during the State's election period for—

(1) a core highway programs payment; and

(2) a non-core highway programs block grant,

in lieu of any other payment from the Highway Account and the Future Highway Investment Sub Account of the Future Investment Account.

(b) REQUIREMENTS FOR ELECTION.—An election is described in this subsection if—

(1) such election is made by a State at least 180 days before the first fiscal year with respect to which the election applies;

(2) such election is made by a State that certifies that such State has a metropolitan planning organization established under section 134 of title 23, United States Code, and that such organization will maintain a system for processing funds received by the State under this Act throughout the election period; and

(3) such election is submitted to the Secretary in such form and manner as the Secretary prescribes.

(c) DETERMINATION AND USE OF CORE HIGHWAY PROGRAMS PAYMENT.—

(1) DETERMINATION OF AMOUNT OF PAYMENT.—

(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall determine for each fiscal year the payment necessary to meet the commitments of core highway programs for each core program State.

(B) LIMITATIONS.—

(i) GENERAL RULE.—Any payment under subparagraph (A) for any fiscal year for any particular core highway program for a core program State shall be subject to—

(I) except with respect to core highway programs described in subparagraphs (G), (H), and (I) of section ___2(1), the funding level for such program for such year under clause (ii) in lieu of the funding level for such program for such year under any other provision of law, and

(II) the annual obligation limitation for such program for such year imposed under any provision of law.

(ii) SPECIAL FUNDING LEVELS.—For purposes of clause (i), the funding levels for core highway programs are as follows:

(I) For the Interstate maintenance program, $5,500,000,000 for fiscal year 2004, $6,300,000,000 for fiscal year 2005, $6,550,000,000 for fiscal year 2006, $6,650,000,000 for fiscal year 2007, $7,650,000,000 for fiscal year 2008, and $7,950,000,000 for fiscal year 2009.

(II) For highway bridge replacement and rehabilitation, $4,650,754,076 for fiscal year 2004, $5,507,287,150 for fiscal year 2005, $5,713,860,644 for fiscal year 2006, $5,730,266,418 for fiscal year 2007, $6,016,042,650 for fiscal year 2008, and $6,103,714,622 for fiscal year 2009.

(III)(aa) For Indian reservation roads, $300,000,000 for fiscal year 2004, $325,000,000 for fiscal year 2005, $350,000,000 for fiscal year 2006, $375,000,000 for fiscal year 2007, $400,000,000 for fiscal year 2008, and $425,000,000 for fiscal year 2009.

(bb) For public lands highways, $300,000,000 each of fiscal years 2004 through 2009.

(cc) For parkways and park roads, $300,000,000 for fiscal year 2004, $310,000,000 for fiscal year 2005, and $320,000,000 for each of fiscal years 2006 through 2009.

(IV) For highway safety programs, $171,000,000 for each of fiscal years 1998 through 2003.

(V) For highway safety research and development, $44,000,000 for each of fiscal years 1998 through 2003.

(VI) For motor carrier safety grants, not more than $90,000,000 for each of fiscal years 1998 through 2003.

(2) USE OF PAYMENT.—

(A) IN GENERAL.—The core highway programs payment for any core program State shall be available, as provided by appropriation Acts, to the State for any core highway program purpose in such State.

(B) TRANSFERABILITY OF FUNDS.—To the extent that a core program State determines that funds made available under this subsection to the State for a purpose are in excess of the needs of the State for that purpose, the State may transfer the excess funds to, and use the excess funds for, any surface transportation purpose in the State.

(d) DETERMINATION AND USE OF NON-CORE HIGHWAY PROGRAMS BLOCK GRANT.—

(1) DETERMINATION OF AMOUNT OF BLOCK GRANT.—Subject to subsection (e), the amount of the non-core highway programs block grant for any tier I core program State for any fiscal year is equal to the excess of—

(A) the amount of taxes transferred to the Highway Account and the Future Highway Investment Sub Account of the Future Investment Account for such fiscal year which is attributable to highway users in that State as determined by the Secretary of the Treasury (taking into account proper reductions for uses of such taxes for purposes other than the Federal-aid highway program); over

(B) the core highway programs payment to such State for such fiscal year, as determined under subsection (c).

(2) USE OF BLOCK GRANT.—The non-core highway programs block grant for any tier I core program State shall be available, as provided by appropriation Acts, to the State for any surface transportation purpose in such State. Any project carrying out such a purpose shall be exempt from any Federal

regulation other than with respect to health and safety standards and practices.

(e) ELECTION TO REDUCE FEDERAL FUEL TAX RATE WITH CORRESPONDING REDUCTION IN BLOCK GRANT.—

(1) IN GENERAL.—With respect to fiscal years beginning after the satisfaction year and ending with the termination of the election period, a core program State may notify the Secretary (in the same manner as the election described in subsection (b)) of an election to become a tier II core program State and to have imposed on highway users in the State the State's core highway programs financing rate with respect to the taxes transferred to the Highway Account and the Future Highway Investment Sub Account of the Future Investment Account which are attributable to such highway users in lieu of the tax rates otherwise established in the Internal Revenue Code of 1986 for such fiscal years.

(2) DETERMINATION OF CORE HIGHWAY PROGRAMS FINANCING RATE.—

(A) IN GENERAL.—Upon notification by the Secretary of an election by a State under paragraph (1), the Secretary of the Treasury shall determine for each subsequent fiscal year such State's core highway programs financing rate, taking into account—

(i) the amount of taxes necessary to fund that State's core highway programs payment for such fiscal year;

(ii) the uses of the taxes described in paragraph (1) for purposes other than the Federal-aid highway program for such fiscal year;

(iii) any adjustments necessary as a result of a determination under this paragraph for a preceding fiscal year; and

(iv) the rates with respect to such taxes otherwise imposed under the Internal Revenue Code of 1986 for such fiscal year.

(B) REPORT.—Not later than August 1, the Secretary of the Treasury shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, a report that describes the determination required under subparagraph (A).

(C) CONGRESSIONAL APPROVAL REQUIRED.—The Secretary of the Treasury shall not implement the determination required to be included in the report submitted under subparagraph (B) unless a joint resolution is enacted, in accordance with subparagraph (D), approving such determination before the following October 1.

(D) CONGRESSIONAL CONSIDERATION.—

(i) TERMS OF THE RESOLUTION.—For purposes of subparagraph (C), the term ''joint resolution'' means only a joint resolution that is introduced before October 1 and—

(I) that does not have a preamble;

(II) the matter after the resolving clause of which is as follows: ''That Congress approves the determination of the Secretary of the Treasury regarding the imposition of the core highway programs rate for the State of ____ submitted on ____'', the blank spaces being filled in with the appropriate State and date, respectively; and

(III) the title of which is as follows: ''Joint resolution approving the determination of the Secretary of the Treasury regarding the imposition of a core highway programs rate.''.

(ii) REFERRAL.—A resolution described in clause (i) that is introduced—

(I) in the House of Representatives, shall be referred to the Committee on Ways and Means; and

(II) in the Senate, shall be referred to the Committee on Finance.

(iii) DISCHARGE.—If a committee to which a resolution described in clause (i) is referred has not reported such resolution by the end of the 30-day period beginning on the date on which the Secretary of the Treasury submits the report required under subparagraph (B), such committee shall be, at the end of such period, discharged from further consideration of such resolution, and such resolution shall be placed on the appropriate calendar of the House involved.

(iv) CONSIDERATION.—Within 30 days after the date on which the committee to which a resolution described in clause (i) has reported, or has been discharged from further consideration of such resolution, such resolution shall be considered in the same manner as a resolution is considered under subsections (d), (e), and (f) of section 2908 of the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2687 note).

(3) SATISFACTION YEAR.—For purposes of paragraph (1), the term ''satisfaction year'' means the fiscal year during which all Federal non-core highway program obligations of a core program State payable from the Highway Account and the Future Highway Investment Sub Account of the Future Investment Account existing on the date of the election by such State described in subsection (a) are paid.

SEC. ___4. FUNDING OF TRANSIT PROGRAMS IN MASS TRANSIT BLOCK GRANT STATES.

(a) ELECTION TO BECOME A MASS TRANSIT BLOCK GRANT STATE.—A core program State or any other State may notify the Secretary (in the same manner as the election described in section ___3(b)) of an election to receive with respect to each fiscal year during the State's election period a mass transit block grant, in lieu of any other payment from the Mass Transit Account and the Future Transit Investment Sub Account of the Future Investment Account. An election under this subsection shall not affect a State's continued eligibility for revenues provided through the general fund of the Treasury for transit programs.

(b) DETERMINATION AND USE OF MASS TRANSIT BLOCK GRANT.—

(1) DETERMINATION OF AMOUNT OF BLOCK GRANT.—Subject to subsection (c), the amount of the mass transit block grant for any tier I mass transit State for any fiscal year is equal to the amount of taxes transferred to the Mass Transit Account and the Future Transit Investment Sub Account of the Future Investment Account for such fiscal year which is attributable to highway users in that State as determined by the Secretary of the Treasury.

(2) USE OF BLOCK GRANT.—The mass transit block grant for any tier I mass transit State shall be available, as provided by appropriation Acts, to the State for any surface transportation purpose in such State. Any project carrying out such a purpose shall be exempt from any Federal regulation other than with respect to health and safety standards and practices.

(c) ELECTION TO ELIMINATE MASS TRANSIT FUEL TAX RATE WITH CORRESPONDING ELIMINATION OF BLOCK GRANT.—

(1) IN GENERAL.—With respect to fiscal years beginning after the satisfaction year and ending with the termination of the election period, a State which has made an election under subsection (a) may notify the Secretary (in the same manner as such an election) of an election to become a tier II mass transit State and to eliminate the financing rate with respect to the taxes transferred to the Mass Transit Account and the Future Transit Investment Sub Account of the Future Investment Account which are attributable to the highway users of the State in lieu of the mass transit block grant for such fiscal years.

(2) ELIMINATION OF MASS TRANSIT FUEL TAX RATE.—

(A) IN GENERAL.—Upon notification by the Secretary of an election by a State under paragraph (1), the Secretary of the Treasury shall, not later than August 1, submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, a report that notifies the committees of such an election.

(B) CONGRESSIONAL APPROVAL REQUIRED.—The Secretary of the Treasury shall not implement the election included in the report submitted under paragraph (1) unless a joint resolution is enacted, in accordance with paragraph (3), approving such election before the following October 1.

(3) CONGRESSIONAL CONSIDERATION.—

(A) TERMS OF THE RESOLUTION.—For purposes of paragraph (2), the term ''joint resolution'' means only a joint resolution that is introduced before October 1 and—

(i) that does not have a preamble;

(ii) the matter after the resolving clause of which is as follows: ''That Congress approves the elimination of the mass transit fuel tax rate for the State of ____ submitted on ____'', the blank spaces being filled in with the appropriate State and date, respectively; and

(iii) the title of which is as follows: ''Joint resolution approving the elimination of the mass transit fuel tax rate.''.

(B) CONSIDERATION.—A resolution described in subparagraph (A) shall be considered in the same manner as a resolution is considered under clauses (ii), (iii), and (iv) of section ___3(e)(2)(D).

(4) SATISFACTION YEAR.—For purposes of this section, the term ''satisfaction year'' means the fiscal year during which all Federal transit program obligations of a State payable from the Mass Transit Account and the Future Transit Investment Sub Account of the Future Investment Account existing on the date of the election by such State described in subsection (a) are paid.

SEC. ___5. ENFORCEMENT.

If the Secretary determines that a core program State (or any other State under section ___4(b)(2)) has used funds under this Act for a purpose that is not a surface transportation purpose, the amount of the improperly used funds shall be deducted from any amount the State would otherwise receive from the Highway Account for the fiscal year that begins after the date of the determination.

SEC. ___6. REPORTS.

(a) ANNUAL STATE ASSESSMENT.—A core program State shall—

(1) assess the operation of the State surface transportation program funded under this Act in each fiscal year, including the status of the core highway programs in the State; and

(2) report to the Secretary, by January 1 following the end of the fiscal year, on the result of the assessment.

(b) REPORT OF THE SECRETARY.—The Secretary shall submit to the appropriate committees of Congress an annual report and evaluation of the State surface transportation programs funded under this Act based on the State assessments and reports submitted under subsection (a). Such report shall include any conclusions and recommendations that the Secretary considers appropriate.

SEC. ___7. INTERSTATE SURFACE TRANSPORTATION COMPACTS.

(a) DEFINITIONS.—In this section, the following definitions apply:

(1) INFRASTRUCTURE BANK.—The term ''infrastructure bank'' means a surface transportation infrastructure bank established under an interstate compact under subsection (b)(5) and described in subsection (d).

(2) PARTICIPATING STATES.—The term ''participating States'' means the States that are

parties to an interstate compact entered into under subsection (b).

(3) SURFACE TRANSPORTATION PROJECT.—The term ''surface transportation project'' means a surface transportation project, program, or activity described in subsection (b).

(b) CONSENT OF CONGRESS.—In order to increase public investment, attract needed private investment, and promote an intermodal transportation network, Congress grants consent to States to enter into interstate compacts to—

(1) promote the continuity, quality, and safety of the Interstate System (as defined in section 101 of title 23, United States Code);

(2) develop programs to promote and fund surface transportation safety initiatives and establish surface transportation safety standards for the participating States;

(3) conduct long-term planning for surface transportation infrastructure in the participating States;

(4) develop design and construction standards for infrastructure described in paragraph (3) to be used by the participating States; and

(5) establish surface transportation infrastructure banks to promote regional or other multistate investment in infrastructure described in paragraph (3).

(c) FINANCING.—An interstate compact established by participating States under subsection (b) to carry out a surface transportation project may provide that, in order to carry out the compact, the participating States may—

(1) accept contributions from a unit of State or local government or a person;

(2) use any Federal or State funds made available for that type of surface transportation project;

(3) on such terms and conditions as the participating States consider advisable—

(A) borrow money on a short-term basis and issue notes for the borrowing; and

(B) issue bonds; and

(4) obtain financing by other means permitted under Federal or State law, including surface transportation infrastructure banks under subsection (d).

(d) INFRASTRUCTURE BANKS.—

(1) IN GENERAL.—An infrastructure bank may—

(A) make loans;

(B) under the joint or separate authority of the participating States with respect to the infrastructure bank, issue such debt as the infrastructure bank and the participating States determine appropriate; and

(C) provide other assistance to public or private entities constructing, or proposing to construct or initiate, surface transportation projects.

(2) FORMS OF ASSISTANCE.—

(A) IN GENERAL.—An infrastructure bank may make a loan or provide other assistance described in subparagraph (C) to a public or private entity in an amount equal to all or part of the construction cost, capital cost, or initiation cost of a surface transportation project.

(B) SUBORDINATION OF ASSISTANCE.—The amount of any loan or other assistance described in subparagraph (C) that is received for a surface transportation project under this section may be subordinated to any other debt financing for the surface transportation project.

(C) OTHER ASSISTANCE.—Other assistance referred to in subparagraphs (A) and (B) includes any use of funds for the purpose of—

(i) credit enhancement;

(ii) a capital reserve for bond or debt instrument financing;

(iii) bond or debt instrument financing issuance costs;

(iv) bond or debt issuance financing insurance;

(v) subsidization of interest rates;

(vi) letters of credit;

(vii) any credit instrument;

(viii) bond or debt financing instrument security; and

(ix) any other form of debt financing that relates to the qualifying surface transportation project.

(3) NO OBLIGATION OF UNITED STATES.—

(A) IN GENERAL.—The establishment under this section of an infrastructure bank does not constitute a commitment, guarantee, or obligation on the part of the United States to any third party with respect to any security or debt financing instrument issued by the bank. No third party shall have any right against the United States for payment solely by reason of the establishment.

(B) STATEMENT ON INSTRUMENT.—Any security or debt financing instrument issued by an infrastructure bank shall expressly state that the security or instrument does not constitute a commitment, guarantee, or obligation of the United States.

SEC. ___8. FEDERAL-AID FACILITY PRIVATIZATION.

(a) DEFINITIONS.—In this section, the following definitions apply:

(1) EXECUTIVE AGENCY.—The term ''Executive agency'' has the meaning provided in section 105 of title 5, United States Code.

(2) PRIVATIZATION.—The term ''privatization'' means the disposition or transfer of a transportation infrastructure asset, whether by sale, lease, or similar arrangement, from a State or local government to a private party.

(3) STATE OR LOCAL GOVERNMENT.—The term ''State or local government'' means the government of—

(A) any State;

(B) the District of Columbia;

(C) any commonwealth, territory, or possession of the United States;

(D) any county, municipality, city, town, township, local public authority, school district, special district, intrastate district, regional or interstate government entity, council of governments, or agency or instrumentality of a local government; or

(E) any federally recognized Indian tribe.

(4) TRANSPORTATION INFRASTRUCTURE ASSET.—

(A) IN GENERAL.—The term ''transportation infrastructure asset'' means any surface-transportation-related asset financed in whole or in part by the Federal Government, including a road, tunnel, bridge, or mass-transit-related or rail-related asset.

(B) EXCLUSION.—The term does not include any transportation-related asset on the Interstate System (as defined in section 101 of title 23, United States Code).

(b) PRIVATIZATION INITIATIVES BY STATE AND LOCAL GOVERNMENTS.—The head of each Executive agency shall—

(1) assist State and local governments in efforts to privatize the transportation infrastructure assets of the State and local governments; and

(2) subject to subsection (c), approve requests from State and local governments to privatize transportation infrastructure assets and waive or modify any condition relating to the original Federal program that funded the asset.

(c) CRITERIA.—The head of an Executive agency shall approve a request described in subsection (b)(2) if—

(1) the State or local government demonstrates that a market mechanism, legally enforceable agreement, or regulatory mechanism will ensure that the transportation infrastructure asset will continue to be used for the general objectives of the original Federal program that funded the asset (which shall not be considered to include every condition required for the recipient of Federal funds to have obtained the original Federal funds), so long as needed for those objectives; and

(2) the private party purchasing or leasing the transportation infrastructure asset agrees to comply with all applicable conditions of the original Federal program.

(d) LACK OF OBLIGATION TO REPAY FEDERAL FUNDS.—A State or local government shall have no obligation to repay to any agency of the Federal Government any Federal funds received by the State or local government in connection with a transportation infrastructure asset that is privatized under this section.

(e) USE OF PROCEEDS.—

(1) IN GENERAL.—Subject to paragraph (2), a State or local government may use proceeds from the privatization of a transportation infrastructure asset to the extent permitted under applicable conditions of the original Federal program.

(2) RECOVERY OF CERTAIN COSTS.—Notwithstanding any other provision of law, the State or local government shall be permitted to recover from the privatization of a transportation infrastructure asset—

(A) the capital investment in the transportation infrastructure asset made by the State or local government;

(B) an amount equal to the unreimbursed operating expenses in the transportation infrastructure asset paid by the State or local government; and

(C) a reasonable rate of return on the investment made under subparagraph (A) and expenses paid under subparagraph (B).

SEC. ___9. ESTABLISHMENT OF FUTURE INVESTMENT ACCOUNT.

Section 9503 of the Internal Revenue Code of 1986 (relating to Highway Trust Fund), as amended by this Act, is amended by adding at the end the following:

''(f) ESTABLISHMENT OF FUTURE INVESTMENT ACCOUNT.—

''(1) CREATION OF ACCOUNT.—There is established in the Highway Trust Fund a separate account to be known as the 'Future Investment Account', consisting of such amounts as may be transferred or credited to the Future Highway Investment Sub Account and the Future Transit Investment Sub Account of the Future Investment Account as provided in this subsection or section 9602(b).

''(2) TRANSFERS TO FUTURE INVESTMENT ACCOUNT.—

''(A) IN GENERAL.—The Secretary of the Treasury shall transfer to the Future Highway Investment Sub Account the future highway investment portion and to the Future Transit Investment Sub Account the future transit investment portion of the amounts appropriated to the Highway Trust Fund under subsection (b) which are attributable to taxes under sections 4041 and 4081 imposed after September 30, [1997].

''(B) FUTURE INVESTMENT PORTIONS.—For purposes of subparagraph (A)—

''(i) the term 'future highway investment portion' means an amount determined at the rate of 3.44 cents for each gallon with respect to which tax was imposed under section 4041 or 4081, and

''(ii) the term 'future transit investment portion' means an amount determined at the rate of .86 cent for each gallon with respect to which tax was so imposed.

''(3) EXPENDITURES FROM ACCOUNT.—Amounts in the Future Investment Account shall be available, as provided by appropriation Acts, in a Federal budget neutral manner, for making expenditures after October 1, 2003—

''(A) in the case of the Future Highway Investment Sub Account, in accordance with elections made under section ___3(a) of the Surface Transportation and Transit Empowerment Act, and

''(B) in the case of the Future Transit Investment Sub Account, in accordance with elections made under section ___4(a) of the Surface Transportation and Transit Empowerment Act.''.

SEC. ___10. EFFECTIVE DATE CONTINGENT UPON CERTIFICATION OF DEFICIT NEUTRALITY.

(a) PURPOSE.—The purpose of this section is to ensure that—

(1) this Act will become effective only if the Director of the Office of Management and Budget (referred to in this section as the ''Director'') certifies that this Act is deficit neutral;

(2) discretionary spending limits are reduced to capture the savings realized in devolving transportation functions to the State level pursuant to this Act; and

(3) the tax reduction made by this Act is not scored under pay-as-you-go and does not inadvertently trigger a sequestration.

(b) EFFECTIVE DATE CONTINGENCY.—Notwithstanding any other provision of this Act, this Act shall take effect only if—

(1) the Director submits the report as required in subsection (c); and

(2) the report contains a certification by the Director that, based on the required estimates, the reduction in discretionary outlays resulting from the reduction in contract authority is at least as great as the reduction in revenues for each fiscal year through fiscal year 2009.

(c) OMB ESTIMATES AND REPORT.—

(1) REQUIREMENTS.—Not later than 5 calendar days after the date of notification by the Secretary of any election described in section ___3(b), the Director shall—

(A) estimate the net change in revenues resulting from this Act for each fiscal year through fiscal year 2009;

(B) estimate the net change in discretionary outlays resulting from the reduction in contract authority under this Act for each fiscal year through fiscal year 2009;

(C) determine, based on those estimates, whether the reduction in discretionary outlays is at least as great as the reduction in revenues for each fiscal year through fiscal year 2009; and

(D) submit to the Congress a report setting forth the estimates and determination.

(2) APPLICABLE ASSUMPTIONS AND GUIDELINES.—

(A) REVENUE ESTIMATES.—The revenue estimates required under paragraph (1)(B) shall be predicated on the same economic and technical assumptions and scorekeeping guidelines that would be used for estimates made pursuant to section 252(d) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 902(d)).

(B) OUTLAY ESTIMATES.—The outlay estimates required under paragraph (1)(B) shall be determined by comparing the level of discretionary outlays resulting from this Act with the corresponding level of discretionary outlays projected in the baseline under section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 907).

(d) CONFORMING ADJUSTMENT TO DISCRETIONARY SPENDING LIMITS.—Upon compliance with the requirements specified in subsection (b), the Director shall adjust the adjusted discretionary spending limits for each fiscal year through fiscal year 2009 under section 601(a)(2) of the Congressional Budget Act of 1974 (2 U.S.C. 665(a)(2)) by the estimated reductions in discretionary outlays under subsection (a)(2).

(e) PAYGO INTERACTION.—Upon compliance with the requirements specified in subsection (b), no changes in revenues estimated to result from the enactment of this Act shall be counted for the purposes of section 252(d) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 902(d)).

SA 2408. Mr. FITZGERALD (for himself and Mr. DURBIN) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 738, strike lines 5 through 12 and insert the following:

motor vehicles that became effective by December 31, 2002.

''(ii) For each of fiscal years 2004 through 2009, the Secretary shall, after making grants under clause (i) of this subparagraph, make a one-time grant to each State that either enacts for the first time after December 31, 2002, and has in effect

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SA 2409. Mrs. BOXER (for herself, Mr. DODD, and Mrs. FEINSTEIN) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 267, line 2, strike all through page 268, line 6.

SA 2410. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 1109, after line 22, add the following:

SEC. ___. MODIFICATIONS TO GAS GUZZLERS TAX TO ENCOURAGE GREATER AUTO FUEL EFFICIENCY.

(a) INCREASE IN TAX RATE.—Subsection (a) of section 4064 (relating to gas guzzlers tax) is amended to read as follows:

''(a) IMPOSITION OF TAX.—

''(1) IN GENERAL.—There is hereby imposed on the sale by the manufacturer of each automobile a tax determined in accordance with the following table:

If the fuel economy for the model year of the model type in which the automobile falls is:	The tax is:
Less than 5 mpg below the applicable fuel economy standard	$0
At least 5 but less than 6 mpg below such standard	1,000
At least 6 but less than 7 mpg below such standard	1,500
At least 7 but less than 8 mpg below such standard	2,000
At least 8 but less than 9 mpg below such standard	2,500
At least 9 but less than 10 mpg below such standard	3,100
At least 10 but less than 11 mpg below such standard	3,800
At least 11 but less than 12 mpg below such standard	4,600
At least 12 but less than 13 mpg below such standard	5,500
At least 13 but less than 14 mpg below such standard	6,500
At least 14 mpg below such standard	7,700.

''(2) INFLATION ADJUSTMENT.—

''(A) IN GENERAL.—In the case of any taxable year beginning after 2005, each dollar amount referred to in paragraph (1) shall be increased by an amount equal to—

''(i) such dollar amount, multiplied by

''(ii) the cost-of-living adjustment determined under section (1)(f)(3) for the calendar year in which the taxable year begins, by substituting '2004' for '1992'.

''(B) ROUNDING.—If any amount as adjusted under subparagraph (A) is not a multiple of $100, such amount shall be rounded to the next lowest multiple of $50.''.

(b) EXPANSION OF DEFINITION OF AUTOMOBILE.—

(1) INCREASE IN WEIGHT.—Section 4064(b)(1)(A)(ii) (defining automobile) is amended by striking ''6,000 pounds'' and inserting ''12,000 pounds''.

(2) INCLUSION OF CERTAIN VEHICLES.—Subparagraph (B) of section 4064(b)(1) is amended to read as follows:

''(B) INCLUSION OF CERTAIN VEHICLES.—The term 'automobile' includes any sport utility vehicle. For purposes of the preceding sentence, the term 'sport utility vehicle' does not include—

''(i) a vehicle which does not have a primary load carrying device or container attached or which is an incomplete truck (as defined in 40 C.F.R. 86.1803–01),

''(ii) a vehicle which has a seating capacity of more than 12 persons,

''(iii) a vehicle which has a seating capacity of more than 9 persons behind the driver's seat, or

''(iv) a vehicle which is equipped with a cargo area of at least 6 feet in interior length which is an open area or is designed for use as an open area but is enclosed by a cap and is not readily accessible directly from the passenger compartment.''.

(c) ADDITIONAL DEFINITIONS.—Section 4064(b) (relating to definitions) is amended by adding at the end the following new paragraphs:

''(8) APPLICABLE FUEL ECONOMY STANDARD.—The term 'applicable fuel economy standard' means, with respect to any model year—

''(A) in the case of automobiles not exceeding 6,000 pounds in unloaded gross vehicle weight, the average fuel economy standard as defined in section 32902 of title 49, United States Code, for passenger automobiles for such model year, and

''(B) in the case of automobiles exceeding 6,000 pounds in unloaded gross vehicle weight, such automobiles shall be considered to be 8,400 pounds in unloaded gross vehicle weight for the purposes of determining the average fuel economy standard as defined in such section 32902, for such model year.

''(9) MPG.—The term 'mpg' means miles per gallon.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to sales after October 31, 2005.

SEC. ___. HIGHLY FUEL-EFFICIENT AUTOMOBILE CREDIT.

(a) IN GENERAL.—Subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to refundable credits) is amended by redesignating section 36 as section 37 and by inserting after section 35 the following new section:

''SEC. 36. HIGHLY FUEL-EFFICIENT AUTOMOBILE CREDIT.

''(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to the new highly fuel-efficient automobile credit determined under subsection (b).

''(b) NEW HIGHLY FUEL-EFFICIENT AUTOMOBILE CREDIT.—For purposes of subsection

(a), the new highly fuel-efficient automobile credit with respect to any new automobile placed in service by the taxpayer during the taxable year is determined in accordance with the following tables:

If the fuel economy for the model year of the model type in which the passenger automobile falls is:	The credit is:
Less than 5 mpg above the applicable fuel economy standard	$0
At least 5 but less than 6 mpg above such standard	200
At least 6 but less than 7 mpg above such standard	250
At least 7 but less than 8 mpg above such standard	300
At least 8 but less than 9 mpg above such standard	350
At least 9 but less than 10 mpg above such standard	500
At least 10 but less than 11 mpg above such standard	1,000
At least 11 but less than 12 mpg above such standard	1,500
At least 12 but less than 13 mpg above such standard	2,000
At least 13 but less than 14 mpg above such standard	2,500
At least 14 mpg above such standard	3,000.

If the fuel economy for the model year of the model type in which the non-passenger automobile falls is:	The credit is:
Less than 5 mpg above the applicable fuel economy standard	$0
At least 5 but less than 6 mpg above such standard	200
At least 6 but less than 7 mpg above such standard	250
At least 7 but less than 8 mpg above such standard	300
At least 8 but less than 9 mpg above such standard	350
At least 9 but less than 10 mpg above such standard	500
At least 10 but less than 11 mpg above such standard	1,000
At least 11 but less than 12 mpg above such standard	1,500
At least 12 but less than 13 mpg above such standard	2,000
At least 13 but less than 14 mpg above such standard	2,500
At least 14 mpg above such standard	3,000.

''(c) NEW AUTOMOBILE.—For purposes of this section, the term 'new automobile' means a passenger automobile or non-passenger automobile—

''(1) the original use of which commences with the taxpayer,

''(2) which is acquired for use or lease by the taxpayer and not for resale, and

''(3) which is made by a manufacturer.

''(d) PASSENGER AUTOMOBILE; NON-PASSENGER AUTOMOBILE.—For purposes of this section—

''(1) PASSENGER AUTOMOBILE.—The term 'passenger automobile' has the meaning given the term 'automobile' by section 4064(b)(1).

''(2) NON-PASSENGER AUTOMOBILE.—

''(A) IN GENERAL.—The term 'non-passenger automobile' means any automobile (as defined in section 4064(b)(1)(A)), but only if such automobile is described in subparagraph (B).

''(B) NON-PASSENGER AUTOMOBILES DESCRIBED.—An automobile is described in this subparagraph if such automobile is—

''(i) a vehicle which does not have a primary load carrying device or container attached,

''(ii) a vehicle which has a seating capacity of more than 12 persons,

''(iii) a vehicle which has a seating capacity of more than 9 persons behind the driver's seat, or

''(iv) a vehicle which is equipped with a cargo area of at least 6 feet in interior length which does not extend beyond the frame of the vehicle and which is an open area or is designed for use as an open area but is enclosed by a cap and is not readily accessible directly from the passenger compartment.

''(e) OTHER DEFINITIONS.—Except as provided in subsection (d), for purposes of this section, any term used in this section and also in section 4064 shall have the meaning given such term by section 4064.

''(f) SPECIAL RULES.—For purposes of this section—

''(1) REDUCTION IN BASIS.—For purposes of this subtitle, the basis of any property for which a credit is allowable under subsection (a) shall be reduced by the amount of such credit so allowed.

''(2) NO DOUBLE BENEFIT.—The amount of any deduction or other credit allowable under this chapter with respect to an automobile described under subsection (b), shall be reduced by the amount of credit allowed under subsection (a) for such automobile for the taxable year.

''(3) PROPERTY USED BY TAX-EXEMPT ENTITIES.—In the case of a credit amount which is allowable with respect to an automobile which is acquired by an entity exempt from tax under this chapter, the person which sells or leases such automobile to the entity shall be treated as the taxpayer with respect to the automobile for purposes of this section and the credit shall be allowed to such person, but only if the person clearly discloses to the entity at the time of any sale or lease the specific amount of any credit otherwise allowable to the entity under this section.

''(4) RECAPTURE.—The Secretary shall, by regulations, provide for recapturing the benefit of any credit allowable under subsection (a) with respect to any property which ceases to be property eligible for such credit (including recapture in the case of a lease period of less than the economic life of an automobile).

''(5) PROPERTY USED OUTSIDE UNITED STATES, ETC., NOT QUALIFIED.—No credit shall be allowed under subsection (a) with respect to any property referred to in section 50(b) or with respect to the portion of the cost of any property taken into account under section 179.

''(6) ELECTION TO NOT TAKE CREDIT.—No credit shall be allowed under subsection (a) for any automobile if the taxpayer elects to not have this section apply to such automobile.

''(7) INTERACTION WITH AIR QUALITY AND MOTOR VEHICLE SAFETY STANDARDS.—Unless otherwise provided in this section, an automobile shall not be considered eligible for a credit under this section unless such automobile is in compliance with—

''(A) the applicable provisions of the Clean Air Act for the applicable make and model year of the automobile (or applicable air quality provisions of State law in the case of a State which has adopted such provision under a waiver under section 209(b) of the Clean Air Act), and

''(B) the motor vehicle safety provisions of sections 30101 through 30169 of title 49, United States Code.

''(g) REGULATIONS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall promulgate such regulations as necessary to carry out the provisions of this section.

''(2) COORDINATION IN PRESCRIPTION OF CERTAIN REGULATIONS.—The Secretary of the Treasury, in coordination with the Secretary of Transportation and the Administrator of the Environmental Protection Agency, shall prescribe such regulations as necessary to determine whether an automobile meets the requirements to be eligible for a credit under this section.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 1016(a) is amended by striking ''and'' at the end of paragraph (27), by striking the period at the end of paragraph (28) and inserting '', and'', and by adding at the end the following new paragraph:

''(29) to the extent provided in section 36(f)(1).''.

(2) Section 6501(m) is amended by inserting ''36(f)(6),'' after ''30(d)(4),''.

(3) Paragraph (2) of section 1324(b) of title 31, United States Code, is amended by inserting before the period '', or from section 36 of such Code''.

(4) The table of sections for subpart C of part IV of chapter 1 is amended by striking the last item and inserting the following new items:

''Sec. 36. Highly fuel-efficient automobile credit.

''Sec. 37. Overpayments of tax.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after October 31, 2005, in taxable years ending after such date.

SA 2411. Mr. McCAIN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

In section 139 of title 23, United States Code, as added by section 1201 of the amendment—

(1) strike ''SET-ASIDE.—'' in subsection (b)(2) and insert ''FUNDING.—'';

(2) strike ''of the amounts made available'' in subsection (b)(2) and insert ''the amounts made available'';

(3) strike ''$439,000,000'' in subsection (b)(2);

(4) strike ''allocated'' in subsection (c)(1)(A) and insert ''apportioned'';

(5) strike ''subsection (d),'' in subsection (c)(1)(B) and insert ''subsection (e).'';

(6) redesignate subsections (d) and (e) as subsections (e) and (f), respectively, and insert the following after subsection (c):

''(d) DISTRIBUTION OF FUNDS.—

''(1) INFRASTRUCTURE PERFORMANCE AND MAINTENANCE PROGRAM DISTRIBUTION.—Notwithstanding section 1101(13) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004, and in lieu of the amounts authorized by that section, there are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for carrying out the infrastructure performance and maintenance program under this section—

''(A) $2,000,000,000 for each of fiscal years 2004 and 2005; and

''(B) $1,750,000,000 for each of fiscal years 2006, 2007, and 2008.

''(2) EQUITY DISTRIBUTION.—On October 1 of each fiscal year, the Secretary shall reserve a sufficient amount of the funding available to carry out this section to provide a final equity adjustment, after making the apportionment under section 105 of this title, for each State to increase the percentage return of all highway apportionments, as compared to the tax payments attributable to the States paid into the Highway Trust Fund (other than the Mass Transit Account), to—

''(A) for fiscal year 2005, 91 percent;

''(B) for fiscal year 2006, 92 percent;
''(C) for fiscal year 2007, 93 percent;
''(D) for fiscal year 2008, 94 percent; and
''(E) for fiscal year 2009, 95 percent.

''(3) REMAINDER DISTRIBUTION.—On October 1 of each fiscal year, the Secretary shall apportion the funds available for allocation under this section among the several States, after the application of paragraph (1), according to the ratio that—

''(1) the percentage of tax payments attributable to highway users in each State paid into the Highway Trust Fund (other than the Mass Transit Account), bears to

''(2) 100 percent of tax payments attributable to highway users in all States paid into the Highway Trust Fund (other than the Mass Transit Account).''; and

(7) strike subsection (e), as redesignated, and insert the following:

''(e) REDISTRIBUTION OF ALLOCATED FUNDS AND OBLIGATION AUTHORITY.—On the date that is 180 days after the date of apportionment, or as soon thereafter as practicable, for each fiscal year, the Secretary shall—

''(1) withdraw—

''(A) any funds allocated to a State under this section that remain unobligated; and

''(B) an equal amount of obligation authority provided for the use of the funds in accordance with section 1101(a)(13) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003; and

''(2) reallocate the funds and redistribute the obligation authority to those States that—

''(A) have fully obligated all amounts allocated under this section for the fiscal year; and

''(B) demonstrate that the State is able to obligate additional amounts for projects eligible under this section before the end of the fiscal year.

''(f) APPLICATION WITH SECTION 105.—Nothwithstanding section 105(a)(2)(H) of this title, section 105(a) shall not apply to funds apportioned under this section.''.

(e) FUNDING CAP FROM HIGHWAY TRUST FUND.—Prior to making any apportionments or allocations under Chapter 1 of USC 23 for fiscal year 2009, the Secretary shall compare the sum of all apportionments and allocations for fiscal years 2004 through 2008 plus the projected apportionments and allocations for fiscal year 2009 to the funding cap of $255,000,000,000. If the total sum of such apportionments and allocations exceeds the funding cap of $255,000,000,000, the Secretary shall proportionally reduce all apportionments and allocations for fiscal year 2009 so the total sum equals $255,000,000,000.

SA 2412. Mr. INHOFE submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of section 4522, insert the following:

(b) CONFORMING AMENDMENTS.—

(1) IN GENERAL.—Section 3 of the Dingell-Johnson Sport Fish Restoration Act (16 U.S.C. 777b) is amended—

(A) by striking ''Sport Fish Restoration Account'' and inserting ''Sport Fish Restoration Trust Fund''; and

(B) by striking ''that Account'' and inserting ''that Trust Fund, except as provided in section 9504(c) of the Internal Revenue Code of 1986''.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) take effect on October 1, 2004.

SA 2413. Mr. INHOFE submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 115, between lines 9 and 10, insert the following:

SEC. 13___. HIGHWAY USE TAX EVASION PROJECTS.

(a) PROJECTS.—Section 143(b) of title 23, United States Code, is amended—

(1) in paragraph (2), by inserting before the period at the end the following: '', except that, for each of fiscal years 2004 through 2009, $2,000,000 shall be available only to carry out intergovernmental enforcement efforts, including research and training'';

(2) in paragraph (3), by inserting before the period at the end the following: '', except as otherwise provided in this section'';

(3) in paragraph (4)—

(A) in subparagraph (F), by striking ''and'' at the end;

(B) in subparagraph (G), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

''(H) to support efforts between States and Indian tribes to address issues relating to State motor fuel taxes; and

''(I) to analyze and implement programs to reduce tax evasion associated with foreign imported fuel.''; and

(4) by adding at the end the following:

''(9) REPORTS.—

''(A) IN GENERAL.—The Commissioner of the Internal Revenue Service and participating States shall submit to the Secretary annual reports that describe the projects, examinations, and criminal investigations funded by and carried out under this section.

''(B) YIELD.—The reports shall specify the annual yield estimated for each project funded under this section.''.

(b) EXCISE SUMMARY TERMINAL ACTIVITY REPORTING SYSTEM.—Section 143(c) of title 23, United States Code, is amended—

(1) in paragraph (1)—

(A) by striking ''Not later than August 1, 1998,'' and inserting ''Not later than 90 days after the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004,'';

(B) by striking ''development'' and inserting ''completion, operation,'';

(C) by striking ''an excise fuel reporting system'' and inserting ''the excise summary terminal activity reporting system''; and

(D) by striking ''(in this subsection referred to as the 'system')'';

(2) in paragraph (2)—

(A) by striking ''the system'' each place it appears and inserting ''the excise summary terminal activity reporting system'';

(B) in subparagraph (A), by striking ''develop'' and inserting ''complete, operate,'';

(C) in subparagraph (B), by striking ''and'' at the end;

(D) in subparagraph (C), by striking the period at the end and inserting ''; and''; and

(E) by adding at the end the following:

''(D) the Commissioner of the Internal Revenue Service shall submit to the Secretary, and the Secretary shall approve, a budget and project plan for the completion, operation, and maintenance of the excise summary terminal activity reporting system.''; and

(3) by striking paragraph (3) and inserting the following:

''(3) FUNDING.—Of the amounts made available to carry out this section for each of fiscal years 2004 through 2009, the Secretary shall make funds available to the Internal Revenue Service to complete, operate, and maintain the excise summary terminal activity reporting system in accordance with this subsection.''.

(c) REGISTRATION SYSTEM AND ELECTRONIC DATABASE.—Section 143 of title 23, United States Code, is amended by adding at the end the following:

''(d) PIPELINE, VESSEL, AND BARGE REGISTRATION SYSTEM.—

''(1) IN GENERAL.—Not later than 90 days after the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004, the Secretary shall enter into a memorandum of understanding with the Commissioner of the Internal Revenue Service for the purposes of the development, operation, and maintenance of a registration system for pipelines, vessels, and barges, and operators of the pipelines, vessels, and barges, that make bulk transfers of taxable fuel.

''(2) ELEMENTS OF MEMORANDUM OF UNDERSTANDING.—The memorandum of understanding shall provide that—

''(A) the Internal Revenue Service shall develop, operate, and maintain the registration system through contracts;

''(B) the Commissioner of the Internal Revenue Service shall submit to the Secretary, and the Secretary shall approve, a budget and project plan for development, operation, and maintenance of the registration system;

''(C) the registration system shall be under the control of the Internal Revenue Service; and

''(D) the registration system shall be made available for use by appropriate State and Federal revenue, tax, and law enforcement authorities, subject to section 6103 of the Internal Revenue Code of 1986.

''(3) FUNDING.—Of the amounts made available to carry out this section for each of fiscal years 2004 through 2009, the Secretary shall make funds available to the Internal Revenue Service to complete, operate, and maintain in accordance with this subsection the registration system described in paragraph (1).

''(e) HEAVY VEHICLE USE TAX PAYMENT DATABASE.—

''(1) IN GENERAL.—Not later than 90 days after the date of enactment of Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004, the Secretary shall enter into a memorandum of understanding with the Commissioner of the Internal Revenue Service for the purposes of the development, operation, and maintenance of an electronic database for heavy vehicle highway use tax payments.

''(2) ELEMENTS OF MEMORANDUM OF UNDERSTANDING.—The memorandum of understanding shall provide that—

''(A) the Internal Revenue Service shall develop, operate, and maintain the electronic database through contracts;

''(B) the Commissioner of the Internal Revenue Service shall submit and the Secretary shall approve a budget and project plan for establishment, operation, and maintenance of the electronic database;

''(C) the electronic database shall be under the control of the Internal Revenue Service; and

''(D) the electronic database shall be made available for use by appropriate State and Federal revenue, tax, and law enforcement authorities, subject to section 6103 of the Internal Revenue Code of 1986.

''(3) FUNDING.—Of the amounts made available to carry out this section for each of fiscal years 2004 through 2009, the Secretary shall make funds available to the Internal Revenue Service to establish, operate, and maintain in accordance with this subsection

the electronic database described in paragraph (1).

''(f) REPORTS.—Not later than March 30 and September 30 of each year, the Internal Revenue Service shall submit to the Secretary reports on the status of the Internal Revenue Service projects funded under this section relating to—

''(1) the excise summary terminal activity reporting system under subsection (c);

''(2) the pipeline, vessel, and barge registration system under subsection (d); and

''(3) the heavy vehicle use tax electronic database under subsection (e).''.

(d) ALLOCATIONS.—Of the amounts made available under section 104(a)(1) of title 23, United States Code, there shall made available for highway use tax evasion projects the following amounts:

(1) For each of fiscal years 2004 through 2009, $4,500,000 shall be allocated to the States.

(2) For fiscal year 2004, $20,050,000 shall be allocated to the Internal Revenue Service, of which $10,500,000 shall be used for the excise summary terminal activity reporting system.

(3) For each of fiscal years 2005 and 2006, $48,000,000 shall be allocated to the Internal Revenue Service, of which $4,500,000 shall be used for the excise summary terminal activity reporting system.

(4) For fiscal year 2007, $38,000,000 shall be allocated to the Internal Revenue Service, of which $4,500,000 shall be used for the excise summary terminal activity reporting system.

(5) For each of fiscal years 2008 and 2009, $4,500,000 shall be allocated to the Internal Revenue Service, which shall be used for the excise summary terminal activity reporting system.

SA 2414. Mr. NICKLES submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 1298, strike lines 16 through 24, and insert:

PART IV—SENSE OF SENATE

It is the sense of the Senate that highway spending should not be funded using a shift in corporate estimated tax receipts.

SA 2415. Mr. BURNS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 737, between lines 17 and 18, insert the following new paragraph:

(4) by inserting after subsection (e), as redesignated, the following:

''(f) MINIMUM APPORTIONMENT AND CRITERIA.—

''(1) MINIMUM APPORTIONMENT.—Notwithstanding any other provision of this section, the Secretary shall grant to any State that qualifies under paragraph (2) and has not received, as a result of other provisions of this section, at least ½ of 1 percent of the total funds authorized for a fiscal year for grants under this section, such additional funds as are necessary to result in such State receiving ½ of 1 percent of the total funds authorized for grants under this section for that fiscal year. Funds for grants under this subsection shall be derived from pro-rata reduction of grant amounts that otherwise would be awarded pursuant to other subsections of this section.

''(2) CRITERIA.—To qualify for a grant under this subsection, a State—

''(A) shall meet the requirements of subsection (a)(2) of this section; and

''(B) shall—

''(i) meet 3 of the 6 criteria for qualifying for grants under this section (as this section was in effect for fiscal year 2003 funding); or

''(ii) for the most recent year for which data is available, have a seat belt utilization rate that is either higher than the national average for that year or higher than the utilization rate in that State in the second most recent year for which data is available.

''(3) USES OF FUNDS.—Grants under this subsection may be used for—

''(A) any activity that was an eligible use of grants under this section for fiscal year 2003;

''(B) any activity otherwise eligible under this section, other than activities that are made eligible only for those States that meet the criteria set forth in subparagraph (b)(2)(A) of this section; and

''(C) any other activity undertaken by the State for the purpose of increasing seat belt utilization unless disapproved by the Secretary on the basis that it bears no relation to that objective.''.

SA 2416. Mr. BAYH (for himself, Mr. LUGAR, and Mrs. CLINTON) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 393, after line 19, add the following:

Subtitle J—Clean School Buses

SEC. 1911. DEFINITIONS.

In this subtitle:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Environmental Protection Agency.

(2) ALTERNATIVE FUEL.—The term ''alternative fuel'' means liquefied natural gas, compressed natural gas, liquefied petroleum gas, hydrogen, propane, or methanol or ethanol at no less than 85 percent by volume.

(3) ALTERNATIVE FUEL SCHOOL BUS.—The term ''alternative fuel school bus'' means a school bus that meets all of the requirements of this subtitle and is operated solely on an alternative fuel.

(4) EMISSIONS CONTROL RETROFIT TECHNOLOGY.—The term ''emissions control retrofit technology'' means a particulate filter or other emissions control equipment that is verified or certified by the Administrator or the California Air Resources Board as an effective emission reduction technology when installed on an existing school bus.

(5) IDLING.—The term ''idling'' means operating an engine while remaining stationary for more than approximately 15 minutes, except that the term does not apply to routine stoppages associated with traffic movement or congestion.

(6) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.

(7) ULTRA-LOW SULFUR DIESEL FUEL.—The term ''ultra-low sulfur diesel fuel'' means diesel fuel that contains sulfur at not more than 15 parts per million.

(8) ULTRA-LOW SULFUR DIESEL FUEL SCHOOL BUS.—The term ''ultra-low sulfur diesel fuel school bus'' means a school bus that meets all of the requirements of this subtitle and is operated solely on ultra-low sulfur diesel fuel.

SEC. 1912. PROGRAM FOR REPLACEMENT OF CERTAIN SCHOOL BUSES WITH CLEAN SCHOOL BUSES.

(a) ESTABLISHMENT.—The Administrator, in consultation with the Secretary and other appropriate Federal departments and agencies, shall establish a program for awarding grants on a competitive basis to eligible entities for the replacement of existing school buses manufactured before model year 1991 with alternative fuel school buses and ultra-low sulfur diesel fuel school buses.

(b) REQUIREMENTS.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Administrator shall establish and publish in the Federal Register grant requirements on eligibility for assistance, and on implementation of the program established under subsection (a), including instructions for the submission of grant applications and certification requirements to ensure compliance with this subtitle.

(2) APPLICATION DEADLINES.—The requirements established under paragraph (1) shall require submission of grant applications not later than—

(A) in the case of the first year of program implementation, the date that is 180 days after the publication of the requirements in the Federal Register; and

(B) in the case of each subsequent year, June 1 of the year.

(c) ELIGIBLE RECIPIENTS.—A grant shall be awarded under this section only—

(1) to 1 or more local or State governmental entities responsible for providing school bus service to 1 or more public school systems or responsible for the purchase of school buses;

(2) to 1 or more contracting entities that provide school bus service to 1 or more public school systems, if the grant application is submitted jointly with the 1 or more school systems to be served by the buses, except that the application may provide that buses purchased using funds awarded shall be owned, operated, and maintained exclusively by the 1 or more contracting entities; or

(3) to a nonprofit school transportation association representing private contracting entities, if the association has notified and received approval from the 1 or more school systems to be served by the buses.

(d) AWARD DEADLINES.—

(1) IN GENERAL.—Subject to paragraph (2), the Administrator shall award a grant made to a qualified applicant for a fiscal year—

(A) in the case of the first fiscal year of program implementation, not later than the date that is 90 days after the application deadline established under subsection (b)(2); and

(B) in the case of each subsequent fiscal year, not later than August 1 of the fiscal year.

(2) INSUFFICIENT NUMBER OF QUALIFIED GRANT APPLICATIONS.—If the Administrator does not receive a sufficient number of qualified grant applications to meet the requirements of subsection (i)(1) for a fiscal year, the Administrator shall award a grant made to a qualified applicant under subsection (i)(2) not later than September 30 of the fiscal year.

(e) TYPES OF GRANTS.—

(1) IN GENERAL.—A grant under this section shall be used for the replacement of school buses manufactured before model year 1991 with alternative fuel school buses and ultra-low sulfur diesel fuel school buses.

(2) NO ECONOMIC BENEFIT.—Other than the receipt of the grant, a recipient of a grant under this section may not receive any economic benefit in connection with the receipt of the grant.

(3) PRIORITY OF GRANT APPLICATIONS.—The Administrator shall give priority to applicants that propose to replace school buses manufactured before model year 1977.

(f) CONDITIONS OF GRANT.—A grant provided under this section shall include the following conditions:

(1) SCHOOL BUS FLEET.—All buses acquired with funds provided under the grant shall be operated as part of the school bus fleet for which the grant was made for a minimum of 5 years.

(2) USE OF FUNDS.—Funds provided under the grant may only be used—

(A) to pay the cost, except as provided in paragraph (3), of new alternative fuel school buses or ultra-low sulfur diesel fuel school buses, including State taxes and contract fees associated with the acquisition of such buses; and

(B) to provide—

(i) up to 20 percent of the price of the alternative fuel school buses acquired, for necessary alternative fuel infrastructure if the infrastructure will only be available to the grant recipient; and

(ii) up to 25 percent of the price of the alternative fuel school buses acquired, for necessary alternative fuel infrastructure if the infrastructure will be available to the grant recipient and to other bus fleets.

(3) GRANT RECIPIENT FUNDS.—The grant recipient shall be required to provide at least—

(A) in the case of a grant recipient described in paragraph (1) or (3) of subsection (c), the lesser of—

(i) an amount equal to 15 percent of the total cost of each bus received; or

(ii) $15,000 per bus; and

(B) in the case of a grant recipient described in subsection (c)(2), the lesser of—

(i) an amount equal to 20 percent of the total cost of each bus received; or

(ii) $20,000 per bus.

(4) ULTRA-LOW SULFUR DIESEL FUEL.—In the case of a grant recipient receiving a grant for ultra-low sulfur diesel fuel school buses, the grant recipient shall be required to provide documentation to the satisfaction of the Administrator that diesel fuel containing sulfur at not more than 15 parts per million is available for carrying out the purposes of the grant, and a commitment by the applicant to use such fuel in carrying out the purposes of the grant.

(5) TIMING.—All alternative fuel school buses, ultra-low sulfur diesel fuel school buses, or alternative fuel infrastructure acquired under a grant awarded under this section shall be purchased and placed in service as soon as practicable.

(g) BUSES.—

(1) IN GENERAL.—Except as provided in paragraph (2), funding under a grant made under this section for the acquisition of new alternative fuel school buses or ultra-low sulfur diesel fuel school buses shall only be used to acquire school buses—

(A) with a gross vehicle weight of greater than 14,000 pounds;

(B) that are powered by a heavy duty engine;

(C) in the case of alternative fuel school buses manufactured in model years 2004 through 2006, that emit not more than 1.8 grams per brake horsepower-hour of nonmethane hydrocarbons and oxides of nitrogen and .01 grams per brake horsepower-hour of particulate matter; and

(D) in the case of ultra-low sulfur diesel fuel school buses manufactured in model years 2004 through 2006, that emit not more than 2.5 grams per brake horsepower-hour of nonmethane hydrocarbons and oxides of nitrogen and .01 grams per brake horsepower-hour of particulate matter.

(2) LIMITATIONS.—A bus shall not be acquired under this section that emits nonmethane hydrocarbons, oxides of nitrogen, or particulate matter at a rate greater than the best performing technology of the same class of ultra-low sulfur diesel fuel school buses commercially available at the time the grant is made.

(h) DEPLOYMENT AND DISTRIBUTION.—The Administrator shall—

(1) seek, to the maximum extent practicable, to achieve nationwide deployment of alternative fuel school buses and ultra-low sulfur diesel fuel school buses through the program under this section; and

(2) ensure a broad geographic distribution of grant awards, with a goal of no State receiving more than 10 percent of the grant funding made available under this section for a fiscal year.

(i) ALLOCATION OF FUNDS.—

(1) IN GENERAL.—Subject to paragraph (2), of the amount of grant funding made available to carry out this section for any fiscal year, the Administrator shall use—

(A) 70 percent for the acquisition of alternative fuel school buses or supporting infrastructure; and

(B) 30 percent for the acquisition of ultra-low sulfur diesel fuel school buses.

(2) INSUFFICIENT NUMBER OF QUALIFIED GRANT APPLICATIONS.—After the first fiscal year in which this program is in effect, if the Administrator does not receive a sufficient number of qualified grant applications to meet the requirements of subparagraph (A) or (B) of paragraph (1) for a fiscal year, effective beginning on August 1 of the fiscal year, the Administrator shall make the remaining funds available to other qualified grant applicants under this section.

(j) REDUCTION OF SCHOOL BUS IDLING.—Each local educational agency (as defined in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801)) that receives Federal funds under the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) is encouraged to develop a policy, consistent with the health, safety, and welfare of students and the proper operation and maintenance of school buses, to reduce the incidence of unnecessary school bus idling at schools when picking up and unloading students.

(k) ANNUAL REPORT.—

(1) IN GENERAL.—Not later than January 31 of each year, the Administrator shall transmit to Congress a report evaluating implementation of the programs under this section and section 1913.

(2) COMPONENTS.—The reports shall include a description of—

(A) the total number of grant applications received;

(B) the number and types of alternative fuel school buses, ultra-low sulfur diesel fuel school buses, and retrofitted buses requested in grant applications;

(C) grants awarded and the criteria used to select the grant recipients;

(D) certified engine emission levels of all buses purchased or retrofitted under the programs under this section and section 1913;

(E) an evaluation of the in-use emission level of buses purchased or retrofitted under the programs under this section and section 1913; and

(F) any other information the Administrator considers appropriate.

(l) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Administrator to carry out this section, to remain available until expended—

(1) $45,000,000 for fiscal year 2005;

(2) $65,000,000 for fiscal year 2006;

(3) $90,000,000 for fiscal year 2007; and

(4) such sums as are necessary for each of fiscal years 2008 and 2009.

SEC. 1913. DIESEL RETROFIT PROGRAM.

(a) ESTABLISHMENT.—The Administrator, in consultation with the Secretary, shall establish a program for awarding grants on a competitive basis to entities for the installation of retrofit technologies for diesel school buses.

(b) ELIGIBLE RECIPIENTS.—A grant shall be awarded under this section only—

(1) to a local or State governmental entity responsible for providing school bus service to 1 or more public school systems;

(2) to 1 or more contracting entities that provide school bus service to 1 or more public school systems, if the grant application is submitted jointly with the 1 or more school systems that the buses will serve, except that the application may provide that buses purchased using funds awarded shall be owned, operated, and maintained exclusively by the 1 or more contracting entities; or

(3) to a nonprofit school transportation association representing private contracting entities, if the association has notified and received approval from the 1 or more school systems to be served by the buses.

(c) AWARDS.—

(1) IN GENERAL.—The Administrator shall seek, to the maximum extent practicable, to ensure a broad geographic distribution of grants under this section.

(2) PREFERENCES.—In making awards of grants under this section, the Administrator shall give preference to proposals that—

(A) will achieve the greatest reductions in emissions of nonmethane hydrocarbons, oxides of nitrogen, or particulate matter per proposal or per bus; or

(B) involve the use of emissions control retrofit technology on diesel school buses that operate solely on ultra-low sulfur diesel fuel.

(d) CONDITIONS OF GRANT.—A grant shall be provided under this section on the conditions that—

(1) buses on which retrofit emissions-control technology are to be demonstrated—

(A) will operate on ultra-low sulfur diesel fuel where such fuel is reasonably available or required for sale by State or local law or regulation;

(B) were manufactured in model year 1991 or later; and

(C) will be used for the transportation of school children to and from school for a minimum of 5 years;

(2) grant funds will be used for the purchase of emission control retrofit technology, including State taxes and contract fees; and

(3) grant recipients will provide at least 15 percent of the total cost of the retrofit, including the purchase of emission control retrofit technology and all necessary labor for installation of the retrofit.

(e) VERIFICATION.—Not later than 90 days after the date of enactment of this Act, the Administrator shall publish in the Federal Register procedures to verify—

(1) the retrofit emissions-control technology to be demonstrated;

(2) that buses powered by ultra-low sulfur diesel fuel on which retrofit emissions-control technology are to be demonstrated will operate on diesel fuel containing not more than 15 parts per million of sulfur; and

(3) that grants are administered in accordance with this section.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Administrator to carry out this section, to remain available until expended—

(1) $20,000,000 for fiscal year 2005;

(2) $35,000,000 for fiscal year 2006;

(3) $45,000,000 for fiscal year 2007; and

(4) such sums as are necessary for each of fiscal years 2008 and 2009.

SA 2417. Mr. HARKIN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 730, strike line 18 and insert the following:

''(4) USE OF SIMULATION TECHNOLOGY.—The Secretary shall use simulation studies to better understand the human factors involved in the research areas described in paragraph (1) and to find possible accident reducing methods where practical.

''(5) REPORTS.—

On page 734, line 8, insert '', including simulation studies,'' after ''activities''.

SA 2418. Mr. CARPER submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 527, line 1, strike ''intercity passenger rail,''.

SA 2419. Mr. CARPER submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 524, line 16, insert ''and intercity rail'' after ''intercity bus''.

SA 2420. Mr. CARPER submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 522, line 21, insert '', which are coordinated with other modes of transportation,'' after ''systems''.

SA 2421. Mr. CARPER submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 590, strike line 9, and insert the following:

subrecipient of assistance under section 5310.

''(D) STATEWIDE TRANSIT PROVIDER GRANTEES.—A statewide transit provider that receives a grant under this section shall be subject to the terms, conditions, requirements, and provisions of this section or section 5311, consistent with the scope and purpose of the grant and the location of the project.'';

SA 2422. Mr. CARPER submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 594, strike lines 15 through 17, and insert the following:

''(E) reductions in local infrastructure costs achieved through compact land use development and positive impacts on the capacity, utilization, or longevity of other surface transportation assets and facilities;

SA 2423. Mr. CARPER submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 542, strike line 24 and all that follows through page 543, line 6, and insert the following:

''(A) an identification of transportation facilities, including major roadways, transit, multimodal and intermodal facilities, intermodal connectors, and other relevant facilities identified by the metropolitan planning organization, which should function as an integrated metropolitan transportation system, emphasizing those facilities that serve important national and regional transportation functions;

SA 2424. Mr. ROCKEFELLER submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 4152 and insert the following:

SEC. 4152. VEHICLE CRASH EJECTION PREVENTION.

(a) IN GENERAL.—Subchapter II of chapter 301 is amended by adding at the end the following:

''§ 30128. Vehicle accident ejection protection

''(a) IN GENERAL.—The Secretary shall issue a safety standard to reduce complete and partial ejection from passenger motor vehicles with a gross vehicle weight rating of up to 10,000 pounds that are involved in accidents that present a risk of occupant ejection. The reduction in such ejections shall be based on the combined ejection-mitigation capabilities of safety technologies, such as advanced side glazing, side curtains, and side impact air bags.

''(b) DOOR LOCK AND RETENTION STANDARD.—The Secretary shall issue a rule to require manufacturers of new passenger motor vehicles distributed in commerce for sale in the United States to make such modifications to door locks, door latches, and retention components of doors in such vehicles as the Secretary determines to be necessary to prevent occupant ejection in vehicle accidents.''.

(b) RULEMAKING DEADLINES.—

(1) RULEMAKING.—The Secretary of Transportation shall issue—

(A) a notice of a proposed rulemaking under section 30128 of title 49, United States Code, not later than June 30, 2005; and

(B) a final rule under that section not later than June 30, 2006.

(2) EFFECTIVE DATE OF REQUIREMENTS.—Any requirement imposed under the final rule issued under paragraph (1) shall become fully effective no later than December 31, 2008.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation $500,000 for each of fiscal years 2004 and 2005 to promulgate rules under section 30128 of title 49, United States Code.

(d) CONFORMING AMENDMENT.—The chapter analysis for chapter 301 is amended by inserting after the item relating to section 30127 the following:

''30128. Vehicle accident ejection protection.''.

SA 2425. Mr. LOTT submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 389, between lines 15 and 16, insert the following:

SEC. 18___. MULTISTATE INTERNATIONAL CORRIDOR DEVELOPMENT PROGRAM.

(a) ESTABLISHMENT.—The Secretary shall establish a program to develop international trade corridors to facilitate the movement of freight from international ports of entry through and to the interior of the United States.

(b) ELIGIBLE RECIPIENTS.—State transportation departments and metropolitan planning organizations shall be eligible to receive and administer funds provided under the program.

(c) ELIGIBLE ACTIVITIES.—The Secretary shall make allocations under this program for any activity eligible for funding under title 23, United States Code, including multistate highway and multistate multimodal planning and project construction.

(d) OTHER PROVISIONS REGARDING ELIGIBILITY.—All activities funded under this program shall be consistent with the continuing, cooperative, and comprehensive planning processes required by sections 134 and 135 of title 23, United States Code.

(e) SELECTION CRITERIA.—The Secretary shall only select projects for corridors—

(1) that have significant levels or increases in truck and traffic volume relating to international freight movement;

(2) connect to at least 1 international terminus;

(3) traverse at least 3 States; and

(4) are identified by section 115(c) of the Intermodal Transportation Efficiency Act of 1991 (Public Law 102–240; 105 Stat. 2032).

(f) PROGRAM PRIORITIES.—In administering the program, the Secretary shall—

(1) encourage and enable States and other jurisdictions to work together to develop plans for multimodal and multijurisdictional transportation decisionmaking; and

(2) give priority to studies that emphasize multimodal planning, including planning for operational improvements that increase mobility, freight productivity, access to marine ports, safety, and security while enhancing the environment.

(g) FEDERAL SHARE.—The Federal share required for any study carried out under this section shall be available for obligation in the same manner as if the funds were apportioned under chapter I of title 23, United States Code.

SA 2426. Mr. DASCHLE submitted an amendment intended to be proposed to

amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. SENIOR TRANSPORTATION DEMONSTRATION PROJECT GRANTS.

(a) DEFINITIONS.—As used in this section, the following definitions shall apply:

(1) ELIGIBLE ENTITY.—The term ''eligible entity'' includes—

(A) States;

(B) units of local government;

(C) local transportation organizations;

(D) nonprofit organizations;

(E) Indian tribes; and

(F) institutions of higher learning.

(2) SENIOR CITIZEN.—The term ''senior citizen'' means any individual who has reached 65 years of age.

(b) GRANTS AUTHORIZED.—The Secretary of Transportation shall award demonstration project grants to 10 eligible entities to establish mass transportation assistance pilot programs to plan and provide adequate and appropriate transportation for senior citizens.

(c) USE OF FUNDS.—Grant funds received under this section may be used to—

(1) evaluate the state of transportation services for senior citizens;

(2) recognize barriers to mobility that senior citizens encounter in their communities;

(3) establish partnerships and promote coordination among community stakeholders, including public, not-for-profit, and for-profit providers of transportation services for senior citizens;

(4) identify future transportation needs of senior citizens within local communities;

(5) establish strategies to meet the unique needs of healthy and frail senior citizens; and

(6) facilitate funding for operating expenses under section 5310 of title 49, United States Code.

(d) APPLICATION.—

(1) IN GENERAL.—Each eligible entity desiring a grant under this section shall submit an application to the Secretary at such time, at such place, and containing such information as the Secretary may reasonably require.

(2) SELECTION OF GRANTEES.—

(A) IN GENERAL.—The Secretary shall establish a committee, comprised of transportation providers, transportation planners, academicians, and consumers, who are interested in and knowledgeable of senior transportation issues, to select the eligible entities that will receive planning and direct service transportation demonstration project grants under this section.

(B) GEOGRAPHICAL REPRESENTATION.—Except as provided under subparagraph (C), the committee described in subparagraph (A) shall base its selection of grantees based on a fair representation of various geographical locations throughout the United States.

(C) PILOT PROGRAM STATES.—Not less than 1 grant shall be awarded to eligible entities within each of the following States:

(i) Connecticut.

(ii) South Dakota.

(iii) Alabama.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $10,000,000 for fiscal year 2005 to carry out this section, which shall remain available until expended.

SA 2427. Mr. DASCHLE submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 36, strikes lines 11 through 20 and insert the following:

(i) $325,000,000 for fiscal year 2004;

(ii) $350,000,000 for fiscal year 2005;

(iii) $375,000,000 for fiscal year 2006;

(iv) $400,000,000 for fiscal year 2007;

(v) $425,000,000 for fiscal year 2008; and

(vi) $425,000,000 for fiscal year 2009.

SA 2428. Mr. DASCHLE submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 48, between lines 16 and 17, insert the following:

(k) AMOUNT OF OBLIGATION LIMITATION FOR INDIAN RESERVATION ROADS.—The amount of any obligation limitation for the Indian reservation roads program shall be equal to the total amount of contract authority made available for the Indian reservation roads program for fiscal years 2004 through 2009.

SA 2429. Mr. DASCHLE submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 398 at the appropriate place insert the following:

(H) $2,000,000 for fiscal year 2005 shall remain available until expended for asphalt and asphalt-related reclamation research at the South Dakota School of Mines.

SA 2430. Mr. DORGAN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 147, after the item following line 24, add the following:

SEC. 1409. OPEN CONTAINER REQUIREMENTS.

Section 154 of title 23, United States Code, is amended by striking subsection (c) and inserting the following:

''(c) TRANSFER OF FUNDS.—

''(1) IN GENERAL.—The Secretary shall withhold the applicable percentage for the fiscal year of the amount required to be apportioned for Federal-aid highways to any State under each of paragraphs (1), (3), and (4) of section 104(b), if a State has not enacted or is not enforcing a provision described in subsection (b), as follows:

''For:	**The applicable percentage is:**
Fiscal year 2008	2 percent.
Fiscal year 2009	2 percent.
Fiscal year 2010	2 percent.
Fiscal year 2011 and each subsequent fiscal year	2 percent.

''(2) RESTORATION.—If (during the 4-year period beginning on the date the apportionment for any State is reduced in accordance with this subsection) the Secretary determines that the State has enacted and is enforcing a provision described in subsection (b), the apportionment of the State shall be increased by an amount equal to the amount of the reduction made during the 4-year period.''.

SA 2431. Mr. GRAHAM of Florida submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 56, strike line 16 and all that follows through page 57, line 2, and insert the following:

''(3) MINIMUM SHARE OF TAX PAYMENTS.—

''(A) IN GENERAL.—Notwithstanding subsection (d), for each fiscal year, the Secretary shall allocate among the States amounts sufficient to ensure that no State receives a percentage of apportionments for the fiscal year for the programs specified in subsection (a)(2) that is less than the applicable percentage under subparagraph (B) of estimated tax payments attributable to highway users in the State paid into the Highway Trust Fund (other than the Mass Transit Account) in the most recent fiscal year for which data are available.

''(B) MINIMUM PERCENTAGES.—The percentage referred to in subparagraph (A) shall be—

''(i) for fiscal year 2004, 90.5 percent;

''(ii) for fiscal year 2005, 91 percent;

''(iii) for fiscal year 2006, 92 percent;

''(iv) for fiscal year 2007, 93 percent;

''(v) for fiscal year 2008, 94 percent; and

''(vi) for fiscal year 2009, 95 percent.

''(C) ADJUSTMENT.—Funding for the programs under subsection (a)(2) shall be adjusted proportionately so that the total funding proportioned complies with the obligation limitations under section 1102 of the Safe, Accountable, Flexible, and Efficient Equity Act of 2003.

SA 2432. Mr. GRAHAM of Florida submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE, to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 52, strike line 1 and all that follows through page 58, line 21, and insert the following:

''(1) IN GENERAL.—Subject to subsections (c) and (e), for each of fiscal years 2004 through 2009, the Secretary shall allocate among the States amounts sufficient to ensure that no State receives a percentage of the total apportionments for the fiscal year for the programs specified in paragraph (2) that is less than the percentage calculated under subsection (b).

''(2) SPECIFIC PROGRAMS.—The programs referred to in subsection (a) are—

''(A) the Interstate maintenance program under section 119;

''(B) the national highway system program under section 103;

''(C) the bridge program under section 144;

''(D) the surface transportation program under section 133;

''(E) the highway safety improvement program under section 148;

''(F) the congestion mitigation and air quality improvement program under section 149;

''(G) metropolitan planning programs under section 104(f) (other than planning programs funded by amounts provided under the equity bonus program under this section);

''(H) the infrastructure performance and maintenance program under section 139;

''(I) the equity bonus program under this section;

''(J) the Appalachian development highway system program under subtitle IV of title 40;

''(K) the recreational trails program under section 206;

''(L) the safe routes to schools program under section 150; and

''(M) the rail-highway grade crossing program under section 130.

''(b) STATE PERCENTAGE.—

''(1) IN GENERAL.—The percentage referred to in subsection (a) for each State shall be—

''(A) 95 percent of the quotient obtained by dividing—

''(i) the estimated tax payments attributable to highway users in the State paid into the Highway Trust Fund (other than the Mass Transit Account) in the most recent fiscal year for which data are available; by

''(ii) the estimated tax payments attributable to highway users in all States paid into the Highway Trust Fund (other than the Mass Transit Account) for the fiscal year; or

''(B) for a State with a total population density of less than 20 persons per square mile, as reported in the decennial census conducted by the Federal Government in 2000, a total population of less than 1,000,000, as reported in that decennial census, or a median household income of less than $35,000, as reported in that decennial census, the greater of—

''(i) the percentage under paragraph (1); or

''(ii) the average percentage of the State's share of total apportionments for the period of fiscal years 1998 through 2003 for the programs specified in paragraph (2).

''(2) SPECIFIC PROGRAMS.—The programs referred to in paragraph (1)(B)(ii) are (as in effect on the day before the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004)—

''(A) the Interstate maintenance program under section 119;

''(B) the national highway system program under section 103;

''(C) the bridge program under section 144;

''(D) the surface transportation program under section 133;

''(E) the recreational trails program under section 206;

''(F) the high priority projects program under section 117;

''(G) the minimum guarantee provided under this section;

''(H) revenue aligned budget authority amounts provided under section 110;

''(I) the congestion mitigation and air quality improvement program under section 149;

''(J) the Appalachian development highway system program under subtitle IV of title 40; and

''(K) metropolitan planning programs under section 104(f).

''(c) SPECIAL RULES.—

''(1) MINIMUM COMBINED ALLOCATION.—For each fiscal year, before making the allocations under subsection (a)(1), the Secretary shall allocate among the States amounts sufficient to ensure that no State receives a combined total of amounts allocated under subsection (a)(1), apportionments for the programs specified in subsection (a)(2), and amounts allocated under this subsection, that is less than 110 percent of the average for fiscal years 1998 through 2003 of the annual apportionments for the State for all programs specified in subsection (b)(2).

''(2) NO NEGATIVE ADJUSTMENT.—Notwithstanding subsection (e), no negative adjustment shall be made under subsection (a)(1) to the apportionment of any State.

''(3) MINIMUM SHARE OF TAX PAYMENTS.—Notwithstanding subsection (e), for each fiscal year, the Secretary shall allocate among the States amounts sufficient to ensure that no State receives a percentage of apportionments for the fiscal year for the programs specified in subsection (a)(2) that is less than 90.5 percent of the percentage share of the State of estimated tax payments attributable to highway users in the State paid into the Highway Trust Fund (other than the Mass Transit Account) in the most recent fiscal year for which data are available.

''(d) FINAL EQUITY BONUS.—A final equity adjustment shall be made for all States to raise the percentage return of all highway apportionments and allocations, as compared with the tax payments attributable to that State paid into the Highway Trust Fund (other than the Mass Transit Account), to the following percentages:

''(1) Fiscal year 2005, 91 percent.

''(2) Fiscal year 2006, 92 percent.

''(3) Fiscal year 2007, 93 percent.

''(4) Fiscal year 2008, 94 percent.

''(5) Fiscal year 2009, 95 percent.

''(e) LIMITATION ON ADJUSTMENTS.—

''(1) IN GENERAL.—Except as provided in paragraphs (2) and (3) of subsection (c), no State shall receive, for any fiscal year, additional amounts under subsection (a)(1) if—

''(A) the total apportionments of the State for the fiscal year for the programs specified in subsection (a)(2); exceed

''(B) the percentage of the average, for the period of fiscal years 1998 through 2003, of the annual apportionments of the State for all programs specified in subsection (b)(2), as specified in paragraph (2).

''(2) PERCENTAGES.—The percentages referred to in paragraph (1)(B) are—

''(A) for fiscal year 2004, 120 percent;

''(B) for fiscal year 2005, 130 percent;

''(C) for fiscal year 2006, 134 percent;

''(D) for fiscal year 2007, 137 percent;

''(E) for fiscal year 2008, 145 percent; and

''(F) for fiscal year 2009, 250 percent.

''(f) PROGRAMMATIC DISTRIBUTION OF FUNDS.—The Secretary shall apportion the amounts made available under this section so that the amount apportioned to each State under this section for each program referred to in subparagraphs (A) through (G) of subsection (a)(2) is equal to the amount determined by multiplying the amount to be apportioned under this section by the proportion that—

''(1) the amount of funds apportioned to each State for each program referred to in subparagraphs (A) through (G) of subsection (a)(2) for a fiscal year; bears to

''(2) the total amount of funds apportioned to each State for all such programs for the fiscal year.

''(g) METRO PLANNING SET ASIDE.—Notwithstanding section 104(f), no set aside provided for under that section shall apply to funds allocated under this section.

''(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) such sums as are necessary to carry out this section for each of fiscal years 2004 through 2009.''.

SA 2433. Mr. GRAHAM of Florida submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE, to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 63, strike line 23 and all that follows through page 64, line 2, and insert the following:

''(2) EQUITY BONUS.—A sufficient amount of funding available to carry out this section shall be reserved to provide a final equity adjustment for each State to increase the percentage return of all highway apportionments and allocations, as compared to the tax payments attributable to the State paid into the Highway Trust Fund (other than the Mass Transit Account), to—

''(A) for fiscal year 2005, 91 percent;

''(B) for fiscal year 2006, 92 percent;

''(C) for fiscal year 2007, 93 percent;

''(D) for fiscal year 2008, 94 percent; and

''(E) for fiscal year 2009, 95 percent.

SA 2435. Mr. GRAHAM of Florida submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE, to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 57, strike line 6 and all that follows through line 23 and insert the following: receive, for any of fiscal years 2004 through 2008, additional amounts under subsection (a)(1) if—

''(A) the total apportionments of the State for the fiscal year for the programs specified in subsection (a)(2); exceed

''(B) the percentage of the average, for the period of fiscal years 1998 through 2003, of the annual apportionments of the State for all programs specified in subsection (b)(2), as specified in paragraph (2).

''(2) PERCENTAGES.—The percentages referred to in paragraph (1)(B) are—

''(A) for fiscal year 2004, 120 percent;

''(B) for fiscal year 2005, 130 percent;

''(C) for fiscal year 2006, 134 percent;

''(D) for fiscal year 2007, 137 percent; and

''(E) for fiscal year 2008, 145 percent.

SA 2431. Mr. GRAHAM of Florida submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 1030, after line 21, add the following:

SEC. 5004. INCREASE IN HIGHWAY FUELS TAX RATE.

(a) IN GENERAL.—Section 4081(a)(2)(A) (relating to rates of tax) is amended—

(1) by striking ''18.3 cents'' in clause (i) and inserting ''23.1 cents'', and

(2) by striking ''24.3 cents'' in clause (ii) and inserting ''30.7 cents''.

(b) SECRETARIAL ADJUSTMENT.—Notwithstanding any provision of the Internal Revenue Code of 1986 to the contrary, not later than 30 days before the tax increase date (as defined in subsection (d)(3)(F)), the Secretary of the Treasury shall determine and provide for the proper rate, exemption, and credit adjustments necessary to maintain a comparable rate reduction to the rate imposed such date on gasoline, diesel fuel, or kerosene under section 4081 of the Internal Revenue Code of 1986 for any fuel, fuel mixture, or fuel use with respect to which such a reduction is in effect on such date.

(c) FLOOR STOCKS TAX.—

(1) IN GENERAL.—There is hereby imposed on highway fuel held on a tax increase date, by any person a tax equal to—

(A) the tax which would have been imposed on the day before such date on such fuel had

the amendments made by this section been in effect at all times before such date, reduced by

(B) the tax imposed before such date under section 4081 of the Internal Revenue Code of 1986, as in effect on the day before such tax increase date.

(2) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—A person holding gasoline, diesel fuel, or kerosene on a tax increase date, to which the tax imposed by paragraph (1) applies shall be liable for such tax.

(B) METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be paid in such manner as the Secretary shall prescribe.

(C) TIME FOR PAYMENT.—The tax imposed by paragraph (1) shall be paid on or before the date which is 3 months after the tax increase date.

(3) DEFINITIONS.—For purposes of this subsection—

(A) HELD BY A PERSON.—Highway fuel shall be considered as ''held by a person'' if title thereto has passed to such person (whether or not delivery to the person has been made).

(B) HIGHWAY FUEL.—The term ''highway fuel'' means gasoline, diesel fuel, and kerosene.

(C) GASOLINE.—The term ''gasoline'' has the meaning given such term by section 4083(a)(2) of such Code.

(D) DIESEL FUEL.—The term ''diesel fuel'' has the meaning given such term by section 4083(a)(3) of such Code.

(E) SECRETARY.—The term ''Secretary'' means the Secretary of the Treasury or the Secretary's delegate.

(F) TAX INCREASE DATE.—The term ''tax increase date'' means July 1, 2004.

(4) EXCEPTION FOR EXEMPT USES.—The tax imposed by paragraph (1) shall not apply to highway fuel held by any person exclusively for any use to the extent a credit or refund of the tax imposed by section 4081 of such Code, as the case may be, is allowable for such use.

(5) EXCEPTION FOR FUEL HELD IN VEHICLE TANK.—No tax shall be imposed by paragraph (1) on highway fuel held in the tank of a motor vehicle, motorboat, train, or aircraft.

(6) OTHER LAW APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4081 of such Code shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply with respect to the floor stock taxes imposed by paragraph (1) to the same extent as if such taxes were imposed by such section 4081.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on July 1, 2004.

SA 2436. Mr. GRAHAM of Florida submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 1030, after line 21, add the following:

SEC. 5004. INCREASE IN HIGHWAY FUELS TAX RATE.

(a) IN GENERAL.—Section 4081(a)(2)(A) (relating to rates of tax) is amended—

(1) by striking ''18.3 cents'' in clause (i) and inserting ''22 cents'', and

(2) by striking ''24.3 cents'' in clause (ii) and inserting ''29.2 cents''.

(b) INFLATION ADJUSTMENT.—Section 4081(a) is amended by adding at the end the following new paragraph:

''(3) INFLATION ADJUSTMENT OF HIGHWAY MOTOR FUELS EXCISE TAX RATES.—In the case of any calendar year beginning after 2004, each of the rates of tax specified in clauses (i) and (ii) of paragraph (2)(A) shall be increased by an amount equal to—

''(1) such rate of tax, multiplied by

''(2) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year, by substituting 'calendar year 2003' for 'calendar year 1992' in subparagraph (B) thereof.''.

(c) SECRETARIAL ADJUSTMENT.—Notwithstanding any provision of the Internal Revenue Code of 1986 to the contrary, not later than 30 days before any tax increase date (as defined in subsection (d)(3)(F)), the Secretary of the Treasury shall determine and provide for the proper rate, exemption, and credit adjustments necessary to maintain a comparable rate reduction to the rate imposed such date on gasoline, diesel fuel, or kerosene under section 4081 of the Internal Revenue Code of 1986 for any fuel, fuel mixture, or fuel use with respect to which such a reduction is in effect on such date.

(d) FLOOR STOCKS TAX.—

(1) IN GENERAL.—There is hereby imposed on highway fuel held on a tax increase date, by any person a tax equal to—

(A) the tax which would have been imposed on the day before such date on such fuel had the amendments made by this section been in effect at all times before such date, reduced by

(B) the tax imposed before such date under section 4081 of the Internal Revenue Code of 1986, as in effect on the day before such tax increase date.

(2) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—A person holding gasoline, diesel fuel, or kerosene on a tax increase date, to which the tax imposed by paragraph (1) applies shall be liable for such tax.

(B) METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be paid in such manner as the Secretary shall prescribe.

(C) TIME FOR PAYMENT.—The tax imposed by paragraph (1) shall be paid on or before the date which is 3 months after the tax increase date.

(3) DEFINITIONS.—For purposes of this subsection—

(A) HELD BY A PERSON.—Highway fuel shall be considered as ''held by a person'' if title thereto has passed to such person (whether or not delivery to the person has been made).

(B) HIGHWAY FUEL.—The term ''highway fuel'' means gasoline, diesel fuel, and kerosene.

(C) GASOLINE.—The term ''gasoline'' has the meaning given such term by section 4083(a)(2) of such Code.

(D) DIESEL FUEL.—The term ''diesel fuel'' has the meaning given such term by section 4083(a)(3) of such Code.

(E) SECRETARY.—The term ''Secretary'' means the Secretary of the Treasury or the Secretary's delegate.

(F) TAX INCREASE DATE.—The term ''tax increase date'' means July 1, 2004, and January 1 of each calendar year beginning after 2004.

(4) EXCEPTION FOR EXEMPT USES.—The tax imposed by paragraph (1) shall not apply to highway fuel held by any person exclusively for any use to the extent a credit or refund of the tax imposed by section 4081 of such Code, as the case may be, is allowable for such use.

(5) EXCEPTION FOR FUEL HELD IN VEHICLE TANK.—No tax shall be imposed by paragraph (1) on highway fuel held in the tank of a motor vehicle, motorboat, train, or aircraft.

(6) OTHER LAW APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4081 of such Code shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply with respect to the floor stock taxes imposed by paragraph (1) to the same extent as if such taxes were imposed by such section 4081.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on July 1, 2004.

SA 2437. Mr. GRAHAM of Florida submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 346, line 13, strike ''and Washington'' and insert ''Washington, and any State with a seaport affected by increased trade volume due to the North American Free Trade Agreement''.

SA 2438. Mr. GRAHAM of Florida submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 288, strike line 16 and all that follows through page 289, line 18.

On page 293, after the matter following line 22, add the following:

(d) TRAFFIC INCIDENT MANAGEMENT PROGRAM.—

(1) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code, as amended by this Act, is further amended by adding at the end the following new section:

''§ 168a. Traffic incident management program

''(a) IN GENERAL.—The Secretary shall establish and implement a traffic incident management program in accordance with this section to assist States and localities in—

''(1) regional traffic incident management program planning; and

''(2) carrying out projects to mitigate the effects of traffic delays due to accidents, breakdowns, and other non-recurring incidents on highways.

''(b) USE OF FUNDS.—Funds apportioned to a State under this section may be used for—

''(1) regional collaboration and coordination activities that lead to regional traffic incident management policies, programs, plans, procedures, and agreements;

''(2) purchase or lease of telecommunications equipment for first responders as part of the development of a regional traffic incident management program;

''(3) purchase or lease of equipment to support the clearance of traffic incidents;

''(4) payments to contractors for towing and recovery services as part of a regional traffic incident management program;

''(5) rental of vehicle storage or staging areas immediately adjacent to roadways as part of a regional traffic incident management program;

''(6) traffic service patrols as part of a regional traffic incident management program;

''(7) enhanced hazardous materials incident response;

''(8) traffic management systems in support of traffic incident management;

''(9) traffic incident management training;

''(10) crash investigation equipment;

''(11) other activities under a regional traffic incident management plan; and

''(12) Statewide incident reporting systems as described in section 169.

''(c) REGIONAL TRAFFIC INCIDENT MANAGEMENT PLAN.—

''(1) IN GENERAL.—Funds apportioned under this section may not be obligated for an urbanized area with a population greater than 200,000 until a regional traffic incident management plan is developed for such urbanized area.

''(2) PLAN DEVELOPMENT.—

''(A) COLLABORATION.—Any urbanized area described in paragraph (1) that receives funds apportioned under this section shall engage in regional collaboration and coordination activities to develop the regional traffic incident management plan required for such area under that paragraph.

''(B) PLAN ELEMENTS.—The regional traffic incident management plan for an urbanized area under paragraph (1) shall include—

''(i) a strategy, adopted by transportation, public safety, and appropriate private sector participants, for funding, implementing, managing, operating, and evaluating the traffic incident management program initiatives and activities for the urbanized area in manner that ensures regional coordination of such initiatives and activities;

''(ii) an estimate of the impact of the plan on traffic delays; and

''(iii) a description of the means by which traffic incident management information will be shared among operators, service providers, public safety officials, and the general public.

''(C) AVAILABILITY OF FUNDS.—The development of a regional traffic incident management plan shall constitute regional collaboration and coordination activities for purposes of subsection (b)(1) for which funds apportioned under this section may be obligated.

''(d) FUNDING.—

''(1) IN GENERAL.—There is hereby made available from the Highway Trust Fund (other than the Mass Transit Account) for obligation without further appropriation, $500,000,000 for each of fiscal years 2004 through 2009 to carry out this section.

''(2) APPORTIONMENT AMONG STATES.—Funds made available under paragraph (1) shall be apportioned among the States according to the ratio by which the aggregate population of each State, or part thereof, in urbanized areas with a population greater than 200,000 bears to the total population of all States, or parts thereof, in such urbanized areas.

''(3) DISTRIBUTION WITHIN STATES.—Funds apportioned to a State under paragraph (2) shall be made available to carry out projects and activities under regional traffic incident managements plans in each urbanized area in the State with a population greater than 200,000 according to the ratio by which the population of such urbanized area, or part thereof, in the State bears to the total population of all such urbanized areas in the State.

''(e) DETERMINATION OF POPULATIONS.—For purposes of determining populations of areas under this section, the Secretary shall use information from the most current decennial census, as supplied by the Secretary of Commerce.''.

(2) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, as amended by this Act, is further amended by inserting after the item relating to section 168 the following new item:

''168a. Traffic incident management program.''.

(3) EQUITY BONUS.—Section 105(a)(2) of title 23, United States Code, as amended by section 1104 of this Act, is further amended—

(A) in subparagraph (L), by striking ''and'' at the end;

(B) in subparagraph (M), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following new subparagraph:

''(N) the traffic incident management program under section 168a.''.

(4) OFFSET.—The amount available for the infrastructure performance and maintenance plan required by section 139 of title 23, United States Code, as added by section 1201, is hereby reduced by $3,000,000,000 in order to provide an offset for the costs of the traffic incident management program required by section 168a of title 23, United States Code, as added by paragraph (1).

On page 295, beginning on line 4, strike ''section 1701(c)(1))'' and insert ''section 1701(d)(1))''.

SA 2439. Mr. GRAHAM of Florida submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 460, strike lines 18 through 23.

SA 2440. Mr. GRAHAM of Florida submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 186, between lines 7 and 8, insert the following:

(c) SAVINGS PROVISION.—

(1) NO EFFECT ON EXISTING ENVIRONMENTAL REVIEW PROCESSES.—Nothing in this section—

(A) affects any environmental review process developed and approved under section 1309 of the Transportation Equity Act for the 21st Century (112 Stat. 232), as in effect on the day before the date of enactment of this Act; or

(B) prevents the Secretary, with the concurrence of any cooperating agencies, from developing environmental review processes that are consistent with the provisions of that section.

(2) ELIGIBILITY FOR ASSISTANCE.—Agencies that participated in an environmental review process under section 1309 of the Transportation Equity Act for the 21st Century that is continued under section 326 of title 23, United States Code, shall be eligible for assistance under subsection (j) of the latter section.

SA 2441. Ms. STABENOW (for herself and Mr. LEVIN) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 611, strike line 21 and all that follows through page 613, line 9, and insert the following:

''(B)(i) $101,800,000 of the amounts made available under section 5338(b)(4) shall be allocated for the Bus Transit Equity Subaccount, established under paragraph (7); and

''(i) the remaining amounts made available under section 5338(b)(4) shall be allocated for capital projects for buses and bus-related equipment and facilities.

''(3) FIXED GUIDEWAY MODERNIZATION.—The amounts made available for fixed guideway modernization under section 5338(b)(2)(K) for fiscal year 2005 and each fiscal year thereafter shall be allocated in accordance with section 5337.

''(4) PRELIMINARY ENGINEERING.—Not more that 8 percent of the allocation described in paragraphs (1)(A) and (2)(A) may be expended on preliminary engineering.

''(5) FUNDING FOR FERRY BOATS.—Of the amounts described in paragraphs (1)(A) and (2)(A), $10,400,000 shall be available in each of the fiscal years 2004 through 2009 for capital projects in Alaska and Hawaii for new fixed guideway systems and extension projects utilizing ferry boats, ferry boat terminals, or approaches to ferry boat terminals.

''(6) BUS AND BUS FACILITY GRANTS.—

''(A) CONSIDERATIONS.—In making grants under paragraphs (1)(C) and (2)(B), the Secretary shall consider the age and condition of buses, bus fleets, related equipment, and bus-related facilities.

''(B) PROJECTS NOT IN URBANIZED AREAS.—Of the amounts made available under paragraphs (1)(C) and (2)(B), not less than 5.5 percent shall be available in each fiscal year for projects that are not in urbanized areas.

''(C) INTERMODAL TERMINALS.—Of the amounts made available under paragraphs (1)(C) and (2)(B), not less than $75,000,000 shall be available in each fiscal year for intermodal terminal projects, including the intercity bus portion of such projects.

''(7) BUS TRANSIT EQUITY SUBACCOUNT.—

''(A) ESTABLISHMENT.—There is established a Bus Transit Equity Subaccount within the Mass Transit Account of the Highway Trust Fund.

''(B) ELIGIBILITY.—Any of the 50 States shall be eligible for funding under the Bus Transit Equity Subaccount if the State—

''(i) is otherwise scheduled to receive under sections 5307, 5309, 5310, and 5311, for fiscal years 2004 through 2009, an amount that is less than 175 percent of the amount the State received under sections 5307, 5309, 5310, and 5311, for fiscal years 1998 through 2003; and

''(ii) received less than 1.25 percent of the total amount allocated to the 50 States in fiscal year 2002 for fixed guideways modernization and new starts.

''(C) ALLOCATION.—Each eligible State under subparagraph (B) shall be allocated from the Bus Transit Equity Subaccount, for each of the fiscal years 2005 through 2009, an amount that is equal to 20 percent of the difference between the amount the State is otherwise scheduled to receive under sections 5307, 5309, 5310, and 5311, for fiscal years 2004 through 2009, and the amount which is equal to 175 percent of the amount the State received under sections 5307, 5309, 5310, and 5311 for fiscal years 1998 through 2003.''.

SA 2442. Mr. SARBANES (for himself, Ms. MIKULSKI, and Mr. ALLEN) submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 1168, insert between lines 16 and 17 the following:

SEC. 5507a. FEDERAL EMPLOYEE COMMUTER BENEFITS.

(a) SHORT TITLE.—This section may be cited as the ''Federal Employee Commuter Benefits Act of 2004''.

(b) TRANSIT PASS TRANSPORTATION FRINGE BENEFITS.—

(1) IN GENERAL.—Effective as of the first day of the next fiscal year beginning after the date of the enactment of this Act, each covered agency shall implement a program under which all qualified Federal employees serving in or under such agency shall be offered transit pass transportation fringe benefits, as described in paragraph (2).

(2) BENEFITS DESCRIBED.—The benefits described in this paragraph are, as of any given date, the transit pass transportation fringe benefits which, under section 2 of Executive Order 13150, are then currently required to be offered by Federal agencies in the National Capital Region.

(3) DEFINITIONS.—In this subsection—

(A) the term ''covered agency'' means any agency, to the extent of its facilities in the National Capital Region;

(B) the term ''agency'' means any agency (as defined by 7905(a)(2) of title 5, United States Code) not otherwise covered by section 2 of Executive Order 13150, the United States Postal Service, the Postal Rate Commission, and the Smithsonian Institution;

(C) the term ''National Capital Region'' includes the District of Columbia and every county or other geographic area covered by section 2 of Executive Order 13150;

(D) the term ''Executive Order 13150'' refers to Executive Order 13150 (5 U.S.C. 7905 note);

(E) the term ''Federal agency'' is used in the same way as under section 2 of Executive Order 13150; and

(F) any determination as to whether or not one is a ''qualified Federal employee'' shall be made applying the same criteria as would apply under section 2 of Executive Order 13150.

(4) RULE OF CONSTRUCTION.—Nothing in this subsection shall be considered to require that a covered agency—

(A) terminate any program or benefits in existence on the date of the enactment of this Act, or postpone any plans to implement (before the effective date referred to in paragraph (1)) any program or benefits permitted or required under any other provision of law; or

(B) discontinue (on or after the effective date referred to in paragraph (1)) any program or benefits referred to in subparagraph (A), so long as such program or benefits satisfy the requirements of paragraphs (1) through (3).

(c) AUTHORITY TO USE GOVERNMENT VEHICLES TO TRANSPORT FEDERAL EMPLOYEES BETWEEN THEIR PLACE OF EMPLOYMENT AND MASS TRANSIT FACILITIES.—

(1) IN GENERAL.—Section 1344 of title 31, United States Code, is amended—

(A) by redesignating subsections (g) and (h) as subsections (h) and (i), respectively; and

(B) by inserting after subsection (f) the following:

''(g)(1) A passenger carrier may be used to transport an officer or employee of a Federal agency between the officer's or employee's place of employment and a mass transit facility (whether or not publicly owned) in accordance with succeeding provisions of this subsection.

''(2) Notwithstanding section 1343, a Federal agency that provides transportation services under this subsection (including by passenger carrier) shall absorb the costs of such services using any funds available to such agency, whether by appropriation or otherwise.

''(3) In carrying out this subsection, a Federal agency shall—

''(A) to the maximum extent practicable, use alternative fuel vehicles to provide transportation services;

''(B) to the extent consistent with the purposes of this subsection, provide transportation services in a manner that does not result in additional gross income for Federal income tax purposes; and

''(C) coordinate with other Federal agencies to share, and otherwise avoid duplication of, transportation services provided under this subsection.

''(4) For purposes of any determination under chapter 81 of title 5, an individual shall not be considered to be in the 'performance of duty' by virtue of the fact that such individual is receiving transportation services under this subsection.

''(5)(A) The Administrator of General Services, after consultation with the National Capital Planning Commission and other appropriate agencies, shall prescribe any regulations necessary to carry out this subsection.

''(B) Transportation services under this subsection shall be subject neither to the last sentence of subsection (d)(3) nor to any regulations under the last sentence of subsection (e)(1).

''(6) In this subsection, the term 'passenger carrier' means a passenger motor vehicle, aircraft, boat, ship, or other similar means of transportation that is owned or leased by the United States Government or the government of the District of Columbia.''.

(2) FUNDS FOR MAINTENANCE, REPAIR, ETC.—Subsection (a) of section 1344 of title 31, United States Code, is amended by adding at the end the following:

''(3) For purposes of paragraph (1), the transportation of an individual between such individual's place of employment and a mass transit facility pursuant to subsection (g) is transportation for an official purpose.''.

(3) COORDINATION.—The authority to provide transportation services under section 1344(g) of title 31, United States Code (as amended by paragraph (1)) shall be in addition to any authority otherwise available to the agency involved.

SA 2443. Mr. DODD (for himself and Mr. LIEBERMAN) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 58, strike line 17 and insert the following:

''(g) HIGH POPULATION DENSITY EQUITY ADJUSTMENT.—

''(1) IN GENERAL.—In addition to other amounts received under this section and section 1101 of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004, the Secretary shall allocate to each State (other than the District of Columbia) with a population density of greater than 250 individuals per square mile, as determined by the 2000 decennial census, a high density State bonus in the proportion that—

''(A) the average population density of the State; bears to

''(B) the average population density all such States.

''(2) FUNDING.—

''(A) IN GENERAL.—There shall be made available to the Secretary to carry out this subsection, from amounts made available to carry out section 139, $500,000,000 for each of fiscal years 2004 through 2009.

''(B) APPORTIONMENT.—Funds made available to carry out this subsection shall be apportioned in accordance with section 104(b).

''(3) NO EFFECT ON EQUITY BONUS.—The calculation and distribution of funds under other provisions of this section shall not be adjusted as a result of the allocation of funds under this subsection.

''(h) AUTHORIZATION OF APPROPRIATIONS.—There

SA 2444. Mr. DODD (for himself and Mr. LIEBERMAN) submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of section 105 of title 23, United States Code (as amended by section 1104), add the following:

''(__) SPECIAL RULES.—For each fiscal year, before making the allocations under subsection (a)(1), the Secretary shall allocate among the States amounts sufficient to ensure that no State receives a combined total of amounts allocated under subsection (a)(1), apportionments for the programs specified in subsection (a)(2), and amounts allocated under this subsection, that is less than 125 percent of the average for fiscal years 1998 through 2003 of the annual apportionments for the State for all programs specified in subsection (b)(2).''.

SA 2445. Mr. DODD (for himself and Mr. LIEBERMAN) submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 61, strike line 2 and all that follows through the matter following line 8 on page 64, and insert the following:

SEC. 1201. HIGH TRAFFIC DENSITY EQUITY ADJUSTMENT PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code, is amended by inserting after section 138 the following:

''§ 139. High traffic density equity adjustment program

''(a) ESTABLISHMENT OF PROGRAM.—The Secretary shall establish and implement a high traffic density equity adjustment program in accordance with this section.

''(b) ELIGIBLE PROJECTS.—

''(1) IN GENERAL.—A State may obligate funds allocated to the State under this section only for projects eligible under the Interstate maintenance program under section 119, the National Highway System program under section 103, the surface transportation program under section 133, the highway safety improvement program under section 148, the highway bridge replacement and rehabilitation program under section 144, and the congestion mitigation and air quality improvement program under section 149 that will—

''(A) preserve, maintain, or otherwise extend, in a cost-effective manner, the useful life of existing highway infrastructure elements; or

''(B) provide operational improvements (including traffic management and intelligent transportation system strategies and limited capacity enhancements) at points of recurring highway congestion.

''(2) SET-ASIDE.—Notwithstanding any other provision of law, of the amounts made available under section 1101(a)(14) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003, $439,000,000 shall be available for obligation to carry out this section without further appropriation.

''(3) HIGH TRAFFIC DENSITY EQUITY ADJUSTMENT PROGRAM.—

''(A) IN GENERAL.—The Secretary shall allocate the amounts made available under paragraph (2) in the ratio that—

''(i) the ratio of annual vehicle miles traveled to lane miles of each State greater than the ratio of total vehicle miles traveled to total lane miles of all States; bears to

''(ii) the ratio of total vehicle miles traveled to total lane miles of all States.

''(B) DETERMINATION OF ANNUAL VEHICLE MILES TRAVEL.—In determining annual vehicle miles per lane mile for purposes of this paragraph, the Secretary shall use the latest available annual estimates prepared by the Secretary of Transportation.

''(c) PERIOD OF AVAILABILITY.—

''(1) OBLIGATION WITHIN 180 DAYS.—

''(A) IN GENERAL.—Funds allocated to a State under this section shall be obligated by the State not later than 180 days after the date of apportionment.

''(B) UNOBLIGATED FUNDS.—Any amounts that remain unobligated at the end of that period shall be allocated in accordance with subsection (d).

''(2) OBLIGATION BY END OF FISCAL YEAR.—

''(A) IN GENERAL.—All funds allocated or reallocated under this section shall remain available for obligation until the last day of the fiscal year for which the funds are apportioned.

''(B) UNOBLIGATED FUNDS.—Any amounts allocated that remain unobligated at the end of the fiscal year shall lapse.

''(d) REDISTRIBUTION OF ALLOCATED FUNDS AND OBLIGATION AUTHORITY.—

''(1) IN GENERAL.—On the date that is 180 days after the date of allocation, or as soon thereafter as practicable, for each fiscal year, the Secretary shall -

''(A) withdraw—

''(i) any funds allocated to a State under this section that remain unobligated; and

''(ii) an equal amount of obligation authority provided for the use of the funds in accordance with section 1101(a)(14) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003; and

''(B) reallocate the funds and redistribute the obligation authority to States that—

''(i) have fully obligated all amounts allocated under this section for the fiscal year; and

(ii) demonstrate that the State is able to obligate additional amounts for projects eligible under this section before the end of the fiscal year.

''(2) EQUITY BONUS.—The calculation and distribution of funds under section 105 shall not be adjusted as a result of the allocation of funds under this subsection.

''(e) FEDERAL SHARE PAYABLE.—The Federal share payable for a project funded under this section shall be determined in accordance with section 120.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 1 of title 23, United States Code, is amended by adding after the item relating to section 138 the following:

''139. High traffic density equity adjustment program.''.

SA 2446. Mr. STEVENS (for himself and Mr. INOUYE) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning with line 21 on page 71, strike through the matter between lines 6 and 7 on page 80 and insert the following:

SEC. 1203. FREIGHT TRANSPORTATION GATEWAYS; FREIGHT INTERMODAL CONNECTIONS.

(a) FREIGHT TRANSPORTATION GATEWAYS.—Chapter 3 of title 23, United States Code, is amended by adding at the end the following:

''§ 325. Freight transportation gateways

''(a) IN GENERAL.—

''(1) ESTABLISHMENT.—The Secretary shall establish a freight transportation gateways program to improve productivity, security, and safety of freight transportation gateways, while mitigating congestion and community impacts in the area of the gateways.

''(2) PURPOSES.—The purposes of the freight transportation gateways program shall be—

''(A) to facilitate and support multimodal freight transportation initiatives at the State and local levels in order to improve freight transportation gateways and mitigate the impact of congestion on the environment in the area, of the gateways;

''(B) to provide capital funding to address infrastructure and freight operational needs at freight transportation gateways;

''(C) to encourage adoption of new financing strategies to leverage State, local, and private investment in freight transportation gateways;

''(D) to facilitate access to intermodal freight transfer facilities; and

''(E) to increase economic efficiency by facilitating the movement of goods.

''(b) STATE RESPONSIBILITIES.—

''(1) PROJECT DEVELOPMENT PROCESS.—Each State, in coordination with metropolitan planning organizations, shall ensure that intermodal freight transportation, trade facilitation, and economic development needs are adequately considered and fully integrated into the project development process, including transportation planning through final design and construction of freight-related transportation projects.

''(2) FREIGHT TRANSPORTATION COORDINATOR.—

''(A) IN GENERAL.—Each State shall designate a freight transportation coordinator and, where appropriate, a maritime transportation system coordinator.

''(B) DUTIES.—Each coordinator shall—

''(i) foster public and private sector collaboration needed to implement complex solutions to freight transportation and the facilitation of transportation throughout the maritime transportation system, including—

''(I) coordination of metropolitan and statewide transportation activities with trade and economics interests;

''(II) coordination with other States, agencies, and organizations to find regional solutions to freight transportation problems; and

''(III) coordination with local officials of the Department of Defense and the Department of Homeland Security, and with other organizations, to develop regional solutions to military and homeland security transportation needs; and

''(ii) promote programs that build professional capacity to better plan, coordinate, integrate, and understand freight transportation needs for the State.

''(c) MARAD RESPONSIBILITIES.—

''(1) PURPOSES.—The purposes of the maritime transportation system enhancements implemented under this section are—

''(A) to develop a clearly defined freight program to implement a comprehensive program of intermodal solutions to freight needs;

''(B) to promote efficiencies in the transportation of intermodal freight by increasing the awareness of the economic importance of freight;

''(C) to create a national intermodal planning and development initiative to provide for strategic investments that need to be made for transportation projects of national significance;

''(D) to create a gateways of national significance program by restructuring the TEA–21 corridors and borders program to distribute funds where cohesive regional planning groups are already in place with plans to address infrastructure transportation infrastructure choke points;

''(E) to improve productivity of freight terminals by connecting those terminals to the nation's transportation infrastructure and dedicating resources to the efficiencies of these connectors;

''(F) to enhance productivity and efficiency of the United States economy through infrastructure improvements that facilitate just-in-time delivery and eliminate surface transportation congestion;

''(G) to improve air quality and transportation safety; and

''(H) to enhance freight movement security.

''(2) DUTIES.—The Maritime Administration shall prepare and maintain a national maritime transportation system and shall—

''(1) recognize designated State marine transportation system coordinators to foster public and private collaboration and coordinate regional solutions to freight transportation and gateway issues, and require States with port facilities, marine terminals, and viable commercial inland waterway systems to ensure that the coordinators duties include the consideration of comprehensive intermodal transportation needs in the planning process and coordinate with adjacent states to ensure intermodal solutions that maximize water transportation options in the movement of freight;

''(2) review and comment on each State marine transportation system submitted to the Secretary under this section;

''(3) compile all State plans and incorporate them into the national marine transportation system plan;

''(4) evaluate, every 2 years, marine transportation system enhancements to address freight movement congestion, security, and safety through the increased use of water transportation alternatives;

''(5) prioritize short sea shipping projects and programs in accordance with a national evaluation study and analysis of infrastructure needs and forecasted increases in trade demand;

''(6) integrate short sea shipping services with existing surface transportation projects;

''(7) foster the utilization of container-on-barge as a means of alleviating congestion in and around congested metropolitan areas;

''(8) foster brownfield development for the expansion of marine transportation system capacity to augment the limited amount of sustainable land available for competing transportation related uses;

''(9) support improvements to landside infrastructure that connects highways and railways to the marine transportation system;

''(10) promote accident prevention and protection of the environment as top marine transportation system priorities;

''(11) develop methods of streamlining project-planning processes to eliminate delays in marine transportation system improvements;

''(12) develop a coherent environmental regulatory process to streamline permitting; and

''(13) promote the increased use of on-dock and near-dock rail usage.

''(d) INNOVATIVE FINANCE STRATEGIES.—

''(1) IN GENERAL.—States and localities are encouraged to adopt innovative financing strategies for freight transportation gateway improvements, including—

''(A) new user fees;

''(B) modifications to existing user fees, including trade facilitation charges;

''(C) revenue options that incorporate private sector investment; and

''(D) a blending of Federal-aid and innovative finance programs.

''(2) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance to States and localities with respect to the strategies.

''(e) INTERMODAL FREIGHT TRANSPORTATION PROJECTS.—

''(1) USE OF SURFACE TRANSPORTATION PROGRAM FUNDS.—A State may obligate funds apportioned to the State under section 104(b)(3) for publicly-owned intermodal freight transportation projects that provide community and highway benefits by addressing economic, congestion, system reliability, security, safety, or environmental issues associated with freight transportation gateways.

''(2) ELIGIBLE PROJECTS.—A project eligible for funding under this section—

''(A) may include publicly-owned intermodal freight transfer facilities, access to the facilities, and operational improvements for the facilities (including capital investment for intelligent transportation systems), except that projects located within the boundaries of port terminals shall only include the transportation infrastructure modifications necessary to facilitate direct intermodal interchange, transfer, and access into and out of the port; and

''(B) may involve the combining of private andd public funds.''.

(b) ELIGIBILITY FOR SURFACE TRANSPORTATION PROGRAM FUNDS.—Section 133(b) of title 23, United States Code, is amended by inserting after paragraph (11) the following:

''(12) Intermodal freight transportation projects in accordance with section 325(e)(2).'.

(c) FREIGHT INTERMODAL CONNECTIONS TO NHS.—Section 103(b) of title 23, United States Code, is amended by adding at the end the following:

''(7) FREIGHT INTERMODAL CONNECTIONS TO THE NHS.—

''(A) FUNDING SET-ASIDE.—Of the funds apportioned to a State for each fiscal year under section 104(b)(1), an amount determined in accordance with subparagraph (B) shall only be available to the State to be obligated for projects on—

''(1) National Highway System routes connecting to intermodal freight terminals identified according to criteria specified in the report to Congress entitled 'Pulling Together: The National Highway System and its Connections to Major Intermodal Terminals' dated May 24, 1996, referred to in paragraph (1), and any modifications to the connections that are consistent with paragraph (4);

''(ii) strategic. highway network connectors to strategic military deployment ports;

''(iii) projects to eliminate railroad crossings or make railroad crossing improvements; and

''(iv) any intermodal project in the State of Alaska, or Hawaii that, the State determines to be vital to State transportation needs.

''(B) DETERMINATION OF AMOUNT.—The amount of funds for each State for a fiscal year that shall be set aside under subparagraph (A) shall be equal to the greater of—

''(i) the product obtained by multiplying—

''(I) the total amount of funds apportioned to the State under section 104(b)(1); by

''(II) the percentage of miles that routes specified in subparagraph (A) constitute of the total miles on the National Highway System in the State; or

''(ii) 2 percent of the annual apportionment to the State of funds under 104(b)(1).

''(C) EXEMPTION FROM SET-ASIDE.—For any fiscal year, a State may obligate the funds otherwise set aside by this paragraph for any project that is eligible under paragraph (6) and is located in the State on a segment of the National Highway System specified in paragraph (2), if the State certifies and the Secretary concurs that—

''(1) the designated National Highway System intermodal connectors described in subparagraph (A) are in good condition and provide an adequate level of service for military vehicle and civilian commercial vehicle use; and

''(ii) significant needs on the designated National Highway System intermodal connectors are being met or do not exist.

''(D) FLEXIBILITY.—-Port projects eligible for funding under this section may be transferred and administered by the Administrator of the Maritime Administration under the terms and conditions provided in section 626 of the Consolidated Appropriations Resolution, 2003.''.

(d) FEDERAL SHARE PAYABLE.—Section 120 of title 23, United States Code, is amended by adding at the end the following:

''(m) INCREASED FEDERAL SHARE FOR CONNECTORS.—In the case of a project to support a National Highway System intermodal freight connection or strategic highway network connector to a strategic military deployment port described in section 103(b)(7), the Federal share of the total cost of the project shall be 90 percent.''.

(e) LENGTH LIMITATIONS.—Section 31111(e) of title 49, United States Code, is amended—

(1) by striking ''The'' and inserting the following:

''(1) IN GENERAL.—The''; and

(2) by adding at the end the following:

''(2) LENGTH LIMITATIONS.—In the interests of economic competitiveness, security, and intermodal connectivity, not later than 3 years after the date of enactment of this paragraph, States shall update the list of Federal-aid system highways to include—

''(A) strategic highway network connectors to strategic military deployment ports; and

''(B) National Highway System intermodal freight connections serving military and commercial truck traffic going to major intermodal terminals as described in section 103(b)(7)(A)(i).''.

(f) CONFORMING AMENDMENT.—The analysis of chapter 3 of title 23, United States Code, is amended by adding at the end the following:

''325. Freight transportation gateways.''.

SA 2447. Mr. BURNS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 420, line 23, strike ''enhanced'' and insert ''integrated, interoperable emergency''.

SA 2448. Mr. BURNS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 120, line 18, after ''elements'' insert '', including integrated, interoperable emergency communications,''.

SA 2449. Mr. BURNS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 118, line 3, before ''equipment'' insert ''intergrated, interoperable emergency communications,''.

SA 2450. Mr. BURNS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 404, line 7, before ''communication'' insert ''integrated, interoperable emergency''.

SA 2451. Mr. BURNS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 260, after line 9, insert the following:

''(7) if the project or program involves the purchase of integrated, interoperable emergency communications equipment.''.

SA 2452. Mr. CONRAD submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 923, strike lines 8 through 10 and insert the following:

(a) FUNDING.—Section 125(c)(1) of title 23, United States Code, is amended by striking ''$100,000,000'' and inserting ''$300,000,000''.

(b) ROADS IN CLOSED BASINS.—Section 125 of title 23, United States Code, is amended by adding at the end the following:

''(g) ROADS IN CLOSED BASINS.—

''(1) DEFINITION OF CONSTRUCTION.—In this subsection, the term 'construction' includes—

''(A) monitoring, studies, evaluations, design, or preliminary engineering relating to construction; and

''(B) monitoring and evaluations relating to proposed construction.

''(2) FUNDING.—Subject to paragraph (3), the Secretary shall use amounts made available to carry out this section, through advancement or reimbursement, without further emergency declaration, for construction—

''(A) necessary for the continuation of roadway services and the impoundment of water, as the Secretary determines to be appropriate, in accordance with—

''(i) options and needs identified in the report of the Devils Lake Surface Transportation Task Force, Federal Highway Administration, entitled 'Roadways Serving as Water Barriers' and dated May 4, 2000 (referred to in this subsection as the 'report'); and

''(ii) any needs identified after publication of the report; or

''(B) for a grade raise to permanently restore a roadway identified in the report the use of which is lost or reduced, or could be lost or reduced, as a result of an actual or predicted water level that is within 3 feet of causing inundation of the roadway.

''(3) REQUIREMENT.—To be eligible for funding under paragraph (1), construction or a grade raise shall be carried out in an area that has been the subject of an emergency declaration issued during or after 1993.''.

SA 2453. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 1298, after line 24, add the following:

PART VI—TAX SHELTER AND TAX HAVEN REFORMS

SEC. 5671. PENALTY FOR PROMOTING ABUSIVE TAX SHELTERS.

(a) PENALTY FOR PROMOTING ABUSIVE TAX SHELTERS.—Section 6700 (relating to promoting abusive tax shelters, etc.) is amended—

(1) by redesignating subsections (b) and (c) as subsections (d) and (e), respectively,

(2) by striking ''a penalty'' and all that follows through the period in the first sentence of subsection (a) and inserting ''a penalty determined under subsection (b)'', and

(3) by inserting after subsection (a) the following new subsections:

''(b) AMOUNT OF PENALTY; CALCULATION OF PENALTY; LIABILITY FOR PENALTY.—

''(1) AMOUNT OF PENALTY.—The amount of the penalty imposed by subsection (a) shall not exceed the greater of—

''(A) 150 percent of the gross income derived (or to be derived) from such activity by the person or persons subject to such penalty, and

''(B) if readily subject to calculation, the total amount of underpayment by the taxpayer (including penalties, interest, and taxes) in connection with such activity.

''(2) CALCULATION OF PENALTY.—The penalty amount determined under paragraph (1) shall be calculated with respect to each instance of an activity described in subsection (a), each instance in which income was derived by the person or persons subject to such penalty, and each person who participated in such an activity.

''(3) LIABILITY FOR PENALTY.—If more than 1 person is liable under subsection (a) with respect to such activity, all such persons shall be jointly and severally liable for the penalty under such subsection.

''(c) PENALTY NOT DEDUCTIBLE.—The payment of any penalty imposed under this section or the payment of any amount to settle or avoid the imposition of such penalty shall not be considered an ordinary and necessary expense in carrying on a trade or business for purposes of this title and shall not be deductible by the person who is subject to such penalty or who makes such payment.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to activities after the date of the enactment of this Act.

(c) PRIOR SECTION TO HAVE NO EFFECT.—Notwithstanding section 5626 of this Act, such section, and the amendments made by such section, shall not take effect.

SEC. 5672. PENALTY FOR AIDING AND ABETTING THE UNDERSTATEMENT OF TAX LIABILITY.

(a) IN GENERAL.—Section 6701(a) (relating to imposition of penalty) is amended—

(1) by inserting ''the tax liability or'' after ''respect to,'' in paragraph (1),

(2) by inserting ''aid, assistance, procurement, or advice with respect to such'' before ''portion'' both places it appears in paragraphs (2) and (3), and

(3) by inserting ''instance of aid, assistance, procurement, or advice or each such'' before ''document'' in the matter following paragraph (3).

(b) AMOUNT OF PENALTY.—Subsection (b) of section 6701 (relating to penalties for aiding and abetting understatement of tax liability) is amended to read as follows:

''(b) AMOUNT OF PENALTY; CALCULATION OF PENALTY; LIABILITY FOR PENALTY.—

''(1) AMOUNT OF PENALTY.—The amount of the penalty imposed by subsection (a) shall not exceed the greater of—

''(i) 150 percent of the gross income derived (or to be derived) from such aid, assistance, procurement, or advice provided by the person or persons subject to such penalty, and

''(ii) if readily subject to calculation, the total amount of underpayment by the taxpayer (including penalties, interest, and taxes) in connection with the understatement of the liability for tax.

''(2) CALCULATION OF PENALTY.—The penalty amount determined under paragraph (1) shall be calculated with respect to each instance of aid, assistance, procurement, or advice described in subsection (a), each instance in which income was derived by the person or persons subject to such penalty, and each person who made such an understatement of the liability for tax.

''(3) LIABILITY FOR PENALTY.—If more than 1 person is liable under subsection (a) with respect to providing such aid, assistance, procurement, or advice, all such persons shall be jointly and severally liable for the penalty under such subsection.''.

(c) PENALTY NOT DEDUCTIBLE.—Section 6701 is amended by adding at the end the following new subsection:

''(g) PENALTY NOT DEDUCTIBLE.—The payment of any penalty imposed under this section or the payment of any amount to settle or avoid the imposition of such penalty shall not be considered an ordinary and necessary expense in carrying on a trade or business for purposes of this title and shall not be deductible by the person who is subject to such penalty or who makes such payment.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to activities after the date of the enactment of this Act.

SEC. 5673. PENALTY FOR FAILURE TO REGISTER TAX SHELTER.

(a) IN GENERAL.—Section 6707 (relating to failure to furnish information regarding tax shelters) is amended to read as follows:

''SEC. 6707. FAILURE TO FURNISH INFORMATION ON POTENTIALLY ABUSIVE TAX SHELTER OR LISTED TRANSACTION.

''(a) IN GENERAL.—If a person who is required to file a return under section 6111 with respect to any potentially abusive tax shelter—

''(1) fails to file such return on or before the date prescribed therefor, or

''(2) files false or incomplete information with the Secretary with respect to such shelter,

such person shall pay a penalty with respect to such return in the amount determined under subsection (b).

''(b) AMOUNT OF PENALTY.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the penalty imposed under subsection (a) with respect to any failure shall be not less than $50,000 and not more than $100,000.

''(2) LISTED TRANSACTIONS.—The penalty imposed under subsection (a) with respect to any listed transaction shall be an amount equal to the greater of—

''(A) $200,000, or

''(B) 100 percent of the gross income derived by such person for providing aid, assistance, procurement, advice, or other services with respect to the listed transaction before the date the return including the transaction is filed under section 6111.

Subparagraph (B) shall be applied by substituting '150 percent' for '100 percent' in the case of an intentional failure or act described in subsection (a).

''(c) CERTAIN RULES TO APPLY.—The provisions of section 6707A(d) allowing the Commissioner of Internal Revenue to rescind a penalty under certain circumstances shall apply to any penalty imposed under this section.

''(d) POTENTIALLY ABUSIVE TAX SHELTERS AND LISTED TRANSACTIONS.—The terms 'potentially abusive tax shelter' and 'listed transaction' have the respective meanings given to such terms by section 6707A(c).

''(e) PENALTY NOT DEDUCTIBLE.—The payment of any penalty imposed under this section or the payment of any amount to settle or avoid the imposition of such penalty shall not be considered an ordinary and necessary expense in carrying on a trade or business for purposes of this title and shall not be deductible by the person who is subject to such penalty or who makes such payment.''.

(b) CLERICAL AMENDMENT.—The item relating to section 6707 in the table of sections for part I of subchapter B of chapter 68 is amended by striking ''regarding tax shelters'' and inserting ''on potentially abusive tax shelter or listed transaction''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns the due date for which is after the date of the enactment of this Act.

(d) PRIOR SECTION TO HAVE NO EFFECT.—Notwithstanding section 5618(c) of this Act, such section, and the amendments made by such section, shall not take effect.

SEC. 5674. PENALTY FOR FAILING TO MAINTAIN CLIENT LIST.

(a) IN GENERAL.—Subsection (a) of section 6708 (relating to failure to maintain lists of investors in potentially abusive tax shelters) is amended to read as follows:

''(a) IMPOSITION OF PENALTY.—

''(1) IN GENERAL.—If any person who is required to maintain a list under section 6112(a) fails to make such list available upon written request to the Secretary in accordance with section 6112(b)(1)(A) within 20 business days after the date of the Secretary's request, such person shall pay a penalty of $10,000 for each day of such failure after such 20th day. If such person makes available an incomplete list upon such request, such person shall pay a penalty of $100 per each omitted name for each day of such omission after such 20th day.

''(2) GOOD CAUSE EXCEPTION.—No penalty shall be imposed by paragraph (1) with respect to the failure on any day if, in the judgment of the Secretary, such failure is due to good cause.''.

(b) PENALTY NOT DEDUCTIBLE.—Section 6708 is amended by adding at the end the following new subsection:

''(c) PENALTY NOT DEDUCTIBLE.—The payment of any penalty imposed under this section or the payment of any amount to settle or avoid the imposition of such penalty shall not be considered an ordinary and necessary expense in carrying on a trade or business for purposes of this title and shall not be deductible by the person who is subject to such penalty or who makes such payment.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to requests made by the Secretary of the Treasury after the date of the enactment of this Act.

(d) PRIOR SECTION TO HAVE NO EFFECT.—Notwithstanding section 5619(b) of this Act,

such section, and the amendments made by such section, shall not take effect.

SEC. 5675. PENALTY FOR FAILING TO DISCLOSE POTENTIALLY ABUSIVE TAX SHELTER.

(a) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by inserting after section 6707 the following new section:

"SEC. 6707A. PENALTY FOR FAILURE TO INCLUDE POTENTIALLY ABUSIVE TAX SHELTER INFORMATION WITH RETURN OR STATEMENT.

"(a) IMPOSITION OF PENALTY.—Any person who fails to include on any return or statement any information with respect to a potentially abusive tax shelter which is required under section 6011 to be included with such return or statement shall pay a penalty in the amount determined under subsection (b).

"(b) AMOUNT OF PENALTY.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amount of the penalty under subsection (a) shall be $50,000.

"(2) LISTED TRANSACTION.—Except as provided in paragraph 3, the amount of the penalty under subsection (a) with respect to a listed transaction shall be $100,000.

"(3) INCREASE IN PENALTY FOR INTENTIONAL NONDISCLOSURE.—In the case of an intentional failure by any person under subsection (a), the penalty under paragraph (1) shall be $100,000 and the penalty under paragraph (2) shall be $200,000.

"(c) DEFINITIONS.—For purposes of this section—

"(1) POTENTIALLY ABUSIVE TAX SHELTER.—The term 'potentially abusive tax shelter' means any transaction with respect to which information is required to be included with a return or statement, because the Secretary has determined by regulation or otherwise that such transaction has a potential for tax avoidance or evasion.

"(2) LISTED TRANSACTION.—Except as provided in regulations, the term 'listed transaction' means a potentially abusive tax shelter which is the same as, or substantially similar to, a transaction specifically identified by the Secretary as a tax avoidance transaction for purposes of section 6011.

"(d) AUTHORITY TO RESCIND PENALTY.—

"(1) IN GENERAL.—The Commissioner of Internal Revenue may rescind all or any portion of a penalty imposed by this section with respect to any violation if—

"(A) the violation is with respect to a potentially abusive tax shelter other than a listed transaction,

"(B) the person on whom the penalty is imposed has a history of complying with the requirements of this title,

"(C) it is shown that the violation is due to an unintentional mistake of fact,

"(D) imposing the penalty would be against equity and good conscience, and

"(E) rescinding the penalty would promote compliance with the requirements of this title and effective tax administration.

"(2) DISCRETION.—The exercise of authority under paragraph (1) shall be at the sole discretion of the Commissioner and may be delegated only to the head of the Office of Tax Shelter Analysis. The Commissioner, in the Commissioner's sole discretion, may establish a procedure to determine if a penalty should be referred to the Commissioner or the head of such Office for a determination under paragraph (1).

"(3) NO APPEAL.—Notwithstanding any other provision of law, any determination under this subsection may not be reviewed in any administrative or judicial proceeding.

"(4) RECORDS.—If a penalty is rescinded under paragraph (1), the Commissioner shall place in the file in the Office of the Commissioner the opinion of the Commissioner or the head of the Office of Tax Shelter Analysis with respect to the determination, including—

"(A) the facts and circumstances of the transaction,

"(B) the reasons for the rescission, and

"(C) the amount of the penalty rescinded.

A copy of such opinion shall be provided upon written request to the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, the Joint Committee on Taxation, or the General Accounting Office.

"(5) REPORT.—The Commissioner shall each year report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate—

"(A) a summary of the total number and aggregate amount of penalties imposed, and rescinded, under this section, and

"(B) a description of each penalty rescinded under this subsection and the reasons therefor.

"(e) PENALTY REPORTED TO SEC.—In the case of a person—

"(1) which is required to file periodic reports under section 13 or 15(d) of the Securities Exchange Act of 1934 or is required to be consolidated with another person for purposes of such reports, and

"(2) which—

"(A) is required to pay a penalty under this section with respect to a listed transaction,

"(B) is required to pay a penalty under section 6662A with respect to any potentially abusive tax shelter at a rate prescribed under section 6662A(c), or

"(C) is required to pay a penalty under section 6662B with respect to any noneconomic substance transaction,

the requirement to pay such penalty shall be disclosed in such reports filed by such person for such periods as the Secretary shall specify. Failure to make a disclosure in accordance with the preceding sentence shall be treated as a failure to which the penalty under subsection (b)(2) applies.

"(f) PENALTY IN ADDITION TO OTHER PENALTIES.—The penalty imposed by this section shall be in addition to any other penalty provided by law.

"(g) PENALTY NOT DEDUCTIBLE.—The payment of any penalty imposed under this section or the payment of any amount to settle or avoid the imposition of such penalty shall not be considered an ordinary and necessary expense in carrying on a trade or business for purposes of this title and shall not be deductible by the person who is subject to such penalty or who makes such payment.".

(b) CONFORMING AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by inserting after the item relating to section 6707 the following:

"Sec. 6707A. Penalty for failure to include potentially abusive tax shelter information with return or statement.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns and statements the due date for which is after the date of the enactment of this Act.

(d) PRIOR SECTION TO HAVE NO EFFECT.—Notwithstanding section 5612(c) of this Act, such section, and the amendments made by such section, shall not take effect.

SEC. 5676. IMPROVED DISCLOSURE OF POTENTIALLY ABUSIVE TAX SHELTERS.

(a) IN GENERAL.—Section 6111 (relating to registration of tax shelters) is amended to read as follows:

"SEC. 6111. DISCLOSURE OF POTENTIALLY ABUSIVE TAX SHELTERS.

"(a) IN GENERAL.—Each material advisor with respect to any potentially abusive tax shelter shall make a return (in such form as the Secretary may prescribe) setting forth—

"(1) information identifying and describing such shelter,

"(2) information describing any potential tax benefits expected to result from the shelter, and

"(3) such other information as the Secretary may prescribe.

Such return shall be filed not later than the date which is 30 days before the date on which the first sale of such shelter occurs or on any other date specified by the Secretary.

"(b) DEFINITIONS.—For purposes of this section—

"(1) MATERIAL ADVISOR.—

"(A) IN GENERAL.—The term 'material advisor' means any person—

"(i) who provides any material aid, assistance, or advice with respect to designing, organizing, managing, promoting, selling, implementing, or carrying out any potentially abusive tax shelter, and

"(ii) who directly or indirectly derives gross income in excess of the threshold amount for such aid, assistance, or advice.

"(B) THRESHOLD AMOUNT.—For purposes of subparagraph (A), the threshold amount is—

"(i) $50,000 in the case of a potentially abusive tax shelter substantially all of the tax benefits from which are provided to natural persons, and

"(ii) $100,000 in any other case.

"(2) POTENTIALLY ABUSIVE TAX SHELTER.—The term 'potentially abusive tax shelter' has the meaning given to such term by section 6707A(c).

"(c) REGULATIONS.—The Secretary may prescribe regulations which provide—

"(1) that only 1 person shall be required to meet the requirements of subsection (a) in cases in which 2 or more persons would otherwise be required to meet such requirements,

"(2) exemptions from the requirements of this section, and

"(3) such rules as may be necessary or appropriate to carry out the purposes of this section.".

(b) CONFORMING AMENDMENTS.—

(1) The item relating to section 6111 in the table of sections for subchapter B of chapter 61 is amended to read as follows:

"Sec. 6111. Disclosure of potentially abusive tax shelters.".

(2)(A) So much of section 6112 as precedes subsection (c) thereof is amended to read as follows:

"SEC. 6112. MATERIAL ADVISORS OF POTENTIALLY ABUSIVE TAX SHELTERS MUST KEEP CLIENT LISTS.

"(a) IN GENERAL.—Each material advisor (as defined in section 6111) with respect to any potentially abusive tax shelter (as defined in section 6707A(c)) shall maintain, in such manner as the Secretary may by regulations prescribe, a list—

"(1) identifying each person with respect to whom such advisor acted as such a material advisor with respect to such shelter, and

"(2) containing such other information as the Secretary may by regulations require.

This section shall apply without regard to whether a material advisor is required to file a return under section 6111 with respect to such transaction.".

(B) Section 6112 is amended by redesignating subsection (c) as subsection (b).

(C) Section 6112(b), as redesignated by subparagraph (B), is amended—

(i) by inserting "written" before "request" in paragraph (1)(A), and

(ii) by striking "shall prescribe" in paragraph (2) and inserting "may prescribe".

(D) The item relating to section 6112 in the table of sections for subchapter B of chapter 61 is amended to read as follows:

''Sec. 6112. Material advisors of potentially abusive tax shelters must keep client lists.''.

(3)(A) The heading for section 6708 is amended to read as follows:

''SEC. 6708. FAILURE TO MAINTAIN CLIENT LISTS WITH RESPECT TO POTENTIALLY ABUSIVE TAX SHELTERS.''.

(B) The item relating to section 6708 in the table of sections for part I of subchapter B of chapter 68 is amended to read as follows:

''Sec. 6708. Failure to maintain client lists with respect to potentially abusive tax shelters.''.

(c) REQUIRED DISCLOSURE NOT SUBJECT TO CLAIM OF CONFIDENTIALITY.—Section 6112(b)(1), as redesignated by subsection (b)(2)(B), is amended by adding at the end the following new flush sentence:

''For purposes of this section, the identity of any person on such list shall not be privileged.''.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to transactions with respect to which material aid, assistance, or advice referred to in section 6111(b)(1)(A)(i) of the Internal Revenue Code of 1986 (as added by this section) is provided after the date of the enactment of this Act.

(2) NO CLAIM OF CONFIDENTIALITY AGAINST DISCLOSURE.—The amendment made by subsection (c) shall take effect as if included in the amendments made by section 142 of the Deficit Reduction Act of 1984.

(e) PRIOR SECTION TO HAVE NO EFFECT.—Notwithstanding section 5617(d) of this Act, such section, and the amendments made by such section, shall not take effect.

SEC. 5677. EXTENSION OF STATUTE OF LIMITATIONS FOR UNDISCLOSED TAX SHELTER.

(a) IN GENERAL.—Section 6501(c) (relating to exceptions) is amended by adding at the end the following new paragraph:

''(10) POTENTIALLY ABUSIVE TAX SHELTERS.—If a taxpayer fails to include on any return or statement for any taxable year any information with respect to a potentially abusive tax shelter (as defined in section 6707A(c)) which is required under section 6011 to be included with such return or statement, the time for assessment of any tax imposed by this title with respect to such transaction shall not expire before the date which is 2 years after the earlier of—

''(A) the date on which the Secretary is furnished the information so required; or

''(B) the date that a material advisor (as defined in section 6111) meets the requirements of section 6112 with respect to a request by the Secretary under section 6112(b) relating to such transaction with respect to such taxpayer.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years with respect to which the period for assessing a deficiency did not expire before the date of the enactment of this Act.

(c) PRIOR SECTION TO HAVE NO EFFECT.—Notwithstanding section 5626(b) of this Act, such section, and the amendments made by such section, shall not take effect.

SEC. 5678. PENALTY FOR FAILING TO REPORT INTERESTS IN FOREIGN FINANCIAL ACCOUNTS.

(a) IN GENERAL.—Section 5321(a)(5) of title 31, United States Code, is amended to read as follows:

''(5) FOREIGN FINANCIAL AGENCY TRANSACTION VIOLATION.—

''(A) PENALTY AUTHORIZED.—The Secretary of the Treasury may impose a civil money penalty on any person who violates, or causes any violation of, any provision of section 5314.

''(B) AMOUNT OF PENALTY.—

''(i) IN GENERAL.—Except as provided in subparagraph (C), the amount of any civil penalty imposed under subparagraph (A) shall not exceed $10,000.

''(ii) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under subparagraph (A) with respect to any violation if—

''(I) such violation was due to reasonable cause, and

''(II) the amount of the transaction or the balance in the account at the time of the transaction was properly reported.

''(C) WILLFUL VIOLATIONS.—In the case of any person willfully violating, or willfully causing any violation of, any provision of section 5314, the amount of the civil penalty imposed under subparagraph (A) shall be—

''(i) not less than $5,000,

''(ii) not more than 50 percent of the amount determined under subparagraph (D), and

''(iii) subparagraph (B)(ii) shall not apply.

''(D) AMOUNT.—The amount determined under this subparagraph is—

''(i) in the case of a violation involving a transaction, the amount of the transaction, or

''(ii) in the case of a violation involving a failure to report the existence of an account or any identifying information required to be provided with respect to an account, the balance in the account at the time of the violation.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to violations occurring after the date of the enactment of this Act.

(c) PRIOR SECTION TO HAVE NO EFFECT.—Notwithstanding section 5622(b) of this Act, such section, and the amendments made by such section, shall not take effect.

SEC. 5679. CENSURE, CIVIL FINES, AND TAX OPINION STANDARDS FOR TAX PRACTITIONERS.

(a) CENSURE; IMPOSITION OF MONETARY PENALTY.—

(1) IN GENERAL.—Section 330(b) of title 31, United States Code, is amended—

(A) by inserting '', or censure,'' after ''Department'', and

(B) by adding at the end the following new flush sentence:

''The Secretary may impose a monetary penalty on any representative described in the preceding sentence. If the representative was acting on behalf of an employer or any firm or other entity in connection with the conduct giving rise to such penalty, the Secretary may impose a monetary penalty on such employer, firm, or entity if it knew, or reasonably should have known, of such conduct. Such penalty may be in addition to, or in lieu of, any suspension, disbarment, or censure of the representative.''.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to actions taken after the date of the enactment of this Act.

(b) TAX OPINION STANDARDS.—Section 330 of such title 31 is amended by adding at the end the following new subsection:

''(d) The Secretary of the Treasury shall impose standards applicable to the rendering of written advice with respect to any potentially abusive tax shelter or any entity, plan, arrangement, or transaction which has a potential for tax avoidance or evasion. Such standards shall address, but not be limited to, the following issues:

''(1) Independence of the practitioner issuing such written advice from persons promoting, marketing, or recommending the subject of the advice.

''(2) Collaboration among practitioners, or between a practitioner and other party, which could result in such collaborating parties having a joint financial interest in the subject of the advice.

''(3) Avoidance of conflicts of interest which would impair auditor independence.

''(4) For written advice issued by a firm, standards for reviewing the advice and ensuring the consensus support of the firm for positions taken.

''(5) Reliance on reasonable factual representations by the taxpayer and other parties.

''(6) Appropriateness of the fees charged by the practitioner for the written advice.''.

(c) PRIOR SECTION TO HAVE NO EFFECT.—Notwithstanding section 5624(a)(2) of this Act, such section, and the amendments made by such section, shall not take effect.

SEC. 5680. PREVENTING CORPORATE EXPATRIATION TO AVOID UNITED STATES INCOME TAX.

(a) IN GENERAL.—Paragraph (4) of section 7701(a) (defining domestic) is amended to read as follows:

''(4) DOMESTIC.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'domestic' when applied to a corporation or partnership means created or organized in the United States or under the law of the United States or of any State unless, in the case of a partnership, the Secretary provides otherwise by regulations.

''(B) CERTAIN CORPORATIONS TREATED AS DOMESTIC.—

''(i) IN GENERAL.—The acquiring corporation in a corporate expatriation transaction shall be treated as a domestic corporation.

''(ii) CORPORATE EXPATRIATION TRANSACTION.—For purposes of this subparagraph, the term 'corporate expatriation transaction' means any transaction if—

''(I) a nominally foreign corporation (referred to in this subparagraph as the 'acquiring corporation') acquires, as a result of such transaction, directly or indirectly substantially all of the properties held directly or indirectly by a domestic corporation, and

''(II) immediately after the transaction, more than 80 percent of the stock (by vote or value) of the acquiring corporation is held by former shareholders of the domestic corporation by reason of holding stock in the domestic corporation.

''(iii) LOWER STOCK OWNERSHIP REQUIREMENT IN CERTAIN CASES.—Subclause (II) of clause (ii) shall be applied by substituting '50 percent' for '80 percent' with respect to any nominally foreign corporation if—

''(I) such corporation does not have substantial business activities (when compared to the total business activities of the expanded affiliated group) in the foreign country in which or under the law of which the corporation is created or organized, and

''(II) the stock of the corporation is publicly traded and the principal market for the public trading of such stock is in the United States.

''(iv) PARTNERSHIP TRANSACTIONS.—The term 'corporate expatriation transaction' includes any transaction if—

''(I) a nominally foreign corporation (referred to in this subparagraph as the 'acquiring corporation') acquires, as a result of such transaction, directly or indirectly properties constituting a trade or business of a domestic partnership,

''(II) immediately after the transaction, more than 80 percent of the stock (by vote or value) of the acquiring corporation is held by former partners of the domestic partnership or related foreign partnerships (determined without regard to stock of the acquiring corporation which is sold in a public offering related to the transaction), and

''(III) the acquiring corporation meets the requirements of subclauses (I) and (II) of clause (iii).

''(v) SPECIAL RULES.—For purposes of this subparagraph—

''(I) a series of related transactions shall be treated as 1 transaction, and

''(II) stock held by members of the expanded affiliated group which includes the acquiring corporation shall not be taken into account in determining ownership.

''(vi) OTHER DEFINITIONS.—For purposes of this subparagraph—

''(I) NOMINALLY FOREIGN CORPORATION.—The term 'nominally foreign corporation' means any corporation which would (but for this subparagraph) be treated as a foreign corporation.

''(II) EXPANDED AFFILIATED GROUP.—The term 'expanded affiliated group' means an affiliated group (as defined in section 1504(a) without regard to section 1504(b)).

''(III) RELATED FOREIGN PARTNERSHIP.—A foreign partnership is related to a domestic partnership if they are under common control (within the meaning of section 482), or they shared the same trademark or tradename.''

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendment made by this section shall apply to corporate expatriation transactions completed after September 11, 2001.

(2) SPECIAL RULE.—The amendment made by this section shall also apply to corporate expatriation transactions completed on or before September 11, 2001, but only with respect to taxable years of the acquiring corporation beginning after December 31, 2003.

(c) PRIOR SECTION TO HAVE NO EFFECT.—Section 5651(a)(2) of this Act, and the amendments made by such section, shall not take effect.

SA 2454. Mr. LEVIN (for himself and Ms. STABENOW) submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 1298, after line 24, add the following:

Subtitle H—Incentives for Alternative Motor Vehicles

PART I—INCENTIVES

SEC. 5671. ALTERNATIVE MOTOR VEHICLE CREDIT.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 (relating to foreign tax credit, etc.) is amended by adding at the end the following new section:

''SEC. 30B. ALTERNATIVE MOTOR VEHICLE CREDIT.

''(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

''(1) the new qualified fuel cell motor vehicle credit determined under subsection (b),

''(2) the new qualified hybrid motor vehicle credit determined under subsection (c), and

''(3) the new qualified advanced lean burn technology motor vehicle credit determined under subsection (f).

''(b) NEW QUALIFIED FUEL CELL MOTOR VEHICLE CREDIT.—

''(1) IN GENERAL.—For purposes of subsection (a), the new qualified fuel cell motor vehicle credit determined under this subsection with respect to a new qualified fuel cell motor vehicle placed in service by the taxpayer during the taxable year is—

''(A) $4,000, if such vehicle has a gross vehicle weight rating of not more than 8,500 pounds, and

''(B) $10,000, if such vehicle has a gross vehicle weight rating of more than 8,500 pounds but not more than 14,000 pounds.

''(2) INCREASE FOR FUEL EFFICIENCY.—

''(A) IN GENERAL.—The amount determined under paragraph (1)(A) with respect to a new qualified fuel cell motor vehicle which is a passenger automobile or light truck shall be increased by—

''(i) $1,000, if such vehicle achieves at least 150 percent but less than 175 percent of the 2002 model year city fuel economy,

''(ii) $1,500, if such vehicle achieves at least 175 percent but less than 200 percent of the 2002 model year city fuel economy,

''(iii) $2,000, if such vehicle achieves at least 200 percent but less than 225 percent of the 2002 model year city fuel economy,

''(iv) $2,500, if such vehicle achieves at least 225 percent but less than 250 percent of the 2002 model year city fuel economy,

''(v) $3,000, if such vehicle achieves at least 250 percent but less than 275 percent of the 2002 model year city fuel economy,

''(vi) $3,500, if such vehicle achieves at least 275 percent but less than 300 percent of the 2002 model year city fuel economy, and

''(vii) $4,000, if such vehicle achieves at least 300 percent of the 2002 model year city fuel economy.

''(B) 2002 MODEL YEAR CITY FUEL ECONOMY.—For purposes of subparagraph (A), the 2002 model year city fuel economy with respect to a vehicle shall be determined in accordance with the following tables:

''(i) In the case of a passenger automobile:

''If vehicle inertia weight class is:	**The 2002 model year city fuel economy is:**
1,500 or 1,750 lbs	45.2 mpg
2,000 lbs	39.6 mpg
2,250 lbs	35.2 mpg
2,500 lbs	31.7 mpg
2,750 lbs	28.8 mpg
3,000 lbs	26.4 mpg
3,500 lbs	22.6 mpg
4,000 lbs	19.8 mpg
4,500 lbs	17.6 mpg
5,000 lbs	15.9 mpg
5,500 lbs	14.4 mpg
6,000 lbs	13.2 mpg
6,500 lbs	12.2 mpg
7,000 to 8,500 lbs	11.3 mpg.

''(ii) In the case of a light truck:

''If vehicle inertia weight class is:	**The 2002 model year city fuel economy is:**
1,500 or 1,750 lbs	39.4 mpg
2,000 lbs	35.2 mpg
2,250 lbs	31.8 mpg
2,500 lbs	29.0 mpg
2,750 lbs	26.8 mpg
3,000 lbs	24.9 mpg
3,500 lbs	21.8 mpg
4,000 lbs	19.4 mpg
4,500 lbs	17.6 mpg
5,000 lbs	16.1 mpg
5,500 lbs	14.8 mpg
6,000 lbs	13.7 mpg
6,500 lbs	12.8 mpg
7,000 to 8,500 lbs	12.1 mpg.

''(C) VEHICLE INERTIA WEIGHT CLASS.—For purposes of subparagraph (B), the term 'vehicle inertia weight class' has the same meaning as when defined in regulations prescribed by the Administrator of the Environmental Protection Agency for purposes of the administration of title II of the Clean Air Act (42 U.S.C. 7521 et seq.).

''(3) NEW QUALIFIED FUEL CELL MOTOR VEHICLE.—For purposes of this subsection, the term 'new qualified fuel cell motor vehicle' means a motor vehicle—

''(A) which is propelled by power derived from 1 or more cells which convert chemical energy directly into electricity by combining oxygen with hydrogen fuel which is stored on board the vehicle in any form and may or may not require reformation prior to use,

''(B) which, in the case of a passenger automobile or light truck for 2004 and later model vehicles, has received a certificate that such vehicle meets or exceeds the Bin 5 Tier II emission level established in regulations prescribed by the Administrator of the Environmental Protection Agency under section 202(i) of the Clean Air Act for that make and model year vehicle,

''(C) the original use of which commences with the taxpayer,

''(D) which is acquired for use or lease by the taxpayer and not for resale, and

''(E) which is made by a manufacturer.

''(c) NEW QUALIFIED HYBRID MOTOR VEHICLE CREDIT.—

''(1) IN GENERAL.—For purposes of subsection (a), the new qualified hybrid motor vehicle credit determined under this subsection with respect to a new qualified hybrid motor vehicle placed in service by the taxpayer during the taxable year is the credit amount determined under paragraph (2).

''(2) CREDIT AMOUNT.—

''(A) IN GENERAL.—The credit amount determined under this paragraph shall be determined in accordance with the following table:

''In the case of a new qualified hybrid motor vehicle which is a passenger automobile, medium duty passenger vehicle, or light truck and which provides the following percentage of the maximum available power:

''If percentage of the maximum available power is:	**The credit amount is:**
At least 4 percent but less than 10 percent.	$350
At least 10 percent but less than 20 percent.	$600
At least 20 percent but less than 30 percent.	$850
At least 30 percent	$1,100.

''(B) INCREASE FOR FUEL EFFICIENCY.—

''(i) AMOUNT.—The amount determined under subparagraph (A) with respect to a new qualified hybrid motor vehicle which is a passenger automobile or light truck shall be increased by—

''(I) $600, if such vehicle achieves at least 125 percent but less than 150 percent of the 2002 model year city fuel economy,

''(II) $1,100, if such vehicle achieves at least 150 percent but less than 175 percent of the 2002 model year city fuel economy,

''(III) $1,600, if such vehicle achieves at least 175 percent but less than 200 percent of the 2002 model year city fuel economy,

''(IV) $2,100, if such vehicle achieves at least 200 percent but less than 225 percent of the 2002 model year city fuel economy,

''(V) $2,600, if such vehicle achieves at least 225 percent but less than 250 percent of the 2002 model year city fuel economy, and

''(VI) $3,100, if such vehicle achieves at least 250 percent of the 2002 model year city fuel economy.

''(ii) 2002 MODEL YEAR CITY FUEL ECONOMY.—For purposes of clause (i), the 2002 model year city fuel economy with respect to a vehicle shall be determined on a gasoline gallon equivalent basis as determined by the Administrator of the Environmental Protection Agency using the tables provided in subsection (b)(2)(B) with respect to such vehicle.

''(iii) OPTION TO USE LIKE VEHICLE.—For purposes of clause (i), at the option of the vehicle manufacturer, the increase for fuel efficiency may be calculated by comparing the new qualified hybrid motor vehicle to a 'like vehicle'.

''(C) CONSERVATION CREDIT.—

''(i) AMOUNT.—The amount determined under subparagraph (A) with respect to a

passenger automobile, medium duty passenger vehicle, or light truck shall be increased by—

''(I) $350, if such vehicle achieves a lifetime fuel savings of at least 1,200 but less than 1,800 gallons of gasoline,

''(II) $600, if such vehicle achieves a lifetime fuel savings of at least 1,800 but less than 2,400 gallons of gasoline,

''(III) $850, if such vehicle achieves a lifetime fuel savings of at least 2,400 but less than 3,000 gallons of gasoline, and

''(IV) $1,100, if such vehicle achieves a lifetime fuel savings of at least 3,000 gallons of gasoline.

''(ii) LIFETIME FUEL SAVINGS FOR LIKE VEHICLE.—For purposes of clause (i), at the option of the vehicle manufacturer, the lifetime fuel savings fuel may be calculated by comparing the new qualified hybrid motor vehicle to a 'like vehicle'.

''(D) DEFINITIONS RELATING TO CREDIT AMOUNT.—

''(i) MAXIMUM AVAILABLE POWER.—For purposes of subparagraph (A), the term 'maximum available power' means the maximum power available from the rechargeable energy storage system, during a standard 10 second pulse power or equivalent test, divided by such maximum power and the SAE net power of the heat engine.

''(ii) LIKE VEHICLE.—For purposes of subparagraph (B)(iii), the term 'like vehicle' for a new qualified hybrid motor vehicle derived from a conventional production vehicle produced in the same model year means a model that is equivalent in the following areas:

''(I) Body style (2-door or 4-door).

''(II) Transmission (automatic or manual).

''(III) Acceleration performance (± 0.05 seconds).

''(IV) Drivetrain (2-wheel drive or 4-wheel drive).

''(V) Certification by the Administrator of the Environmental Protection Agency.

''(iii) LIFETIME FUEL SAVINGS.—For purposes of subparagraph (C), the term 'lifetime fuel savings' shall be calculated by dividing 120,000 by the difference between the 2002 model year city fuel economy for the vehicle inertia weight class (as defined in subsection (b)(2)(C)) and the city fuel economy for the new qualified hybrid motor vehicle.

''(3) NEW QUALIFIED HYBRID MOTOR VEHICLE.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'new qualified hybrid motor vehicle' means a motor vehicle—

''(i) which draws propulsion energy from onboard sources of stored energy which are both—

''(I) an internal combustion or heat engine using consumable fuel, and

''(II) a rechargeable energy storage system,

''(ii) which, in the case of a passenger automobile, medium duty passenger vehicle, or light truck—

''(I) for 2002 and later model vehicles, has received a certificate of conformity under the Clean Air Act and meets or exceeds the equivalent qualifying California low emission vehicle standard under section 243(e)(2) of the Clean Air Act for that make and model year, and

''(II) for 2004 and later model vehicles, has received a certificate that such vehicle meets or exceeds the Bin 5 Tier II emission level established in regulations prescribed by the Administrator of the Environmental Protection Agency under section 202(i) of the Clean Air Act for that make and model year vehicle,

''(iii) the original use of which commences with the taxpayer,

''(iv) which is acquired for use or lease by the taxpayer and not for resale, and

''(v) which is made by a manufacturer.

''(B) CONSUMABLE FUEL.—For purposes of subparagraph (A)(i)(I), the term 'consumable fuel' means any solid, liquid, or gaseous matter which releases energy when consumed by an auxiliary power unit.

''(d) NEW QUALIFIED ADVANCED LEAN BURN TECHNOLOGY MOTOR VEHICLE CREDIT.—

''(1) IN GENERAL.—For purposes of subsection (a), the new qualified advanced lean burn technology motor vehicle credit determined under this subsection with respect to a new qualified advanced lean burn technology motor vehicle placed in service by the taxpayer during the taxable year is the credit amount determined under paragraph (2).

''(2) CREDIT AMOUNT.—

''(A) INCREASE FOR FUEL EFFICIENCY.—The credit amount determined under this paragraph shall be—

''(i) $350, if such vehicle achieves at least 125 percent but less than 150 percent of the 2002 model year city fuel economy,

''(ii) $600, if such vehicle achieves at least 150 percent but less than 175 percent of the 2002 model year city fuel economy,

''(iii) $850, if such vehicle achieves at least 175 percent but less than 200 percent of the 2002 model year city fuel economy, and

''(iv) $1,100, if such vehicle achieves at least 200 percent of the 2002 model year city fuel economy.

For purposes of clause (i), the 2002 model year city fuel economy with respect to a vehicle shall be determined using the tables provided in subsection (b)(2)(B) with respect to such vehicle.

''(B) CONSERVATION CREDIT.—The amount determined under subparagraph (A) with respect to a new qualified advanced lean burn technology motor vehicle shall be increased by—

''(i) $350, if such vehicle achieves a lifetime fuel savings of at least 1,200 but less than 1,800 gallons of gasoline,

''(ii) $600, if such vehicle achieves a lifetime fuel savings of at least 1,800 but less than 2,400 gallons of gasoline,

''(iii) $850, if such vehicle achieves a lifetime fuel savings of at least 2,400 but less than 3,000 gallons of gasoline, and

''(iv) $1,100, if such vehicle achieves a lifetime fuel savings of at least 3,000 gallons of gasoline.

''(C) OPTION TO USE LIKE VEHICLE.—At the option of the vehicle manufacturer, the increase for fuel efficiency and conservation credit may be calculated by comparing the new qualified advanced lean burn technology motor vehicle to a like vehicle.

''(3) DEFINITIONS.—For purposes of this subsection—

''(A) NEW QUALIFIED ADVANCED LEAN BURN TECHNOLOGY MOTOR VEHICLE.—The term 'new qualified advanced lean burn technology motor vehicle' means a motor vehicle with an internal combustion engine—

''(i) which is designed to operate primarily using more air than is necessary for complete combustion of the fuel,

''(ii) which incorporates direct injection,

''(iii) which achieves at least 125 percent of the 2002 model year city fuel economy,

''(iv) which, for 2005 and later model vehicles, has received a certificate that such vehicle meets or exceeds the Bin 5 Tier II emission levels for passenger vehicles established in regulations prescribed by the Administrator of the Environmental Protection Agency under section 202(i) of the Clean Air Act for that make and model year vehicle, except any manufacturer may provide not to exceed 5,000 passenger vehicles per year which are Tier II compliant,

''(v) the original use of which commences with the taxpayer,

''(vi) which is acquired for use or lease by the taxpayer and not for resale, and

''(vii) which is made by a manufacturer.

''(B) LIKE VEHICLE.—The term 'like vehicle' for a new qualified advanced lean burn technology motor vehicle derived from a conventional production vehicle produced in the same model year means a model that is equivalent in the following areas:

''(i) Body style (2-door or 4-door),

''(ii) Transmission (automatic or manual),

''(iii) Acceleration performance (± 0.05 seconds).

''(iv) Drivetrain (2-wheel drive or 4-wheel drive).

''(v) Certification by the Administrator of the Environmental Protection Agency.

''(C) LIFETIME FUEL SAVINGS.—The term 'lifetime fuel savings' shall be calculated by dividing 120,000 by the difference between the 2002 model year city fuel economy for the vehicle inertia weight class (as defined in subsection (b)(2)(C)) and the city fuel economy for the new qualified hybrid motor vehicle.

''(e) APPLICATION WITH OTHER CREDITS.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess (if any) of—

''(1) the regular tax for the taxable year reduced by the sum of the credits allowable under subpart A and sections 27, 29, and 30, over

''(2) the tentative minimum tax for the taxable year.

''(f) LIMITATION ON NUMBER OF NEW QUALIFIED HYBRID AND ADVANCED LEAN-BURN TECHNOLOGY VEHICLES ELIGIBLE FOR CREDIT.—

''(1) IN GENERAL.—In the case of a qualified vehicle sold during the phaseout period, only the applicable percentage of the credit otherwise allowable under subsection (c) or (d) shall be allowed.

''(2) PHASEOUT PERIOD.—For purposes of this subsection, the phaseout period is the period beginning with the second calendar quarter following the calendar quarter which includes the first date on which the number of qualified vehicles manufactured by the manufacturer of the vehicle referred to in paragraph (1) sold for use in the United States after the date of the enactment of this section is at least 80,000.

''(3) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage is—

''(A) 50 percent for the first 2 calendar quarters of the phaseout period,

''(B) 25 percent for the 3d and 4th calendar quarters of the phaseout period, and

''(C) 0 percent for each calendar quarter thereafter.

''(4) CONTROLLED GROUPS.—

''(A) IN GENERAL.—For purposes of this subsection, all persons treated as a single employer under subsection (a) or (b) of section 52 or subsection (m) or (o) of section 414 shall be treated as a single manufacturer.

''(B) INCLUSION OF FOREIGN CORPORATIONS.—For purposes of subparagraph (A), in applying subsections (a) and (b) of section 52 to this section, section 1563 shall be applied without regard to subsection (b)(2)(C) thereof.

''(5) QUALIFIED VEHICLE.—For purposes of this subsection, the term 'qualified vehicle' means any new qualified hybrid motor vehicle and any new advanced lean burn technology motor vehicle.

''(g) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) MOTOR VEHICLE.—The term 'motor vehicle' has the meaning given such term by section 30(c)(2).

''(2) CITY FUEL ECONOMY.—The city fuel economy with respect to any vehicle shall be measured in a manner which is substantially similar to the manner city fuel economy is measured in accordance with procedures under part 600 of subchapter Q of chapter I of

title 40, Code of Federal Regulations, as in effect on the date of the enactment of this section.

''(3) OTHER TERMS.—The terms 'automobile', 'passenger automobile', 'medium duty passenger vehicle', 'light truck', and 'manufacturer' have the meanings given such terms in regulations prescribed by the Administrator of the Environmental Protection Agency for purposes of the administration of title II of the Clean Air Act (42 U.S.C. 7521 et seq.).

''(4) REDUCTION IN BASIS.—For purposes of this subtitle, the basis of any property for which a credit is allowable under subsection (a) shall be reduced by the amount of such credit so allowed (determined without regard to subsection (e)).

''(5) NO DOUBLE BENEFIT.—The amount of any deduction or other credit allowable under this chapter with respect to a vehicle described under subsection (b) or (c), shall be reduced by the amount of credit allowed under subsection (a) for such vehicle for the taxable year.

''(6) PROPERTY USED BY TAX-EXEMPT ENTITIES.—In the case of a credit amount which is allowable with respect to a motor vehicle which is acquired by an entity exempt from tax under this chapter, the person which sells or leases such vehicle to the entity shall be treated as the taxpayer with respect to the vehicle for purposes of this section and the credit shall be allowed to such person, but only if the person clearly discloses to the entity at the time of any sale or lease the specific amount of any credit otherwise allowable to the entity under this section.

''(7) RECAPTURE.—The Secretary shall, by regulations, provide for recapturing the benefit of any credit allowable under subsection (a) with respect to any property which ceases to be property eligible for such credit (including recapture in the case of a lease period of less than the economic life of a vehicle).

''(8) PROPERTY USED OUTSIDE UNITED STATES, ETC., NOT QUALIFIED.—No credit shall be allowed under subsection (a) with respect to any property referred to in section 50(b) or with respect to the portion of the cost of any property taken into account under section 179.

''(9) ELECTION TO NOT TAKE CREDIT.—No credit shall be allowed under subsection (a) for any vehicle if the taxpayer elects to not have this section apply to such vehicle.

''(10) CARRYBACK AND CARRYFORWARD ALLOWED.—

''(A) IN GENERAL.—If the credit allowable under subsection (a) for a taxable year exceeds the amount of the limitation under subsection (e) for such taxable year (in this paragraph referred to as the 'unused credit year'), such excess shall be a credit carryback to each of the 3 taxable years preceding the unused credit year and a credit carryforward to each of the 20 taxable years following the unused credit year, except that no excess may be carried to a taxable year beginning before the date of the enactment of this paragraph.

''(B) RULES.—Rules similar to the rules of section 39 shall apply with respect to the credit carryback and credit carryforward under subparagraph (A).

''(11) INTERACTION WITH AIR QUALITY AND MOTOR VEHICLE SAFETY STANDARDS.—Unless otherwise provided in this section, a motor vehicle shall not be considered eligible for a credit under this section unless such vehicle is in compliance with—

''(A) the applicable provisions of the Clean Air Act for the applicable make and model year of the vehicle (or applicable air quality provisions of State law in the case of a State which has adopted such provision under a waiver under section 209(b) of the Clean Air Act), and

''(B) the motor vehicle safety provisions of sections 30101 through 30169 of title 49, United States Code.

''(h) REGULATIONS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall promulgate such regulations as necessary to carry out the provisions of this section.

''(2) COORDINATION IN PRESCRIPTION OF CERTAIN REGULATIONS.—The Secretary of the Treasury, in coordination with the Secretary of Transportation and the Administrator of the Environmental Protection Agency, shall prescribe such regulations as necessary to determine whether a motor vehicle meets the requirements to be eligible for a credit under this section.

''(i) APPLICATION OF SECTION.—This section shall apply to——

''(1) any new qualified fuel cell motor vehicle (as described in subsection (b)) placed in service after December 31, 2004, and purchased before January 1, 2015, and

''(2) any new qualified hybrid motor vehicle (as described in subsection (c)) or new qualified advanced lean burn technology motor vehicle (as described in subsection (d)) placed in service after December 31, 2004, and purchased before January 1, 2010.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 1016(a) is amended by striking ''and'' at the end of paragraph (27), by striking the period at the end of paragraph (28) and inserting '', and'', and by adding at the end the following new paragraph:

''(29) to the extent provided in section 30B(g)(4).''.

(2) Section 55(c)(2) is amended by inserting ''30B(e),'' after ''30(b)(3),''.

(3) Section 6501(m) is amended by inserting ''30B(g)(9),'' after ''30(d)(4),''.

(4) The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 30A the following new item:

''Sec. 30B. Alternative motor vehicle credit.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 5672. CREDIT FOR INSTALLATION OF ALTERNATIVE FUELING STATIONS.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 (relating to foreign tax credit, etc.), as amended by this Act, is amended by adding at the end the following new section:

''SEC. 30C. CLEAN-FUEL VEHICLE REFUELING PROPERTY CREDIT.

''(a) CREDIT ALLOWED.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 50 percent of the amount paid or incurred by the taxpayer during the taxable year for the installation of qualified clean-fuel vehicle refueling property.

''(b) LIMITATION.—The credit allowed under subsection (a)—

''(1) with respect to any retail clean-fuel vehicle refueling property, shall not exceed $30,000, and

''(2) with respect to any residential clean-fuel vehicle refueling property, shall not exceed $1,000.

''(c) YEAR CREDIT ALLOWED.—Notwithstanding subsection (a), no credit shall be allowed under subsection (a) with respect to any qualified clean-fuel vehicle refueling property before the taxable year in which the property is placed in service by the taxpayer.

''(d) DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED CLEAN-FUEL VEHICLE REFUELING PROPERTY.—The term 'qualified clean-fuel vehicle refueling property' has the same meaning given such term by section 179A(d).

''(2) RESIDENTIAL CLEAN-FUEL VEHICLE REFUELING PROPERTY.—The term 'residential clean-fuel vehicle refueling property' means qualified clean-fuel vehicle refueling property which is installed on property which is used as the principal residence (within the meaning of section 121) of the taxpayer.

''(3) RETAIL CLEAN-FUEL VEHICLE REFUELING PROPERTY.—The term 'retail clean-fuel vehicle refueling property' means qualified clean-fuel vehicle refueling property which is installed on property (other than property described in paragraph (2)) used in a trade or business of the taxpayer.

''(e) APPLICATION WITH OTHER CREDITS.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess (if any) of—

''(1) the regular tax for the taxable year reduced by the sum of the credits allowable under subpart A and sections 27, 29, 30, and 30B, over

''(2) the tentative minimum tax for the taxable year.

''(f) BASIS REDUCTION.—For purposes of this title, the basis of any property shall be reduced by the portion of the cost of such property taken into account under subsection (a).

''(g) NO DOUBLE BENEFIT.—

''(1) COORDINATION WITH OTHER DEDUCTIONS AND CREDITS.—Except as provided in paragraph (2), the amount of any deduction or other credit allowable under this chapter for any cost taken into account in computing the amount of the credit determined under subsection (a) shall be reduced by the amount of such credit attributable to such cost.

''(2) NO DEDUCTION ALLOWED UNDER SECTION 179A.—No deduction shall be allowed under section 179A with respect to any property with respect to which a credit is allowed under subsection (a).

''(h) REFUELING PROPERTY INSTALLED FOR TAX-EXEMPT ENTITIES.—In the case of qualified clean-fuel vehicle refueling property installed on property owned or used by an entity exempt from tax under this chapter, the person which installs such refueling property for the entity shall be treated as the taxpayer with respect to the refueling property for purposes of this section (and such refueling property shall be treated as retail clean-fuel vehicle refueling property) and the credit shall be allowed to such person, but only if the person clearly discloses to the entity in any installation contract the specific amount of the credit allowable under this section.

''(i) CARRYFORWARD ALLOWED.—

''(1) IN GENERAL.—If the credit allowable under subsection (a) for a taxable year exceeds the amount of the limitation under subsection (e) for such taxable year, such excess shall be a credit carryforward to each of the 20 taxable years following such taxable year.

''(2) RULES.—Rules similar to the rules of section 39 shall apply with respect to the credit carryforward under paragraph (1).

''(j) SPECIAL RULES.—Rules similar to the rules of paragraphs (4) and (5) of section 179A(e) shall apply.

''(k) REGULATIONS.—The Secretary shall prescribe such regulations as necessary to carry out the provisions of this section.

''(l) TERMINATION.—This section shall not apply to any property placed in service—

''(1) in the case of property relating to hydrogen, after December 31, 2011, and

''(2) in the case of any other property, after December 31, 2007.''.

(b) MODIFICATIONS TO EXTENSION OF DEDUCTION FOR CERTAIN REFUELING PROPERTY.—

(1) INCREASE IN DEDUCTION FOR HYDROGEN INFRASTRUCTURE.—Section 179A(b)(2)(A)(i) is amended by inserting ''($200,000 in the case of property relating to hydrogen)'' after ''$100,000''.

(2) EXTENSION OF DEDUCTION.—Subsection (f) of section 179A is amended to read as follows:

''(f) TERMINATION.—This section shall not apply to any property placed in service—

''(1) in the case of property relating to hydrogen, after December 31, 2011, and

''(2) in the case of any other property, after December 31, 2007.''.

(3) EXTENSION OF PHASEOUT.—Section 179A(b)(1)(B) is amended—

(A) by striking ''calendar year 2004'' in clause (i) and inserting ''calendar years 2004 and 2005 (calendar years 2004 through 2009 in the case of property relating to hydrogen)'',

(B) by striking ''2005'' in clause (ii) and inserting ''2006 (calendar year 2010 in the case of property relating to hydrogen)'', and

(C) by striking ''2006'' in clause (iii) and inserting ''2007 (calendar year 2011 in the case of property relating to hydrogen)''.

(c) INCENTIVE FOR PRODUCTION OF HYDROGEN AT QUALIFIED CLEAN-FUEL VEHICLE REFUELING PROPERTY.—Section 179A(d) (defining qualified clean-fuel vehicle refueling property) is amended by adding at the end the following new flush sentence:

''In the case of clean-burning fuel which is hydrogen produced from another clean-burning fuel, paragraph (3)(A) shall be applied by substituting 'production, storage, or dispensing' for 'storage or dispensing' both places it appears.''.

(d) CONFORMING AMENDMENTS.—

(1) Section 1016(a), as amended by this Act, is amended by striking ''and'' at the end of paragraph (28), by striking the period at the end of paragraph (29) and inserting '', and'', and by adding at the end the following new paragraph:

''(30) to the extent provided in section 30C(f).''.

(2) Section 55(c)(2), as amended by this Act, is amended by inserting ''30C(e),'' after ''30B(e),''.

(3) The table of sections for subpart B of part IV of subchapter A of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 30B the following new item:

''Sec. 30C. Clean-fuel vehicle refueling property credit.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 5673. BIODIESEL CREDIT EXPANSION.

Section 312(b) of the Energy Policy Act of 1992 (42 U.S.C. 13220(b)) is amended—

(1) by striking ''CREDITS.—'' and all that follows through ''At the request'' and inserting ''CREDITS.—At the request''; and

(2) by striking paragraph (2).

PART II—REVENUE PROVISIONS

SEC. 5675. PENALTY FOR PROMOTING ABUSIVE TAX SHELTERS.

(a) PENALTY FOR PROMOTING ABUSIVE TAX SHELTERS.—Section 6700 (relating to promoting abusive tax shelters, etc.) is amended—

(1) by redesignating subsections (b) and (c) as subsections (d) and (e), respectively,

(2) by striking ''a penalty'' and all that follows through the period in the first sentence of subsection (a) and inserting ''a penalty determined under subsection (b)'', and

(3) by inserting after subsection (a) the following new subsections:

''(b) AMOUNT OF PENALTY; CALCULATION OF PENALTY; LIABILITY FOR PENALTY.—

''(1) AMOUNT OF PENALTY.—The amount of the penalty imposed by subsection (a) shall not exceed the greater of—

''(A) 150 percent of the gross income derived (or to be derived) from such activity by the person or persons subject to such penalty, and

''(B) if readily subject to calculation, the total amount of underpayment by the taxpayer (including penalties, interest, and taxes) in connection with such activity.

''(2) CALCULATION OF PENALTY.—The penalty amount determined under paragraph (1) shall be calculated with respect to each instance of an activity described in subsection (a), each instance in which income was derived by the person or persons subject to such penalty, and each person who participated in such an activity.

''(3) LIABILITY FOR PENALTY.—If more than 1 person is liable under subsection (a) with respect to such activity, all such persons shall be jointly and severally liable for the penalty under such subsection.

''(c) PENALTY NOT DEDUCTIBLE.—The payment of any penalty imposed under this section or the payment of any amount to settle or avoid the imposition of such penalty shall not be considered an ordinary and necessary expense in carrying on a trade or business for purposes of this title and shall not be deductible by the person who is subject to such penalty or who makes such payment.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to activities after the date of the enactment of this Act.

(c) PRIOR SECTION TO HAVE NO EFFECT.—Notwithstanding section 5625 of this Act, such section, and the amendments made by such section, shall not take effect.

SEC. 5676. PENALTY FOR AIDING AND ABETTING THE UNDERSTATEMENT OF TAX LIABILITY.

(a) IN GENERAL.—Section 6701(a) (relating to imposition of penalty) is amended—

(1) by inserting ''the tax liability or'' after ''respect to,'' in paragraph (1),

(2) by inserting ''aid, assistance, procurement, or advice with respect to such'' before ''portion'' both places it appears in paragraphs (2) and (3), and

(3) by inserting ''instance of aid, assistance, procurement, or advice or each such'' before ''document'' in the matter following paragraph (3).

(b) AMOUNT OF PENALTY.—Subsection (b) of section 6701 (relating to penalties for aiding and abetting understatement of tax liability) is amended to read as follows:

''(b) AMOUNT OF PENALTY; CALCULATION OF PENALTY; LIABILITY FOR PENALTY.—

''(1) AMOUNT OF PENALTY.—The amount of the penalty imposed by subsection (a) shall not exceed the greater of—

''(i) 150 percent of the gross income derived (or to be derived) from such aid, assistance, procurement, or advice provided by the person or persons subject to such penalty, and

''(ii) if readily subject to calculation, the total amount of underpayment by the taxpayer (including penalties, interest, and taxes) in connection with the understatement of the liability for tax.

''(2) CALCULATION OF PENALTY.—The penalty amount determined under paragraph (1) shall be calculated with respect to each instance of aid, assistance, procurement, or advice described in subsection (a), each instance in which income was derived by the person or persons subject to such penalty, and each person who made such an understatement of the liability for tax.

''(3) LIABILITY FOR PENALTY.—If more than 1 person is liable under subsection (a) with respect to providing such aid, assistance, procurement, or advice, all such persons shall be jointly and severally liable for the penalty under such subsection.''.

(c) PENALTY NOT DEDUCTIBLE.—Section 6701 is amended by adding at the end the following new subsection:

''(g) PENALTY NOT DEDUCTIBLE.—The payment of any penalty imposed under this section or the payment of any amount to settle or avoid the imposition of such penalty shall not be considered an ordinary and necessary expense in carrying on a trade or business for purposes of this title and shall not be deductible by the person who is subject to such penalty or who makes such payment.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to activities after the date of the enactment of this Act.

SEC. 5677. PENALTY FOR FAILURE TO REGISTER TAX SHELTER.

(a) IN GENERAL.—Section 6707 (relating to failure to furnish information regarding tax shelters) is amended to read as follows:

''SEC. 6707. FAILURE TO FURNISH INFORMATION ON POTENTIALLY ABUSIVE TAX SHELTER OR LISTED TRANSACTION.

''(a) IN GENERAL.—If a person who is required to file a return under section 6111 with respect to any potentially abusive tax shelter—

''(1) fails to file such return on or before the date prescribed therefor, or

''(2) files false or incomplete information with the Secretary with respect to such shelter,

such person shall pay a penalty with respect to such return in the amount determined under subsection (b).

''(b) AMOUNT OF PENALTY.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the penalty imposed under subsection (a) with respect to any failure shall be not less than $50,000 and not more than $100,000.

''(2) LISTED TRANSACTIONS.—The penalty imposed under subsection (a) with respect to any listed transaction shall be an amount equal to the greater of—

''(A) $200,000, or

''(B) 100 percent of the gross income derived by such person for providing aid, assistance, procurement, advice, or other services with respect to the listed transaction before the date the return including the transaction is filed under section 6111.

Subparagraph (B) shall be applied by substituting '150 percent' for '100 percent' in the case of an intentional failure or act described in subsection (a).

''(c) CERTAIN RULES TO APPLY.—The provisions of section 6707A(d) allowing the Commissioner of Internal Revenue to rescind a penalty under certain circumstances shall apply to any penalty imposed under this section.

''(d) POTENTIALLY ABUSIVE TAX SHELTERS AND LISTED TRANSACTIONS.—The terms 'potentially abusive tax shelter' and 'listed transaction' have the respective meanings given to such terms by section 6707A(c).

''(e) PENALTY NOT DEDUCTIBLE.—The payment of any penalty imposed under this section or the payment of any amount to settle or avoid the imposition of such penalty shall not be considered an ordinary and necessary expense in carrying on a trade or business for purposes of this title and shall not be deductible by the person who is subject to such penalty or who makes such payment.''.

(b) CLERICAL AMENDMENT.—The item relating to section 6707 in the table of sections for part I of subchapter B of chapter 68 is amended by striking ''regarding tax shelters'' and inserting ''on potentially abusive tax shelter or listed transaction''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns the due date for which is after the date of the enactment of this Act.

(d) PRIOR SECTION TO HAVE NO EFFECT.—Notwithstanding section 5618(c) of this Act,

such section, and the amendments made by such section, shall not take effect.

SEC. 5678. PENALTY FOR FAILING TO MAINTAIN CLIENT LIST.

(a) IN GENERAL.—Subsection (a) of section 6708 (relating to failure to maintain lists of investors in potentially abusive tax shelters) is amended to read as follows:

''(a) IMPOSITION OF PENALTY.—

''(1) IN GENERAL.—If any person who is required to maintain a list under section 6112(a) fails to make such list available upon written request to the Secretary in accordance with section 6112(b)(1)(A) within 20 business days after the date of the Secretary's request, such person shall pay a penalty of $10,000 for each day of such failure after such 20th day. If such person makes available an incomplete list upon such request, such person shall pay a penalty of $100 per each omitted name for each day of such omission after such 20th day.

''(2) GOOD CAUSE EXCEPTION.—No penalty shall be imposed by paragraph (1) with respect to the failure on any day if, in the judgment of the Secretary, such failure is due to good cause.''.

(b) PENALTY NOT DEDUCTIBLE.—Section 6708 is amended by adding at the end the following new subsection:

''(c) PENALTY NOT DEDUCTIBLE.—The payment of any penalty imposed under this section or the payment of any amount to settle or avoid the imposition of such penalty shall not be considered an ordinary and necessary expense in carrying on a trade or business for purposes of this title and shall not be deductible by the person who is subject to such penalty or who makes such payment.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to requests made by the Secretary of the Treasury after the date of the enactment of this Act.

(d) PRIOR SECTION TO HAVE NO EFFECT.—Notwithstanding section 5619(b) of this Act, such section, and the amendments made by such section, shall not take effect.

SEC. 5679. PENALTY FOR FAILING TO DISCLOSE POTENTIALLY ABUSIVE TAX SHELTER.

(a) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by inserting after section 6707 the following new section:

''SEC. 6707A. PENALTY FOR FAILURE TO INCLUDE POTENTIALLY ABUSIVE TAX SHELTER INFORMATION WITH RETURN OR STATEMENT.

''(a) IMPOSITION OF PENALTY.—Any person who fails to include on any return or statement any information with respect to a potentially abusive tax shelter which is required under section 6011 to be included with such return or statement shall pay a penalty in the amount determined under subsection (b).

''(b) AMOUNT OF PENALTY.—

''(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amount of the penalty under subsection (a) shall be $50,000.

''(2) LISTED TRANSACTION.—Except as provided in paragraph 3, the amount of the penalty under subsection (a) with respect to a listed transaction shall be $100,000.

''(3) INCREASE IN PENALTY FOR INTENTIONAL NONDISCLOSURE.—In the case of an intentional failure by any person under subsection (a), the penalty under paragraph (1) shall be $100,000 and the penalty under paragraph (2) shall be $200,000.

''(c) DEFINITIONS.—For purposes of this section—

''(1) POTENTIALLY ABUSIVE TAX SHELTER.—The term 'potentially abusive tax shelter' means any transaction with respect to which information is required to be included with a return or statement, because the Secretary has determined by regulation or otherwise that such transaction has a potential for tax avoidance or evasion.

''(2) LISTED TRANSACTION.—Except as provided in regulations, the term 'listed transaction' means a potentially abusive tax shelter which is the same as, or substantially similar to, a transaction specifically identified by the Secretary as a tax avoidance transaction for purposes of section 6011.

''(d) AUTHORITY TO RESCIND PENALTY.—

''(1) IN GENERAL.—The Commissioner of Internal Revenue may rescind all or any portion of a penalty imposed by this section with respect to any violation if—

''(A) the violation is with respect to a potentially abusive tax shelter other than a listed transaction,

''(B) the person on whom the penalty is imposed has a history of complying with the requirements of this title,

''(C) it is shown that the violation is due to an unintentional mistake of fact,

''(D) imposing the penalty would be against equity and good conscience, and

''(E) rescinding the penalty would promote compliance with the requirements of this title and effective tax administration.

''(2) DISCRETION.—The exercise of authority under paragraph (1) shall be at the sole discretion of the Commissioner and may be delegated only to the head of the Office of Tax Shelter Analysis. The Commissioner, in the Commissioner's sole discretion, may establish a procedure to determine if a penalty should be referred to the Commissioner or the head of such Office for a determination under paragraph (1).

''(3) NO APPEAL.—Notwithstanding any other provision of law, any determination under this subsection may not be reviewed in any administrative or judicial proceeding.

''(4) RECORDS.—If a penalty is rescinded under paragraph (1), the Commissioner shall place in the file in the Office of the Commissioner the opinion of the Commissioner or the head of the Office of Tax Shelter Analysis with respect to the determination, including—

''(A) the facts and circumstances of the transaction,

''(B) the reasons for the rescission, and

''(C) the amount of the penalty rescinded.

A copy of such opinion shall be provided upon written request to the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, the Joint Committee on Taxation, or the General Accounting Office.

''(5) REPORT.—The Commissioner shall each year report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate—

''(A) a summary of the total number and aggregate amount of penalties imposed, and rescinded, under this section, and

''(B) a description of each penalty rescinded under this subsection and the reasons therefor.

''(e) PENALTY REPORTED TO SEC.—In the case of a person—

''(1) which is required to file periodic reports under section 13 or 15(d) of the Securities Exchange Act of 1934 or is required to be consolidated with another person for purposes of such reports, and

''(2) which—

''(A) is required to pay a penalty under this section with respect to a listed transaction,

''(B) is required to pay a penalty under section 6662A with respect to any potentially abusive tax shelter at a rate prescribed under section 6662A(c), or

''(C) is required to pay a penalty under section 6662B with respect to any noneconomic substance transaction,

the requirement to pay such penalty shall be disclosed in such reports filed by such person for such periods as the Secretary shall specify. Failure to make a disclosure in accordance with the preceding sentence shall be treated as a failure to which the penalty under subsection (b)(2) applies.

''(f) PENALTY IN ADDITION TO OTHER PENALTIES.—The penalty imposed by this section shall be in addition to any other penalty provided by law.

''(g) PENALTY NOT DEDUCTIBLE.—The payment of any penalty imposed under this section or the payment of any amount to settle or avoid the imposition of such penalty shall not be considered an ordinary and necessary expense in carrying on a trade or business for purposes of this title and shall not be deductible by the person who is subject to such penalty or who makes such payment.''.

(b) CONFORMING AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by inserting after the item relating to section 6707 the following:

''Sec. 6707A. Penalty for failure to include potentially abusive tax shelter information with return or statement.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns and statements the due date for which is after the date of the enactment of this Act.

(d) PRIOR SECTION TO HAVE NO EFFECT.—Notwithstanding section 5612(c) of this Act, such section, and the amendments made by such section, shall not take effect.

SEC. 5680. IMPROVED DISCLOSURE OF POTENTIALLY ABUSIVE TAX SHELTERS.

(a) IN GENERAL.—Section 6111 (relating to registration of tax shelters) is amended to read as follows:

''SEC. 6111. DISCLOSURE OF POTENTIALLY ABUSIVE TAX SHELTERS.

''(a) IN GENERAL.—Each material advisor with respect to any potentially abusive tax shelter shall make a return (in such form as the Secretary may prescribe) setting forth—

''(1) information identifying and describing such shelter,

''(2) information describing any potential tax benefits expected to result from the shelter, and

''(3) such other information as the Secretary may prescribe.

Such return shall be filed not later than the date which is 30 days before the date on which the first sale of such shelter occurs or on any other date specified by the Secretary.

''(b) DEFINITIONS.—For purposes of this section—

''(1) MATERIAL ADVISOR.—

''(A) IN GENERAL.—The term 'material advisor' means any person—

''(i) who provides any material aid, assistance, or advice with respect to designing, organizing, managing, promoting, selling, implementing, or carrying out any potentially abusive tax shelter, and

''(ii) who directly or indirectly derives gross income in excess of the threshold amount for such aid, assistance, or advice.

''(B) THRESHOLD AMOUNT.—For purposes of subparagraph (A), the threshold amount is—

''(i) $50,000 in the case of a potentially abusive tax shelter substantially all of the tax benefits from which are provided to natural persons, and

''(ii) $100,000 in any other case.

''(2) POTENTIALLY ABUSIVE TAX SHELTER.—The term 'potentially abusive tax shelter' has the meaning given to such term by section 6707A(c).

''(c) REGULATIONS.—The Secretary may prescribe regulations which provide—

''(1) that only 1 person shall be required to meet the requirements of subsection (a) in cases in which 2 or more persons would otherwise be required to meet such requirements,

''(2) exemptions from the requirements of this section, and

''(3) such rules as may be necessary or appropriate to carry out the purposes of this section.''.

(b) CONFORMING AMENDMENTS.—

(1) The item relating to section 6111 in the table of sections for subchapter B of chapter 61 is amended to read as follows:

''Sec. 6111. Disclosure of potentially abusive tax shelters.''.

(2)(A) So much of section 6112 as precedes subsection (c) thereof is amended to read as follows:

''SEC. 6112. MATERIAL ADVISORS OF POTENTIALLY ABUSIVE TAX SHELTERS MUST KEEP CLIENT LISTS.

''(a) IN GENERAL.—Each material advisor (as defined in section 6111) with respect to any potentially abusive tax shelter (as defined in section 6707A(c)) shall maintain, in such manner as the Secretary may by regulations prescribe, a list—

''(1) identifying each person with respect to whom such advisor acted as such a material advisor with respect to such shelter, and

''(2) containing such other information as the Secretary may by regulations require.

This section shall apply without regard to whether a material advisor is required to file a return under section 6111 with respect to such transaction.''.

(B) Section 6112 is amended by redesignating subsection (c) as subsection (b).

(C) Section 6112(b), as redesignated by subparagraph (B), is amended—

(i) by inserting ''written'' before ''request'' in paragraph (1)(A), and

(ii) by striking ''shall prescribe'' in paragraph (2) and inserting ''may prescribe''.

(D) The item relating to section 6112 in the table of sections for subchapter B of chapter 61 is amended to read as follows:

''Sec. 6112. Material advisors of potentially abusive tax shelters must keep client lists.''.

(3)(A) The heading for section 6708 is amended to read as follows:

''SEC. 6708. FAILURE TO MAINTAIN CLIENT LISTS WITH RESPECT TO POTENTIALLY ABUSIVE TAX SHELTERS.''.

(B) The item relating to section 6708 in the table of sections for part I of subchapter B of chapter 68 is amended to read as follows:

''Sec. 6708. Failure to maintain client lists with respect to potentially abusive tax shelters.''.

(c) REQUIRED DISCLOSURE NOT SUBJECT TO CLAIM OF CONFIDENTIALITY.—Section 6112(b)(1), as redesignated by subsection (b)(2)(B), is amended by adding at the end the following new flush sentence:

''For purposes of this section, the identity of any person on such list shall not be privileged.''.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to transactions with respect to which material aid, assistance, or advice referred to in section 6111(b)(1)(A)(i) of the Internal Revenue Code of 1986 (as added by this section) is provided after the date of the enactment of this Act.

(2) NO CLAIM OF CONFIDENTIALITY AGAINST DISCLOSURE.—The amendment made by subsection (c) shall take effect as if included in the amendments made by section 142 of the Deficit Reduction Act of 1984.

(e) PRIOR SECTION TO HAVE NO EFFECT.—Notwithstanding section 5617(d) of this Act, such section, and the amendments made by such section, shall not take effect.

SEC. 5681. EXTENSION OF STATUTE OF LIMITATIONS FOR UNDISCLOSED TAX SHELTER.

(a) IN GENERAL.—Section 6501(c) (relating to exceptions) is amended by adding at the end the following new paragraph:

''(10) POTENTIALLY ABUSIVE TAX SHELTERS.—If a taxpayer fails to include on any return or statement for any taxable year any information with respect to a potentially abusive tax shelter (as defined in section 6707A(c)) which is required under section 6011 to be included with such return or statement, the time for assessment of any tax imposed by this title with respect to such transaction shall not expire before the date which is 2 years after the earlier of—

''(A) the date on which the Secretary is furnished the information so required; or

''(B) the date that a material advisor (as defined in section 6111) meets the requirements of section 6112 with respect to a request by the Secretary under section 6112(b) relating to such transaction with respect to such taxpayer.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years with respect to which the period for assessing a deficiency did not expire before the date of the enactment of this Act.

(c) PRIOR SECTION TO HAVE NO EFFECT.—Notwithstanding section 5626(b) of this Act, such section, and the amendments made by such section, shall not take effect.

SEC. 5682. PENALTY FOR FAILING TO REPORT INTERESTS IN FOREIGN FINANCIAL ACCOUNTS.

(a) IN GENERAL.—Section 5321(a)(5) of title 31, United States Code, is amended to read as follows:

''(5) FOREIGN FINANCIAL AGENCY TRANSACTION VIOLATION.—

''(A) PENALTY AUTHORIZED.—The Secretary of the Treasury may impose a civil money penalty on any person who violates, or causes any violation of, any provision of section 5314.

''(B) AMOUNT OF PENALTY.—

''(i) IN GENERAL.—Except as provided in subparagraph (C), the amount of any civil penalty imposed under subparagraph (A) shall not exceed $10,000.

''(ii) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under subparagraph (A) with respect to any violation if—

''(I) such violation was due to reasonable cause, and

''(II) the amount of the transaction or the balance in the account at the time of the transaction was properly reported.

''(C) WILLFUL VIOLATIONS.—In the case of any person willfully violating, or willfully causing any violation of, any provision of section 5314, the amount of the civil penalty imposed under subparagraph (A) shall be—

''(i) not less than $5,000,

''(ii) not more than 50 percent of the amount determined under subparagraph (D), and

''(iii) subparagraph (B)(ii) shall not apply.

''(D) AMOUNT.—The amount determined under this subparagraph is—

''(i) in the case of a violation involving a transaction, the amount of the transaction, or

''(ii) in the case of a violation involving a failure to report the existence of an account or any identifying information required to be provided with respect to an account, the balance in the account at the time of the violation.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to violations occurring after the date of the enactment of this Act.

(c) PRIOR SECTION TO HAVE NO EFFECT.—Notwithstanding section 5622(b) of this Act, such section, and the amendments made by such section, shall not take effect.

SEC. 5683. CENSURE, CIVIL FINES, AND TAX OPINION STANDARDS FOR TAX PRACTITIONERS.

(a) CENSURE; IMPOSITION OF MONETARY PENALTY.—

(1) IN GENERAL.—Section 330(b) of title 31, United States Code, is amended—

(A) by inserting '', or censure,'' after ''Department'', and

(B) by adding at the end the following new flush sentence:

''The Secretary may impose a monetary penalty on any representative described in the preceding sentence. If the representative was acting on behalf of an employer or any firm or other entity in connection with the conduct giving rise to such penalty, the Secretary may impose a monetary penalty on such employer, firm, or entity if it knew, or reasonably should have known, of such conduct. Such penalty may be in addition to, or in lieu of, any suspension, disbarment, or censure of the representative.''.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to actions taken after the date of the enactment of this Act.

(b) TAX OPINION STANDARDS.—Section 330 of such title 31 is amended by adding at the end the following new subsection:

''(d) The Secretary of the Treasury shall impose standards applicable to the rendering of written advice with respect to any potentially abusive tax shelter or any entity, plan, arrangement, or transaction which has a potential for tax avoidance or evasion. Such standards shall address, but not be limited to, the following issues:

''(1) Independence of the practitioner issuing such written advice from persons promoting, marketing, or recommending the subject of the advice.

''(2) Collaboration among practitioners, or between a practitioner and other party, which could result in such collaborating parties having a joint financial interest in the subject of the advice.

''(3) Avoidance of conflicts of interest which would impair auditor independence.

''(4) For written advice issued by a firm, standards for reviewing the advice and ensuring the consensus support of the firm for positions taken.

''(5) Reliance on reasonable factual representations by the taxpayer and other parties.

''(6) Appropriateness of the fees charged by the practitioner for the written advice.''.

(c) PRIOR SECTION TO HAVE NO EFFECT.—Notwithstanding section 5624(a)(2) of this Act, such section, and the amendments made by such section, shall not take effect.

SEC. 5684. PREVENTING CORPORATE EXPATRIATION TO AVOID UNITED STATES INCOME TAX.

(a) IN GENERAL.—Paragraph (4) of section 7701(a) (defining domestic) is amended to read as follows:

''(4) DOMESTIC.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'domestic' when applied to a corporation or partnership means created or organized in the United States or under the law of the United States or of any State unless, in the case of a partnership, the Secretary provides otherwise by regulations.

''(B) CERTAIN CORPORATIONS TREATED AS DOMESTIC.—

''(i) IN GENERAL.—The acquiring corporation in a corporate expatriation transaction shall be treated as a domestic corporation.

''(ii) CORPORATE EXPATRIATION TRANSACTION.—For purposes of this subparagraph, the term 'corporate expatriation transaction' means any transaction if—

''(I) a nominally foreign corporation (referred to in this subparagraph as the 'acquiring corporation') acquires, as a result of such

transaction, directly or indirectly substantially all of the properties held directly or indirectly by a domestic corporation, and

''(II) immediately after the transaction, more than 80 percent of the stock (by vote or value) of the acquiring corporation is held by former shareholders of the domestic corporation by reason of holding stock in the domestic corporation.

''(iii) LOWER STOCK OWNERSHIP REQUIREMENT IN CERTAIN CASES.—Subclause (II) of clause (ii) shall be applied by substituting '50 percent' for '80 percent' with respect to any nominally foreign corporation if—

''(I) such corporation does not have substantial business activities (when compared to the total business activities of the expanded affiliated group) in the foreign country in which or under the law of which the corporation is created or organized, and

''(II) the stock of the corporation is publicly traded and the principal market for the public trading of such stock is in the United States.

''(iv) PARTNERSHIP TRANSACTIONS.—The term 'corporate expatriation transaction' includes any transaction if—

''(I) a nominally foreign corporation (referred to in this subparagraph as the 'acquiring corporation') acquires, as a result of such transaction, directly or indirectly properties constituting a trade or business of a domestic partnership,

''(II) immediately after the transaction, more than 80 percent of the stock (by vote or value) of the acquiring corporation is held by former partners of the domestic partnership or related foreign partnerships (determined without regard to stock of the acquiring corporation which is sold in a public offering related to the transaction), and

''(III) the acquiring corporation meets the requirements of subclauses (I) and (II) of clause (iii).

''(v) SPECIAL RULES.—For purposes of this subparagraph—

''(I) a series of related transactions shall be treated as 1 transaction, and

''(II) stock held by members of the expanded affiliated group which includes the acquiring corporation shall not be taken into account in determining ownership.

''(vi) OTHER DEFINITIONS.—For purposes of this subparagraph—

''(I) NOMINALLY FOREIGN CORPORATION.—The term 'nominally foreign corporation' means any corporation which would (but for this subparagraph) be treated as a foreign corporation.

''(II) EXPANDED AFFILIATED GROUP.—The term 'expanded affiliated group' means an affiliated group (as defined in section 1504(a) without regard to section 1504(b)).

''(III) RELATED FOREIGN PARTNERSHIP.—A foreign partnership is related to a domestic partnership if they are under common control (within the meaning of section 482), or they shared the same trademark or tradename.''

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendment made by this section shall apply to corporate expatriation transactions completed after September 11, 2001.

(2) SPECIAL RULE.—The amendment made by this section shall also apply to corporate expatriation transactions completed on or before September 11, 2001, but only with respect to taxable years of the acquiring corporation beginning after December 31, 2003.

(c) PRIOR SECTION TO HAVE NO EFFECT.—Section 5651(a)(2) of this Act, and the amendments made by such section, shall not take effect.

SA 2455. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 376, between the matter following line 6 and line 7, insert the following:

SEC. 1816. APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM COMPLETION PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(a)), is amended by adding at the end the following:

''§ 178. Appalachian development highway system completion program

''(a) IN GENERAL.—The Secretary shall carry out a program, to be known as the 'Appalachian development highway system completion program' (referred to in this section as the 'program'), to allocate capital funding to expedite the completion of 'ready-to-go' segments of the Appalachian development highway system.

''(b) ELIGIBLE ACTIVITIES.—A State that receives an allocation of funds under this section shall use the funds to construct highways and access roads in accordance with chapter 145 of title 40.

''(c) ALLOCATION OF FUNDS.—The Secretary shall allocate funds under the program to each State all counties of which are located, as of the date of enactment of this section, within the established 13-State Appalachian region, as determined by the Appalachian Regional Commission.

''(d) FEDERAL SHARE.—The Federal share of the cost of carrying out any project or activity using funds allocated under the program shall be 80 percent.

''(e) FUNDING.—

''(1) IN GENERAL.—There shall be available to the Secretary to carry out this section, from the Highway Trust Fund (other than the Mass Transit Account), $270,000,000 for the period of fiscal years 2004 through 2009, of which—

''(A) $45,000,000 shall be for fiscal year 2004;

''(B) $45,000,000 shall be for fiscal year 2005;

''(C) $45,000,000 shall be for fiscal year 2006;

''(D) $45,000,000 shall be for fiscal year 2007;

''(E) $45,000,000 shall be for fiscal year 2008; and

''(F) $45,000,000 shall be for fiscal year 2009.

''(2) OBLIGATION, ELIGIBILITY, AND AVAILABILITY.—Funds authorized to be appropriated under section 1101(16) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 and made available under paragraph (1) to carry out this section—

''(A) shall be available for obligation by the Secretary in the same manner as if the funds were apportioned under this chapter;

''(B) shall not be considered in determining the eligibility of any State to receive funds under section 105; and

''(C) shall remain available until expended.''.

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(b)), is amended by adding at the end the following:

''178. Appalachian development highway system completion program.''.

(c) TRANSPORTATION INFRASTRUCTURE FINANCE AND INNOVATION ACT.—Notwithstanding section 188(a) of title 23, United States Code, the amount authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) to carry out subchapter II of chapter I of that title shall be $85,000,000 for each of fiscal years 2004 through 2009.

SA 2456. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 376, between the matter following line 6 and line 7, insert the following:

SEC. 1816. APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM COMPLETION PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(a)), is amended by adding at the end the following:

''§ 178. Appalachian development highway system completion program

''(a) IN GENERAL.—The Secretary shall carry out a program, to be known as the 'Appalachian development highway system completion program' (referred to in this section as the 'program'), to allocate capital funding to expedite the completion of 'ready-to-go' segments of the Appalachian development highway system.

''(b) ELIGIBLE ACTIVITIES.—A State that receives an allocation of funds under this section shall use the funds to construct highways and access roads in accordance with chapter 145 of title 40.

''(c) ALLOCATION OF FUNDS.—The Secretary shall allocate funds under the program to each State all counties of which are located, as of the date of enactment of this section, within the established 13-State Appalachian region, as determined by the Appalachian Regional Commission.

''(d) FEDERAL SHARE.—The Federal share of the cost of carrying out any project or activity using funds allocated under the program shall be 80 percent.

''(e) FUNDING.—

''(1) IN GENERAL.—There shall be available to the Secretary to carry out this section, from the Highway Trust Fund (other than the Mass Transit Account), $270,000,000 for the period of fiscal year 2004.

''(2) OBLIGATION, ELIGIBILITY, AND AVAILABILITY.—Funds authorized to be appropriated under section 1101(16) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 and made available under paragraph (1) to carry out this section—

''(A) shall be available for obligation by the Secretary in the same manner as if the funds were apportioned under this chapter;

''(B) shall not be considered in determining the eligibility of any State to receive funds under section 105; and

''(C) shall remain available until expended.''.

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(b)), is amended by adding at the end the following:

''178. Appalachian development highway system completion program.''.

(c) INFRASTRUCTURE PERFORMANCE AND MAINTENANCE PROGRAM.—Notwithstanding section 1101(13), the amount authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for the infrastructure performance and maintenance program under section 139 of title 23, United States Code, shall be reduced by $270,000,000 for fiscal year 2004.

SA 2457. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr.

INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 376, between the matter following line 6 and line 7, insert the following:

SEC. 1816. APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM COMPLETION PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(a)), is amended by adding at the end the following:

"§ 178. Appalachian development highway system completion program

''(a) IN GENERAL.—The Secretary shall carry out a program, to be known as the 'Appalachian development highway system completion program' (referred to in this section as the 'program'), to allocate capital funding to expedite the completion of 'ready-to-go' segments of the Appalachian development highway system.

''(b) ELIGIBLE ACTIVITIES.—A State that receives an allocation of funds under this section shall use the funds to construct highways and access roads in accordance with chapter 145 of title 40.

''(c) ALLOCATION OF FUNDS.—The Secretary shall allocate funds under the program to each State all counties of which are located, as of the date of enactment of this section, within the established 13-State Appalachian region, as determined by the Appalachian Regional Commission.

''(d) FEDERAL SHARE.—The Federal share of the cost of carrying out any project or activity using funds allocated under the program shall be 80 percent.

''(e) FUNDING.—

''(1) IN GENERAL.—There shall be available to the Secretary to carry out this section, from the Highway Trust Fund (other than the Mass Transit Account), $270,000,000 for the period of fiscal years 2004 through 2009, of which—

''(A) $45,000,000 shall be for fiscal year 2004;

''(B) $45,000,000 shall be for fiscal year 2005;

''(C) $45,000,000 shall be for fiscal year 2006;

''(D) $45,000,000 shall be for fiscal year 2007;

''(E) $45,000,000 shall be for fiscal year 2008; and

''(F) $45,000,000 shall be for fiscal year 2009.

''(2) OBLIGATION, ELIGIBILITY, AND AVAILABILITY.—Funds authorized to be appropriated under section 1101(16) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 and made available under paragraph (1) to carry out this section—

''(A) shall be available for obligation by the Secretary in the same manner as if the funds were apportioned under this chapter;

''(B) shall not be considered in determining the eligibility of any State to receive funds under section 105; and

''(C) shall remain available until expended.''.

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(b)), is amended by adding at the end the following:

''178. Appalachian development highway system completion program.''.

(c) EMERGENCY RELIEF.—Notwithstanding an other provision of this Act, Section 125(c)(1) of title 23, United States Code (as amended by section 1822), is amended by striking ''$300,000,000'' and inserting ''$255,000,000''.

SA 2458. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 376, between the matter following line 6 and line 7, insert the following:

SEC. 1816. APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM COMPLETION PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(a)), is amended by adding at the end the following:

"§ 178. Appalachian development highway system completion program

''(a) IN GENERAL.—The Secretary shall carry out a program, to be known as the 'Appalachian development highway system completion program' (referred to in this section as the 'program'), to allocate capital funding to expedite the completion of 'ready-to-go' segments of the Appalachian development highway system.

''(b) ELIGIBLE ACTIVITIES.—A State that receives an allocation of funds under this section shall use the funds to construct highways and access roads in accordance with chapter 145 of title 40.

''(c) ALLOCATION OF FUNDS.—The Secretary shall allocate funds under the program to each State all counties of which are located, as of the date of enactment of this section, within the established 13-State Appalachian region, as determined by the Appalachian Regional Commission.

''(d) FEDERAL SHARE.—The Federal share of the cost of carrying out any project or activity using funds allocated under the program shall be 80 percent.

''(e) FUNDING.—

''(1) IN GENERAL.—There shall be available to the Secretary to carry out this section, from the Highway Trust Fund (other than the Mass Transit Account), $270,000,000 for the period of fiscal years 2004 through 2009, of which—

''(A) $45,000,000 shall be for fiscal year 2004;

''(B) $45,000,000 shall be for fiscal year 2005;

''(C) $45,000,000 shall be for fiscal year 2006;

''(D) $45,000,000 shall be for fiscal year 2007;

''(E) $45,000,000 shall be for fiscal year 2008; and

''(F) $45,000,000 shall be for fiscal year 2009.

''(2) OBLIGATION, ELIGIBILITY, AND AVAILABILITY.—Funds authorized to be appropriated under section 1101(16) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 and made available under paragraph (1) to carry out this section—

''(A) shall be available for obligation by the Secretary in the same manner as if the funds were apportioned under this chapter;

''(B) shall not be considered in determining the eligibility of any State to receive funds under section 105; and

''(C) shall remain available until expended.''.

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(b)), is amended by adding at the end the following:

''178. Appalachian development highway system completion program.''.

(c) TRANSPORTATION RESEARCH.—Notwithstanding any other provision of this Act, each of the amounts authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) under section 2001, and each of the amounts limiting obligations under section 2002, shall be reduced by 10.1 percent.

SA 2459. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 376, between the matter following line 6 and line 7, insert the following:

SEC. 1816. APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM COMPLETION PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(a)), is amended by adding at the end the following:

"§ 178. Appalachian development highway system completion program

''(a) IN GENERAL.—The Secretary shall carry out a program, to be known as the 'Appalachian development highway system completion program' (referred to in this section as the 'program'), to allocate capital funding to expedite the completion of 'ready-to-go' segments of the Appalachian development highway system.

''(b) ELIGIBLE ACTIVITIES.—A State that receives an allocation of funds under this section shall use the funds to construct highways and access roads in accordance with chapter 145 of title 40.

''(c) ALLOCATION OF FUNDS.—The Secretary shall allocate funds under the program to each State all counties of which are located, as of the date of enactment of this section, within the established 13-State Appalachian region, as determined by the Appalachian Regional Commission.

''(d) FEDERAL SHARE.—The Federal share of the cost of carrying out any project or activity using funds allocated under the program shall be 80 percent.

''(e) FUNDING.—

''(1) IN GENERAL.—There shall be available to the Secretary to carry out this section, from the Highway Trust Fund (other than the Mass Transit Account), $270,000,000 for the period of fiscal years 2004 through 2009, of which—

''(A) $45,000,000 shall be for fiscal year 2004;

''(B) $45,000,000 shall be for fiscal year 2005;

''(C) $45,000,000 shall be for fiscal year 2006;

''(D) $45,000,000 shall be for fiscal year 2007;

''(E) $45,000,000 shall be for fiscal year 2008; and

''(F) $45,000,000 shall be for fiscal year 2009.

''(2) OBLIGATION, ELIGIBILITY, AND AVAILABILITY.—Funds authorized to be appropriated under section 1101(16) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 and made available under paragraph (1) to carry out this section—

''(A) shall be available for obligation by the Secretary in the same manner as if the funds were apportioned under this chapter;

''(B) shall not be considered in determining the eligibility of any State to receive funds under section 105; and

''(C) shall remain available until expended.''.

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(b)), is amended by adding at the end the following:

''178. Appalachian development highway system completion program.''.

(c) EMERGENCY RELIEF.—Notwithstanding any other provision of this Act, Section 125(c)(1) of title 23, United States Code (as amended by section 1822), is amended by striking ''$300,000,000'' and inserting ''$277,000,000''.

(d) TRANSPORTATION RESEARCH.—Notwithstanding any other provision of this Act, each of the amounts authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) under section 2001, and each of the amounts limiting obligations under section 2002, shall be reduced by 5 percent.

SA 2460. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 376, between the matter following line 6 and line 7, insert the following:

SEC. 1816. APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM COMPLETION PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(a)), is amended by adding at the end the following:

"§ 178. Appalachian development highway system completion program

''(a) IN GENERAL.—The Secretary shall carry out a program, to be known as the 'Appalachian development highway system completion program' (referred to in this section as the 'program'), to allocate capital funding to expedite the completion of 'ready-to-go' segments of the Appalachian development highway system.

''(b) ELIGIBLE ACTIVITIES.—A State that receives an allocation of funds under this section shall use the funds to construct highways and access roads in accordance with chapter 145 of title 40.

''(c) ALLOCATION OF FUNDS.—The Secretary shall allocate funds under the program to each State based on the proportion that, under the most recent published report of the Appalachian Regional Commission under section 14501 of title 40—

''(1) the cost of construction of highways and access roads that are in 'final design status' for the Appalachian development highway system program in the State; bears to

''(2) the cost of construction of highways and access roads that are in 'final design status' for the Appalachian development highway system program in all States.

''(d) FEDERAL SHARE.—The Federal share of the cost of carrying out any project or activity using funds allocated under the program shall be 80 percent.

''(e) FUNDING.—

''(1) IN GENERAL.—There shall be available to the Secretary to carry out this section, from the Highway Trust Fund (other than the Mass Transit Account), $780,000,000 for the period of fiscal years 2004 through 2009, of which—

''(A) $130,000,000 shall be for fiscal year 2004;

''(B) $130,000,000 shall be for fiscal year 2005;

''(C) $130,000,000 shall be for fiscal year 2006;

''(D) $130,000,000 shall be for fiscal year 2007;

''(E) $130,000,000 shall be for fiscal year 2008; and

''(F) $130,000,000 shall be for fiscal year 2009.

''(2) OBLIGATION, ELIGIBILITY, AND AVAILABILITY.—Funds authorized to be appropriated under section 1101(16) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 and made available under paragraph (1) to carry out this section—

''(A) shall be available for obligation by the Secretary in the same manner as if the funds were apportioned under this chapter;

''(B) shall not be considered in determining the eligibility of any State to receive funds under section 105; and

''(C) shall remain available until expended.''.

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(b)), is amended by adding at the end the following:

''178. Appalachian development highway system completion program.''.

(c) EMERGENCY RELIEF.—Notwithstanding any other provision of this Act, Section 125(c)(1) of title 23, United States Code (as amended by section 1822), is amended by striking ''$300,000,000'' and inserting ''$170,000,000''.

SA 2461. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 376, between the matter following line 6 and line 7, insert the following:

SEC. 1816. APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM COMPLETION PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(a)), is amended by adding at the end the following:

"§ 178. Appalachian development highway system completion program

''(a) IN GENERAL.—The Secretary shall carry out a program, to be known as the 'Appalachian development highway system completion program' (referred to in this section as the 'program'), to allocate capital funding to expedite the completion of 'ready-to-go' segments of the Appalachian development highway system.

''(b) ELIGIBLE ACTIVITIES.—A State that receives an allocation of funds under this section shall use the funds to construct highways and access roads in accordance with chapter 145 of title 40.

''(c) ALLOCATION OF FUNDS.—The Secretary shall allocate funds under the program to each State based on the proportion that, under the most recent published report of the Appalachian Regional Commission under section 14501 of title 40—

''(1) the cost of construction of highways and access roads that are in 'final design status' for the Appalachian development highway system program in the State; bears to

''(2) the cost of construction of highways and access roads that are in 'final design status' for the Appalachian development highway system program in all States.

''(d) FEDERAL SHARE.—The Federal share of the cost of carrying out any project or activity using funds allocated under the program shall be 80 percent.

''(e) FUNDING.—

''(1) IN GENERAL.—There shall be available to the Secretary to carry out this section, from the Highway Trust Fund (other than the Mass Transit Account), $780,000,000 for the period of fiscal year 2004.

''(2) OBLIGATION, ELIGIBILITY, AND AVAILABILITY.—Funds authorized to be appropriated under section 1101(16) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 and made available under paragraph (1) to carry out this section—

''(A) shall be available for obligation by the Secretary in the same manner as if the funds were apportioned under this chapter;

''(B) shall not be considered in determining the eligibility of any State to receive funds under section 105; and

''(C) shall remain available until expended.''.

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(b)), is amended by adding at the end the following:

''178. Appalachian development highway system completion program.''.

(c) INFRASTRUCTURE PERFORMANCE AND MAINTENANCE PROGRAM.—Notwithstanding section 1101(13), the amount authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for the infrastructure performance and maintenance program under section 139 of title 23, United States Code, is hereby reduced by $780,000,000 for fiscal year 2004.

SA 2462. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 376, between the matter following line 6 and line 7, insert the following:

SEC. 1816. APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM COMPLETION PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(a)), is amended by adding at the end the following:

"§ 178. Appalachian development highway system completion program

''(a) IN GENERAL.—The Secretary shall carry out a program, to be known as the 'Appalachian development highway system completion program' (referred to in this section as the 'program'), to allocate capital funding to expedite the completion of 'ready-to-go' segments of the Appalachian development highway system.

''(b) ELIGIBLE ACTIVITIES.—A State that receives an allocation of funds under this section shall use the funds to construct highways and access roads in accordance with chapter 145 of title 40.

''(c) ALLOCATION OF FUNDS.—The Secretary shall allocate funds under the program to each State based on the proportion that, under the most recent published report of the Appalachian Regional Commission under section 14501 of title 40—

''(1) the cost of construction of highways and access roads that are in 'final design status' for the Appalachian development highway system program in the State; bears to

''(2) the cost of construction of highways and access roads that are in 'final design status' for the Appalachian development highway system program in all States.

''(d) FEDERAL SHARE.—The Federal share of the cost of carrying out any project or activity using funds allocated under the program shall be 80 percent.

''(e) FUNDING.—

''(1) IN GENERAL.—There shall be available to the Secretary to carry out this section, from the Highway Trust Fund (other than the Mass Transit Account), $780,000,000 for the period of fiscal years 2004 through 2009, of which—

''(A) $130,000,000 shall be for fiscal year 2004;

''(B) $130,000,000 shall be for fiscal year 2005;

''(C) $130,000,000 shall be for fiscal year 2006;

''(D) $130,000,000 shall be for fiscal year 2007;

''(E) $130,000,000 shall be for fiscal year 2008; and

''(F) $130,000,000 shall be for fiscal year 2009.

''(2) OBLIGATION, ELIGIBILITY, AND AVAILABILITY.—Funds authorized to be appropriated under section 1101(16) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 and made available under paragraph (1) to carry out this section—

''(A) shall be available for obligation by the Secretary in the same manner as if the funds were apportioned under this chapter;

''(B) shall not be considered in determining the eligibility of any State to receive funds under section 105; and

''(C) shall remain available until expended.''.

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(b)), is amended by adding at the end the following:

''178. Appalachian development highway system completion program.''.

(c) INFRASTRUCTURE PERFORMANCE AND MAINTENANCE PROGRAM.—Notwithstanding section 1101(13), the amount authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for the infrastructure performance and maintenance program under section 139 of title 23, United States Code, is hereby reduced by $330,000,000 for fiscal year 2004.

(d) EMERGENCY RELIEF.—Notwithstanding any other provision of this Act, Section 125(c)(1) of title 23, United States Code (as amended by section 1822), is amended by striking ''$300,000,000'' and inserting ''225,000,000''.

SA 2463. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 376, between the matter following line 6 and line 7, insert the following:

SEC. 1816. APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM COMPLETION PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(a)), is amended by adding at the end the following:

''§ 178. Appalachian development highway system completion program

''(a) IN GENERAL.—The Secretary shall carry out a program, to be known as the 'Appalachian development highway system completion program' (referred to in this section as the 'program'), to allocate capital funding to expedite the completion of 'ready-to-go' segments of the Appalachian development highway system.

''(b) ELIGIBLE ACTIVITIES.—A State that receives an allocation of funds under this section shall use the funds to construct highways and access roads in accordance with chapter 145 of title 40.

''(c) ALLOCATION OF FUNDS.—The Secretary shall allocate funds under the program to each State based on the proportion that, under the most recent published report of the Appalachian Regional Commission under section 14501 of title 40—

''(1) the cost of construction of highways and access roads that are in 'final design status' for the Appalachian development highway system program in the State; bears to

''(2) the cost of construction of highways and access roads that are in 'final design status' for the Appalachian development highway system program in all States.

''(d) FEDERAL SHARE.—The Federal share of the cost of carrying out any project or activity using funds allocated under the program shall be 80 percent.

''(e) FUNDING.—

''(1) IN GENERAL.—There shall be available to the Secretary to carry out this section, from the Highway Trust Fund (other than the Mass Transit Account), $780,000,000 for the period of fiscal years 2004 through 2009, of which—

''(A) $130,000,000 shall be for fiscal year 2004;

''(B) $130,000,000 shall be for fiscal year 2005;

''(C) $130,000,000 shall be for fiscal year 2006;

''(D) $130,000,000 shall be for fiscal year 2007;

''(E) $130,000,000 shall be for fiscal year 2008; and

''(F) $130,000,000 shall be for fiscal year 2009.

''(2) OBLIGATION, ELIGIBILITY, AND AVAILABILITY.—Funds authorized to be appropriated under section 1101(16) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 and made available under paragraph (1) to carry out this section—

''(A) shall be available for obligation by the Secretary in the same manner as if the funds were apportioned under this chapter;

''(B) shall not be considered in determining the eligibility of any State to receive funds under section 105; and

''(C) shall remain available until expended.''.

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(b)), is amended by adding at the end the following:

''178. Appalachian development highway system completion program.''.

(c) TRANSPORTATION INFRASTRUCTURE FINANCE AND INNOVATION ACT.—Notwithstanding section 188(a) of title 23, United States Code, the amount authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) to carry out subchapter II of chapter I of that title shall be $110,000,000 for each of fiscal years 2004 through 2009.

(d) EMERGENCY RELIEF.—Notwithstanding any other provision of this Act, Section 125(c)(1) of title 23, United States Code (as amended by section 1822), is amended by striking ''$300,000,000'' and inserting ''$210,000,000''.

(e) TRANSPORTATION RESEARCH.—Notwithstanding any other provision of this Act, each of the amounts authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) under section 2001, and each of the amounts limiting obligations under section 2002, shall be reduced by 4.5 percent.

SA 2464. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 376, between the matter following line 6 and line 7, insert the following:

SEC. 1816. APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM COMPLETION PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(a)), is amended by adding at the end the following:

''§ 178. Appalachian development highway system completion program

''(a) IN GENERAL.—The Secretary shall carry out a program, to be known as the 'Appalachian development highway system completion program' (referred to in this section as the 'program'), to allocate capital funding to expedite the completion of 'ready-to-go' segments of the Appalachian development highway system.

''(b) ELIGIBLE ACTIVITIES.—A State that receives an allocation of funds under this section shall use the funds to construct highways and access roads in accordance with chapter 145 of title 40.

''(c) ALLOCATION OF FUNDS.—The Secretary shall allocate funds under the program to each State based on the proportion that, under the most recent published report of the Appalachian Regional Commission under section 14501 of title 40—

''(1) the cost of construction of highways and access roads that are in 'final design status' for the Appalachian development highway system program in the State; bears to

''(2) the cost of construction of highways and access roads that are in 'final design status' for the Appalachian development highway system program in all States.

''(d) FEDERAL SHARE.—The Federal share of the cost of carrying out any project or activity using funds allocated under the program shall be 80 percent.

''(e) FUNDING.—

''(1) IN GENERAL.—There shall be available to the Secretary to carry out this section, from the Highway Trust Fund (other than the Mass Transit Account), $780,000,000 for the period of fiscal years 2004 through 2009, of which—

''(A) $130,000,000 shall be for fiscal year 2004;

''(B) $130,000,000 shall be for fiscal year 2005;

''(C) $130,000,000 shall be for fiscal year 2006;

''(D) $130,000,000 shall be for fiscal year 2007;

''(E) $130,000,000 shall be for fiscal year 2008; and

''(F) $130,000,000 shall be for fiscal year 2009.

''(2) OBLIGATION, ELIGIBILITY, AND AVAILABILITY.—Funds authorized to be appropriated under section 1101(16) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 and made available under paragraph (1) to carry out this section—

''(A) shall be available for obligation by the Secretary in the same manner as if the funds were apportioned under this chapter;

''(B) shall not be considered in determining the eligibility of any State to receive funds under section 105; and

''(C) shall remain available until expended.''.

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(b)), is amended by adding at the end the following:

''178. Appalachian development highway system completion program.''.

(c) EMERGENCY RELIEF.—Notwithstanding any other provisions of this Act, Section 125(c)(1) of title 23, United States Code (as amended by section 1822), is amended by striking ''$300,000,000'' and inserting ''$190,000,000''.

(d) TRANSPORTATION RESEARCH.—Notwithstanding any other provision of this Act, each of the amounts authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) under section 2001, and each of the amounts limiting obligations under section 2002, shall be reduced by 4.5 percent.

SA 2465. Mr. BYRD submitted an amendment intended to be proposed to

amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 376, between the matter following line 6 and line 7, insert the following:

SEC. 1816. APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM COMPLETION PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(a)), is amended by adding at the end the following:

"§ 178. Appalachian development highway system completion program

''(a) IN GENERAL.—The Secretary shall carry out a program, to be known as the 'Appalachian development highway system completion program' (referred to in this section as the 'program'), to allocate capital funding to expedite the completion of 'ready-to-go' segments of the Appalachian development highway system.

''(b) ELIGIBLE ACTIVITIES.—A State that receives an allocation of funds under this section shall use the funds to construct highways and access roads in accordance with chapter 145 of title 40.

''(c) ALLOCATION OF FUNDS.—The Secretary shall allocate funds under the program to each State based on the proportion that, under the most recent published report of the Appalachian Regional Commission under section 14501 of title 40—

''(1) the cost of construction of highways and access roads that are not in 'location status' for the Appalachian development highway system program in the State; bears to

''(2) the cost of construction of highways and access roads that are not in 'location status' for the Appalachian development highway system program in all States.

''(d) FEDERAL SHARE.—The Federal share of the cost of carrying out any project or activity using funds allocated under the program shall be 80 percent.

''(e) FUNDING.—

''(1) IN GENERAL.—There shall be available to the Secretary to carry out this section, from the Highway Trust Fund (other than the Mass Transit Account), $900,000,000 for the period of fiscal years 2004 through 2009, of which—

''(A) $150,000,000 shall be for fiscal year 2004;

''(B) $150,000,000 shall be for fiscal year 2005;

''(C) $150,000,000 shall be for fiscal year 2006;

''(D) $150,000,000 shall be for fiscal year 2007;

''(E) $150,000,000 shall be for fiscal year 2008; and

''(F) $150,000,000 shall be for fiscal year 2009.

''(2) OBLIGATION, ELIGIBILITY, AND AVAILABILITY.—Funds authorized to be appropriated under section 1101(16) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 and made available under paragraph (1) to carry out this section—

''(A) shall be available for obligation by the Secretary in the same manner as if the funds were apportioned under this chapter;

''(B) shall not be considered in determining the eligibility of any State to receive funds under section 105; and

''(C) shall remain available until expended.''.

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(b)), is amended by adding at the end the following:

''178. Appalachian development highway system completion program.''.

(c) EMERGENCY RELIEF.—Notwithstanding any other provision of this Act, Section 125(c)(1) of title 23, United States Code (as amended by section 1822), is amended by striking ''$300,000,000'' and inserting ''$150,000,000''.

SA 2466. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 376, between the matter following line 6 and line 7, insert the following:

SEC. 1816. APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM COMPLETION PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(a)), is amended by adding at the end the following:

"§ 178. Appalachian development highway system completion program

''(a) IN GENERAL.—The Secretary shall carry out a program, to be known as the 'Appalachian development highway system completion program' (referred to in this section as the 'program'), to allocate capital funding to expedite the completion of 'ready-to-go' segments of the Appalachian development highway system.

''(b) ELIGIBLE ACTIVITIES.—A State that receives an allocation of funds under this section shall use the funds to construct highways and access roads in accordance with chapter 145 of title 40.

''(c) ALLOCATION OF FUNDS.—The Secretary shall allocate funds under the program to each State based on the proportion that, under the most recent published report of the Appalachian Regional Commission under section 14501 of title 40—

''(1) the cost of construction of highways and access roads that are not in 'location status' for the Appalachian development highway system program in the State; bears to

''(2) the cost of construction of highways and access roads that are not in 'location status' for the Appalachian development highway system program in all States.

''(d) FEDERAL SHARE.—The Federal share of the cost of carrying out any project or activity using funds allocated under the program shall be 80 percent.

''(e) FUNDING.—

''(1) IN GENERAL.—There shall be available to the Secretary to carry out this section, from the Highway Trust Fund (other than the Mass Transit Account), $900,000,000 for the period of fiscal year 2004.

''(2) OBLIGATION, ELIGIBILITY, AND AVAILABILITY.—Funds authorized to be appropriated under section 1101(16) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 and made available under paragraph (1) to carry out this section—

''(A) shall be available for obligation by the Secretary in the same manner as if the funds were apportioned under this chapter;

''(B) shall not be considered in determining the eligibility of any State to receive funds under section 105; and

''(C) shall remain available until expended.''.

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(b)), is amended by adding at the end the following:

''178. Appalachian development highway system completion program.''.

(c) INFRASTRUCTURE PERFORMANCE AND MAINTENANCE PROGRAM.—Notwithstanding section 1101(13), the amount authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for the infrastructure performance and maintenance program under section 139 of title 23, United States Code, is hereby reduced by $900,000,000 for fiscal year 2004.

SA 2467. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 376, between the matter following line 6 and line 7, insert the following:

SEC. 1816. APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM COMPLETION PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(a)), is amended by adding at the end the following:

"§ 178. Appalachian development highway system completion program

''(a) IN GENERAL.—The Secretary shall carry out a program, to be known as the 'Appalachian development highway system completion program' (referred to in this section as the 'program'), to allocate capital funding to expedite the completion of 'ready-to-go' segments of the Appalachian development highway system.

''(b) ELIGIBLE ACTIVITIES.—A State that receives an allocation of funds under this section shall use the funds to construct highways and access roads in accordance with chapter 145 of title 40.

''(c) ALLOCATION OF FUNDS.—The Secretary shall allocate funds under the program to each State based on the proportion that, under the most recent published report of the Appalachian Regional Commission under section 14501 of title 40—

''(1) the cost of construction of highways and access roads that are not in 'location status' for the Appalachian development highway system program in the State; bears to

''(2) the cost of construction of highways and access roads that are not in 'location status' for the Appalachian development highway system program in all States.

''(d) FEDERAL SHARE.—The Federal share of the cost of carrying out any project or activity using funds allocated under the program shall be 80 percent.

''(e) FUNDING.—

''(1) IN GENERAL.—There shall be available to the Secretary to carry out this section, from the Highway Trust Fund (other than the Mass Transit Account), $900,000,000 for the period of fiscal years 2004 through 2009, of which—

''(A) $300,000,000 shall be for fiscal year 2004;

''(B) $150,000,000 shall be for fiscal year 2005;

''(C) $150,000,000 shall be for fiscal year 2006;

''(D) $150,000,000 shall be for fiscal year 2007;

''(E) $150,000,000 shall be for fiscal year 2008; and

''(F) $150,000,000 shall be for fiscal year 2009.

''(2) OBLIGATION, ELIGIBILITY, AND AVAILABILITY.—Funds authorized to be appropriated under section 1101(16) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 and made available under paragraph (1) to carry out this section—

''(A) shall be available for obligation by the Secretary in the same manner as if the funds were apportioned under this chapter;

''(B) shall not be considered in determining the eligibility of any State to receive funds under section 105; and

''(C) shall remain available until expended.''.

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(b)), is amended by adding at the end the following:

''178. Appalachian development highway system completion program.''.

(c) INFRASTRUCTURE PERFORMANCE AND MAINTENANCE PROGRAM.—Notwithstanding section 1101(13), the amount authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for the infrastructure performance and maintenance program under section 139 of title 23, United States Code, is hereby reduced by 300,000,000 for fiscal year 2004.

(d) EMERGENCY RELIEF.—Notwithstanding any other provision of this Act, Section 125(c)(1) of title 23, United States Code (as amended by section 1822), is amended by striking ''$300,000,000'' and inserting ''180,000,000'' for fiscal years 2005 through 2009.

SA 2468. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 376, between the matter following line 6 and line 7, insert the following:

SEC. 1816. APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM COMPLETION PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(a)), is amended by adding at the end the following:

''§ 178. Appalachian development highway system completion program

''(a) IN GENERAL.—The Secretary shall carry out a program, to be known as the 'Appalachian development highway system completion program' (referred to in this section as the 'program'), to allocate capital funding to expedite the completion of 'ready-to-go' segments of the Appalachian development highway system.

''(b) ELIGIBLE ACTIVITIES.—A State that receives an allocation of funds under this section shall use the funds to construct highways and access roads in accordance with chapter 145 of title 40.

''(c) ALLOCATION OF FUNDS.—The Secretary shall allocate funds under the program to each State based on the proportion that, under the most recent published report of the Appalachian Regional Commission under section 14501 of title 40—

''(1) the cost of construction of highways and access roads that are not in 'location status' for the Appalachian development highway system program in the State; bears to

''(2) the cost of construction of highways and access roads that are not in 'location status' for the Appalachian development highway system program in all States.

''(d) FEDERAL SHARE.—The Federal share of the cost of carrying out any project or activity using funds allocated under the program shall be 80 percent.

''(e) FUNDING.—

''(1) IN GENERAL.—There shall be available to the Secretary to carry out this section, from the Highway Trust Fund (other than the Mass Transit Account), $900,000,000 for the period of fiscal years 2004 through 2009, of which—

''(A) $150,000,000 shall be for fiscal year 2004;

''(B) $150,000,000 shall be for fiscal year 2005;

''(C) $150,000,000 shall be for fiscal year 2006;

''(D) $150,000,000 shall be for fiscal year 2007;

''(E) $150,000,000 shall be for fiscal year 2008; and

''(F) $150,000,000 shall be for fiscal year 2009.

''(2) OBLIGATION, ELIGIBILITY, AND AVAILABILITY.—Funds authorized to be appropriated under section 1101(16) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 and made available under paragraph (1) to carry out this section—

''(A) shall be available for obligation by the Secretary in the same manner as if the funds were apportioned under this chapter;

''(B) shall not be considered in determining the eligibility of any State to receive funds under section 105; and

''(C) shall remain available until expended.''.

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(b)), is amended by adding at the end the following:

''178. Appalachian development highway system completion program.''.

(c) TRANSPORTATION INFRASTRUCTURE FINANCE AND INNOVATION ACT.—Notwithstanding section 188(a) of title 23, United States Code, the amount authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) to carry out subchapter II of chapter I of that title shall be $100,000,000 for each of fiscal years 2004 through 2009.

(d) EMERGENCY RELIEF.—Notwithstanding any other provision of this Act, Section 125(c)(1) of title 23, United States Code (as amended by section 1822), is amended by striking ''$300,000,000'' and inserting ''$200,000,000''.

(e) TRANSPORTATION RESEARCH.—Notwithstanding any other provision of this Act, each of the amounts authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) under section 2001, and each of the amounts limiting obligations under section 2002, shall be reduced by 4.5 percent.

SA 2469. Mr. BOND submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 376, between the matter following line 6 and line 7, insert the following:

SEC. 1816. APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM COMPLETION PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(a)), is amended by adding at the end the following:

''§ 178. Appalachian development highway system completion program

''(a) IN GENERAL.—The Secretary shall carry out a program, to be known as the 'Appalachian development highway system completion program' (referred to in this section as the 'program'), to allocate capital funding to expedite the completion of 'ready-to-go' segments of the Appalachian development highway system.

''(b) ELIGIBLE ACTIVITIES.—A State that receives an allocation of funds under this section shall use the funds to construct highways and access roads in accordance with chapter 145 of title 40.

''(c) ALLOCATION OF FUNDS.—The Secretary shall allocate funds under the program to each State based on the proportion that, under the most recent published report of the Appalachian Regional Commission under section 14501 of title 40—

''(1) the cost of construction of highways and access roads that are not in 'location status' for the Appalachian development highway system program in the State; bears to

''(2) the cost of construction of highways and access roads that are not in 'location status' for the Appalachian development highway system program in all States.

''(d) FEDERAL SHARE.—The Federal share of the cost of carrying out any project or activity using funds allocated under the program shall be 80 percent.

''(e) FUNDING.—

''(1) IN GENERAL.—There shall be available to the Secretary to carry out this section, from the Highway Trust Fund (other than the Mass Transit Account), $900,000,000 for the period of fiscal years 2004 through 2009, of which—

''(A) $150,000,000 shall be for fiscal year 2004;

''(B) $150,000,000 shall be for fiscal year 2005;

''(C) $150,000,000 shall be for fiscal year 2006;

''(D) $150,000,000 shall be for fiscal year 2007;

''(E) $150,000,000 shall be for fiscal year 2008; and

''(F) $150,000,000 shall be for fiscal year 2009.

''(2) OBLIGATION, ELIGIBILITY, AND AVAILABILITY.—Funds authorized to be appropriated under section 1101(16) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 and made available under paragraph (1) to carry out this section—

''(A) shall be available for obligation by the Secretary in the same manner as if the funds were apportioned under this chapter;

''(B) shall not be considered in determining the eligibility of any State to receive funds under section 105; and

''(C) shall remain available until expended.''.

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(b)), is amended by adding at the end the following:

''178. Appalachian development highway system completion program.''.

(c) EMERGENCY RELIEF.—Notwithstanding any other provision of this Act, Section 125(c)(1) of title 23, United States Code (as amended by section 1822), is amended by striking ''$300,000,000'' and inserting ''$170,000,000''.

(d) TRANSPORTATION RESEARCH.—Notwithstanding any other provision of this Act, each of the amounts authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) under section 2001, and each of the amounts limiting obligations under section 2002, shall be reduced by 4.5 percent.

SA 2470. Mr. BYRD submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which

was ordered to lie on the table; as follows:

On page 677 of the Committee substitute, between the lines 12 and 13, insert the following:

''(ii) $4,821,335 shall be available to the personal rapid transit system in Morgantown, West Virginia for improvements to its passengers operations under section 5307;''

SA 2471. Mr. BYRD submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the bill, add the following:

TITLE ____—SOLID WASTE DISPOSAL

SEC. ____01. INCREASED USE OF RECOVERED MINERAL COMPONENT IN FEDERALLY FUNDED PROJECTS INVOLVING PROCUREMENT OF CEMENT OR CONCRETE.

(a) AMENDMENT.—Subtitle F of the Solid Waste Disposal Act (42 U.S.C. 6961 et seq.) is amended by adding at the end the following new section:

''INCREASED USE OF RECOVERED MINERAL COMPONENT IN FEDERALLY FUNDED PROJECTS INVOLVING PROCUREMENT OF CEMENT OR CONCRETE

''SEC. 6005. (a) DEFINITIONS.—In this section:

''(1) AGENCY HEAD.—The term 'agency head' means—

''(A) the Secretary of Transportation; and

''(B) the head of each other Federal agency that on a regular basis procures, or provides Federal funds to pay or assist in paying the cost of procuring, material for cement or concrete projects.

''(2) CEMENT OR CONCRETE PROJECT.—The term 'cement or concrete project' means a project for the construction or maintenance of a highway or other transportation facility or a Federal, State, or local government building or other public facility that—

''(A) involves the procurement of cement or concrete; and

''(B) is carried out in whole or in part using Federal funds.

''(3) RECOVERED MINERAL COMPONENT.—The term 'recovered mineral component' means—

''(A) ground granulated blast furnace slag;

''(B) coal combustion fly ash; and

''(C) any other waste material or byproduct recovered or diverted from solid waste that the Administrator, in consultation with an agency head, determines should be treated as recovered mineral component under this section for use in cement or concrete projects paid for, in whole or in part, by the agency head.

''(b) IMPLEMENTATION OF REQUIREMENTS.—

''(1) IN GENERAL.—Not later than 1 year after the date of enactment of this section, the Administrator and each agency head shall take such actions as are necessary to implement fully all procurement requirements and incentives in effect as of the date of enactment of this section (including guidelines under section 6002) that provide for the use of cement and concrete incorporating recovered mineral component in cement or concrete projects.

''(2) PRIORITY.—In carrying out paragraph (1) an agency head shall give priority to achieving greater use of recovered mineral component in cement or concrete projects for which recovered mineral components historically have not been used or have been used only minimally.

''(3) CONFORMANCE.—The Administrator and each agency head shall carry out this subsection in accordance with section 6002.

''(c) FULL IMPLEMENTATION STUDY.—

''(1) IN GENERAL.—The Administrator, in cooperation with the Secretary of Transportation and the Secretary of Energy, shall conduct a study to determine the extent to which current procurement requirements, when fully implemented in accordance with subsection (b), may realize energy savings and environmental benefits attainable with substitution of recovered mineral component in cement used in cement or concrete projects.

''(2) MATTERS TO BE ADDRESSED.—The study shall—

''(A) quantify the extent to which recovered mineral components are being substituted for Portland cement, particularly as a result of current procurement requirements, and the energy savings and environmental benefits associated with that substitution;

''(B) identify all barriers in procurement requirements to greater realization of energy savings and environmental benefits, including barriers resulting from exceptions from current law; and

''(C)(i) identify potential mechanisms to achieve greater substitution of recovered mineral component in types of cement or concrete projects for which recovered mineral components historically have not been used or have been used only minimally;

''(ii) evaluate the feasibility of establishing guidelines or standards for optimized substitution rates of recovered mineral component in those cement or concrete projects; and

''(iii) identify any potential environmental or economic effects that may result from greater substitution of recovered mineral component in those cement or concrete projects.

''(3) REPORT.—Not later than 30 months after the date of enactment of this section, the Administrator shall submit to Congress a report on the study.

''(d) ADDITIONAL PROCUREMENT REQUIREMENTS.—Unless the study conducted under subsection (c) identifies any effects or other problems described in subsection (c)(2)(C)(iii) that warrant further review or delay, the Administrator and each agency head shall, not later than 1 year after the release of the report in accordance with subsection (c)(3), take additional actions authorized under this Act to establish procurement requirements and incentives that provide for the use of cement and concrete with increased substitution of recovered mineral component in the construction and maintenance of cement or concrete projects, so as to—

''(1) realize more fully the energy savings and environmental benefits associated with increased substitution; and

''(2) eliminate barriers identified under subsection (c).

''(e) EFFECT OF SECTION.—Nothing in this section affects the requirements of section 6002 (including the guidelines and specifications for implementing those requirements).''.

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents of the Solid Waste Disposal Act is amended by adding after the item relating to section 6004 the following new item:

''Sec. 6005. Increased use of recovered mineral component in federally funded projects involving procurement of cement or concrete.''.

SEC. ____02. USE OF GRANULAR MINE TAILINGS.

(a) AMENDMENT.—Subtitle F of the Solid Waste Disposal Act (42 U.S.C. 6961 et seq.) (as amended by section ____01(a)) is amended by adding at the end the following:

''SEC. 6006. USE OF GRANULAR MINE TAILINGS.

''(a) MINE TAILINGS.—

''(1) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Administrator, in consultation with the Secretary of Transportation and heads of other Federal agencies, shall establish criteria (including an evaluation of whether to establish a numerical standard for concentration of lead and other hazardous substances) for the safe and environmentally protective use of granular mine tailings from the Tar Creek, Oklahoma Mining District, known as 'chat', for—

''(A) cement or concrete projects; and

''(B) transportation construction projects (including transportation construction projects involving the use of asphalt) that are carried out, in whole or in part, using Federal funds.

''(2) REQUIREMENTS.—In establishing criteria under paragraph (1), the Administrator shall consider—

''(A) the current and previous uses of granular mine tailings as an aggregate for asphalt; and

''(B) any environmental and public health risks and benefits derived from the removal, transportation, and use in transportation projects of granular mine tailings.

''(3) PUBLIC PARTICIPATION.—In establishing the criteria under paragraph (1), the Administrator shall solicit and consider comments from the public.

''(4) APPLICABILITY OF CRITERIA.—On the establishment of the criteria under paragraph (1), any use of the granular mine tailings described in paragraph (1) in a transportation project that is carried out, in whole or in part, using Federal funds, shall meet the criteria established under paragraph (1).

''(b) EFFECT OF SECTIONS.—Nothing in this section or section 6005 affects any requirement of any law (including a regulation) in effect on the date of enactment of this section.''.

(b) CONFORMING AMENDMENT.—The table of contents of the Solid Waste Disposal Act (42 U.S.C. prec. 6901) (as amended by section ____01(b)) is amended by adding at the end of the items relating to subtitle F the following:

''Sec. 6006. Use of granular mine tailings.''.

SA 2472. Mr. CHAFEE submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 715, strike line 1, and insert the following:

SEC. 3044. HUMAN RESOURCE PROGRAMS.

Section 5322 is amended—

(1) by striking ''The Secretary of Transportation'' and inserting the following:

''(a) IN GENERAL.—The Secretary''; and

(2) by adding at the end the following:

''(b) NATIONWIDE TRANSIT EMPLOYEE JOB TRAINING PARTNERSHIP PROGRAM.—

''(1) ESTABLISHMENT.—The Secretary shall contract with a national non-profit organization to establish a nationwide transit employee job training partnership program to respond to technological changes in the industry, with emphasis given to maintenance.

''(2) REQUIREMENT.—The non-profit organization referred to in paragraph (1) shall have demonstrated the capacity to develop and provide career ladder training programs.

''(3) ALLOCATION.—From the amounts made available under section 5314(a), the Secretary shall make available not less than $2,000,000 to carry out the provisions in this subsection.''.

SEC. 3045. INTERMODAL PASSENGER FACILITIES.

SA 2473. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Strike title V and insert the following:

TITLE V—HIGHWAY REAUTHORIZATION AND EXCISE TAX SIMPLIFICATION

SEC. 5000. SHORT TITLE; AMENDMENT OF 1986 CODE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the ''Highway Reauthorization and Excise Tax Simplification Act of 2004''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—The table of contents for this title is as follows:

TITLE V—HIGHWAY REAUTHORIZATION AND EXCISE TAX SIMPLIFICATION

Sec. 5000. Short title; amendment of 1986 code; table of contents.

Subtitle A—Trust Fund Reauthorization

Sec. 5001. Extension of Highway Trust Fund and Aquatic Resources Trust Fund expenditure authority and related taxes.
Sec. 5002. Full accounting of funds received by the Highway Trust Fund.
Sec. 5003. Modification of adjustments of apportionments.

Subtitle B—Biodiesel Income Tax Credit

Sec. 5101. Biodiesel income tax credit.

Subtitle C—Fuel Fraud Prevention

Sec. 5200. Short title.

PART I—AVIATION JET FUEL

Sec. 5211. Taxation of aviation-grade kerosene.
Sec. 5212. Transfer of certain amounts from the Airport and Airway Trust Fund to the Highway Trust Fund to reflect highway use of jet fuel.

PART II—DYED FUEL

Sec. 5221. Dye injection equipment.
Sec. 5222. Elimination of administrative review for taxable use of dyed fuel.
Sec. 5223. Penalty on untaxed chemically altered dyed fuel mixtures.
Sec. 5224. Termination of dyed diesel use by intercity buses.

PART III—MODIFICATION OF INSPECTION OF RECORDS PROVISIONS

Sec. 5231. Authority to inspect on-site records.
Sec. 5232. Assessable penalty for refusal of entry.

PART IV—REGISTRATION AND REPORTING REQUIREMENTS

Sec. 5241. Registration of pipeline or vessel operators required for exemption of bulk transfers to registered terminals or refineries.
Sec. 5242. Display of registration.
Sec. 5243. Registration of persons within foreign trade zones.
Sec. 5244. Penalties for failure to register and failure to report.
Sec. 5245. Information reporting for persons claiming certain tax benefits.

PART V—IMPORTS

Sec. 5251. Tax at point of entry where importer not registered.
Sec. 5252. Reconciliation of on-loaded cargo to entered cargo.

PART VI—MISCELLANEOUS PROVISIONS

Sec. 5261. Tax on sale of diesel fuel whether suitable for use or not in a diesel-powered vehicle or train.
Sec. 5262. Modification of ultimate vendor refund claims with respect to farming.
Sec. 5263. Taxable fuel refunds for certain ultimate vendors.
Sec. 5264. Two-party exchanges.
Sec. 5265. Modifications of tax on use of certain vehicles.
Sec. 5266. Dedication of revenues from certain penalties to the Highway Trust Fund.
Sec. 5267. Nonapplication of export exemption to delivery of fuel to motor vehicles removed from United States.

PART VII—TOTAL ACCOUNTABILITY

Sec. 5271. Total accountability.
Sec. 5272. Excise tax reporting.
Sec. 5273. Information reporting.

Subtitle D—Definition of Highway Vehicle

Sec. 5301. Exemption from certain excise taxes for mobile machinery.
Sec. 5302. Modification of definition of off-highway vehicle.

Subtitle E—Excise Tax Reform and Simplification

PART I—HIGHWAY EXCISE TAXES

Sec. 5401. Dedication of gas guzzler tax to Highway Trust Fund.
Sec. 5402. Repeal certain excise taxes on rail diesel fuel and inland waterway barge fuels.

PART II—AQUATIC EXCISE TAXES

Sec. 5411. Elimination of Aquatic Resources Trust Fund and transformation of Sport Fish Restoration Account.
Sec. 5412. Exemption of LED devices from sonar devices suitable for finding fish.
Sec. 5413. Repeal of harbor maintenance tax on exports.
Sec. 5414. Cap on excise tax on certain fishing equipment.
Sec. 5415. Reduction in rate of tax on portable aerated bait containers.

PART III—AERIAL EXCISE TAXES

Sec. 5421. Clarification of excise tax exemptions for agricultural aerial applicators and exemption for fixed-wing aircraft engaged in forestry operations.
Sec. 5422. Modification of rural airport definition.
Sec. 5423. Exemption from ticket taxes for transportation provided by seaplanes.
Sec. 5424. Certain sightseeing flights exempt from taxes on air transportation.

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Subtitle G—Revenue Offsets

PART I—LIMITATION ON EXPENSING CERTAIN PASSENGERS AUTOMOBILES

Sec. 5601. Expansion of limitation on depreciation of certain passenger automobiles.

PART II—PROVISION TO REPLENISH THE GENERAL FUND

Sec. 5611. Modification to corporate estimated tax requirements.

Subtitle A—Trust Fund Reauthorization

SEC. 5001. EXTENSION OF HIGHWAY TRUST FUND AND AQUATIC RESOURCES TRUST FUND EXPENDITURE AUTHORITY AND RELATED TAXES.

(a) HIGHWAY TRUST FUND EXPENDITURE AUTHORITY.—

(1) HIGHWAY ACCOUNT.—Paragraph (1) of section 9503(c) (relating to transfers from Highway Trust Fund for certain repayments and credits) is amended—

(A) in the matter before subparagraph (A), by striking ''March 1, 2004'' and inserting ''October 1, 2009'',

(B) by striking ''or'' at the end of subparagraph (E),

(C) by striking the period at the end of subparagraph (F) and inserting '', or'',

(D) by inserting after subparagraph (F), the following new subparagraph:

''(G) authorized to be paid out of the Highway Trust Fund under the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004.'', and

(E) in the matter after subparagraph (G), as added by subparagraph (D), by striking ''Surface Transportation Extension Act of 2003'' and inserting ''Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004''.

(2) MASS TRANSIT ACCOUNT.—Paragraph (3) of section 9503(e) (relating to establishment of Mass Transit Account) is amended—

(A) in the matter before subparagraph (A), by striking ''March 1, 2004'' and inserting ''October 1, 2009'',

(B) by striking ''or'' at the end of subparagraph (C),

(C) by striking the period at the end of subparagraph (D) and inserting ''; or'',

(D) by inserting after subparagraph (D), the following new subparagraph:

''(E) the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004,'', and

(E) in the matter after subparagraph (E), as added by subparagraph (D), by striking ''Surface Transportation Extension Act of 2003'' and inserting ''Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004''.

(3) EXCEPTION TO LIMITATION ON TRANSFERS.—Subparagraph (B) of section 9503(b)(5) (relating to limitation on transfers to Highway Trust Fund) is amended by striking ''March 1, 2004'' and inserting ''October 1, 2009''.

(b) AQUATIC RESOURCES TRUST FUND EXPENDITURE AUTHORITY.—

(1) SPORT FISH RESTORATION ACCOUNT.—Paragraph (2) of section 9504(b) (relating to Sport Fish Restoration Account) is amended by striking ''Surface Transportation Extension Act of 2003'' each place it appears and inserting ''Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004''.

(2) BOAT SAFETY ACCOUNT.—Section 9504(c) (relating to expenditures from Boat Safety Account) is amended—

(A) by striking ''March 1, 2004'' and inserting ''October 1, 2009'', and

(B) by striking ''Surface Transportation Extension Act of 2003'' and inserting ''Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004''.

(3) EXCEPTION TO LIMITATION ON TRANSFERS.—Paragraph (2) of section 9504(d) (relating to limitation on transfers to Aquatic Resources Trust Fund) is amended by striking ''March 1, 2004'' and inserting ''October 1, 2009''.

(4) TECHNICAL CORRECTION.—The last sentence of paragraph (2) of section 9504(b) is amended by striking ''subparagraph (B)'', and inserting ''subparagraph (C)''.

(c) EXTENSION OF TAXES.—

(1) IN GENERAL.—The following provisions are each amended by striking ''2005'' each place it appears and inserting ''2009'':

(A) Section 4041(a)(1)(C)(iii)(I) (relating to rate of tax on certain buses).

(B) Section 4041(a)(2)(B) (relating to rate of tax on special motor fuels).

(C) Section 4041(m)(1)(A) (relating to certain alcohol fuels produced from natural gas).

(D) Section 4051(c) (relating to termination of tax on heavy trucks and trailers).

(E) Section 4071(d) (relating to termination of tax on tires).

(F) Section 4081(d)(1) (relating to termination of tax on gasoline, diesel fuel, and kerosene).

(G) Section 4481(e) (relating to period tax in effect).

(H) Section 4482(c)(4) (relating to taxable period).

(I) Section 4482(d) (relating to special rule for taxable period in which termination date occurs).

(2) FLOOR STOCKS REFUNDS.—Section 6412(a)(1) (relating to floor stocks refunds) is amended—

(A) by striking ''2005'' each place it appears and inserting ''2009'', and

(B) by striking ''2006'' each place it appears and inserting ''2010''.

(d) EXTENSION OF CERTAIN EXEMPTIONS.—The following provisions are each amended by striking ''2005'' and inserting ''2009'':

(1) Section 4221(a) (relating to certain tax-free sales).

(2) Section 4483(g) (relating to termination of exemptions for highway use tax).

(e) EXTENSION OF DEPOSITS INTO, AND CERTAIN TRANSFERS FROM, TRUST FUND.—

(1) IN GENERAL.—Subsections (b), (c)(2), (c)(3), (c)(4)(A)(i), and (c)(5)(A) of section 9503 (relating to the Highway Trust Fund) are amended—

(A) by striking ''2005'' each place it appears and inserting ''2009'', and

(B) by striking ''2006'' each place it appears and inserting ''2010''.

(2) CONFORMING AMENDMENTS TO LAND AND WATER CONSERVATION FUND.—Section 201(b) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–11(b)) is amended—

(A) by striking ''2003'' and inserting ''2007'', and

(B) by striking ''2004'' each place it appears and inserting ''2008''.

(f) EXTENSION OF TAX BENEFITS FOR QUALIFIED METHANOL AND ETHANOL FUEL PRODUCED FROM COAL.—Section 4041(b)(2) (relating to qualified methanol and ethanol fuel) is amended—

(1) by striking ''2007'' in subparagraph (C)(ii) and inserting ''2010'', and

(2) by striking ''October 1, 2007'' in subparagraph (D) and inserting ''January 1, 2011''.

(g) PROHIBITION ON USE OF HIGHWAY ACCOUNT FOR RAIL PROJECTS.—Section 9503(c) (relating to transfers from Highway Trust Fund for certain repayments and credits) is amended by adding at the end the following new paragraph:

''(6) PROHIBITION ON USE OF HIGHWAY ACCOUNT FOR RAIL PROJECTS.—With respect to projects beginning after the date of the enactment of this paragraph, no amount shall be available from the Highway Account (as defined in subsection (e)(5)(B)) for any rail project.''.

(h) HIGHWAY TRUST FUND EXPENDITURES FOR HIGHWAY USE TAX EVASION PROJECTS.—From amounts available in the Highway Trust Fund, there is authorized to be expended such sums as are necessary for highway use tax evasion projects.

(i) EFFECTIVE DATE.—The amendments made by and provisions of this section shall take effect on the date of the enactment of this Act.

SEC. 5002. FULL ACCOUNTING OF FUNDS RECEIVED BY THE HIGHWAY TRUST FUND.

(a) IN GENERAL.—Section 9503(c) (relating to transfers from Highway Trust Fund for certain repayments and credits), as amended by section 5001 of this Act, is amended by striking paragraph (2) and redesignating paragraphs (3), (4), (5), and (6) as paragraphs (2), (3), (4), and (5), respectively.

(b) INTEREST ON UNEXPENDED BALANCES CREDITED TO TRUST FUND.—Section 9503 (relating to the Highway Trust Fund) is amended by striking subsection (f).

(c) CONFORMING AMENDMENTS.—

(1) Section 9503(b)(4)(D) is amended by striking ''paragraph (4)(D) or (5)(B)'' and inserting ''paragraph (3)(D) or (4)(B)''.

(2) Paragraph (2) of section 9503(c) (as redesignated by subsection (a)) is amended by adding at the end the following new sentence: ''The amounts payable from the Highway Trust Fund under this paragraph shall be determined by taking into account only the portion of the taxes which are deposited into the Highway Trust Fund.''.

(3) Section 9504(a)(2) is amended by striking ''section 9503(c)(4), section 9503(c)(5)'' and inserting ''section 9503(c)(3), section 9503(c)(4)''.

(4) Paragraph (2) of section 9504(b), as amended by section 5001 of this Act, is amended by striking ''section 9503(c)(5)'' and inserting ''section 9503(c)(4)''.

(5) Section 9504(e) is amended by striking ''section 9503(c)(4)'' and inserting ''section 9503(c)(3)''.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to amounts paid for which no transfer from the Highway Trust Fund has been made before April 1, 2004.

(2) INTEREST CREDITED.—The amendment made by subsection (b) shall take effect on the date of the enactment of this Act.

SEC. 5003. MODIFICATION OF ADJUSTMENTS OF APPORTIONMENTS.

(a) IN GENERAL.—Section 9503(d) (relating to adjustments for apportionments) is amended—

(1) by striking ''24-month'' in paragraph (1)(B) and inserting ''48-month'', and

(2) by striking ''2 YEARS''' in the heading for paragraph (3) and inserting ''4 YEARS'''.

(b) MEASUREMENT OF NET HIGHWAY RECEIPTS.—Section 9503(d) is amended by redesignating paragraph (6) as paragraph (7) and by inserting after paragraph (5) the following new paragraph:

''(6) MEASUREMENT OF NET HIGHWAY RECEIPTS.—For purposes of making any estimate under paragraph (1) of net highway receipts for periods ending after the date specified in subsection (b)(1), the Secretary shall treat—

''(A) each expiring provision of subsection (b) which is related to appropriations or transfers to the Highway Trust Fund to have been extended through the end of the 48-month period referred to in paragraph (1)(B), and

''(B) with respect to each tax imposed under the sections referred to in subsection (b)(1), the rate of such tax during the 48-month period referred to in paragraph (1)(B) to be the same as the rate of such tax as in effect on the date of such estimate.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

Subtitle B—Biodiesel Income Tax Credit

SEC. 5101. BIODIESEL INCOME TAX CREDIT.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by inserting after section 40 the following new section:

''SEC. 40A. BIODIESEL USED AS FUEL.

''(a) GENERAL RULE.—For purposes of section 38, the biodiesel fuels credit determined under this section for the taxable year is an amount equal to the sum of—

''(1) the biodiesel mixture credit, plus

''(2) the biodiesel credit.

''(b) DEFINITION OF BIODIESEL MIXTURE CREDIT AND BIODIESEL CREDIT.—For purposes of this section—

''(1) BIODIESEL MIXTURE CREDIT.—

''(A) IN GENERAL.—The biodiesel mixture credit of any taxpayer for any taxable year is 50 cents for each gallon of biodiesel used by the taxpayer in the production of a qualified biodiesel mixture.

''(B) QUALIFIED BIODIESEL MIXTURE.—The term 'qualified biodiesel mixture' means a mixture of biodiesel and diesel fuel (as defined in section 4083(a)(3)), determined without regard to any use of kerosene, which—

''(i) is sold by the taxpayer producing such mixture to any person for use as a fuel, or

''(ii) is used as a fuel by the taxpayer producing such mixture.

''(C) SALE OR USE MUST BE IN TRADE OR BUSINESS, ETC.—Biodiesel used in the production of a qualified biodiesel mixture shall be taken into account—

''(i) only if the sale or use described in subparagraph (B) is in a trade or business of the taxpayer, and

''(ii) for the taxable year in which such sale or use occurs.

''(D) CASUAL OFF-FARM PRODUCTION NOT ELIGIBLE.—No credit shall be allowed under this section with respect to any casual off-farm production of a qualified biodiesel mixture.

''(2) BIODIESEL CREDIT.—

''(A) IN GENERAL.—The biodiesel credit of any taxpayer for any taxable year is 50 cents

for each gallon of biodiesel which is not in a mixture with diesel fuel and which during the taxable year—

''(i) is used by the taxpayer as a fuel in a trade or business, or

''(ii) is sold by the taxpayer at retail to a person and placed in the fuel tank of such person's vehicle.

''(B) USER CREDIT NOT TO APPLY TO BIODIESEL SOLD AT RETAIL.—No credit shall be allowed under subparagraph (A)(i) with respect to any biodiesel which was sold in a retail sale described in subparagraph (A)(ii).

''(3) CREDIT FOR AGRI-BIODIESEL.—In the case of any biodiesel which is agri-biodiesel, paragraphs (1)(A) and (2)(A) shall be applied by substituting '$1.00' for '50 cents'.

''(4) CERTIFICATION FOR BIODIESEL.—No credit shall be allowed under this section unless the taxpayer obtains a certification (in such form and manner as prescribed by the Secretary) from the producer or importer of the biodiesel which identifies the product produced and the percentage of biodiesel and agri-biodiesel in the product.

''(c) COORDINATION WITH CREDIT AGAINST EXCISE TAX.—The amount of the credit determined under this section with respect to any biodiesel shall be properly reduced to take into account any benefit provided with respect to such biodiesel solely by reason of the application of section 6426 or 6427(e).

''(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) BIODIESEL.—The term 'biodiesel' means the monoalkyl esters of long chain fatty acids derived from plant or animal matter which meet—

''(A) the registration requirements for fuels and fuel additives established by the Environmental Protection Agency under section 211 of the Clean Air Act (42 U.S.C. 7545), and

''(B) the requirements of the American Society of Testing and Materials D6751.

''(2) AGRI-BIODIESEL.—The term 'agri-biodiesel' means biodiesel derived solely from virgin oils, including esters derived from virgin vegetable oils from corn, soybeans, sunflower seeds, cottonseeds, canola, crambe, rapeseeds, safflowers, flaxseeds, rice bran, and mustard seeds, and from animal fats.

''(3) MIXTURE OR BIODIESEL NOT USED AS A FUEL, ETC.—

''(A) MIXTURES.—If—

''(i) any credit was determined under this section with respect to biodiesel used in the production of any qualified biodiesel mixture, and

''(ii) any person—

''(I) separates the biodiesel from the mixture, or

''(II) without separation, uses the mixture other than as a fuel,

then there is hereby imposed on such person a tax equal to the product of the rate applicable under subsection (b)(1)(A) and the number of gallons of such biodiesel in such mixture.

''(B) BIODIESEL.—If—

''(i) any credit was determined under this section with respect to the retail sale of any biodiesel, and

''(ii) any person mixes such biodiesel or uses such biodiesel other than as a fuel,

then there is hereby imposed on such person a tax equal to the product of the rate applicable under subsection (b)(2)(A) and the number of gallons of such biodiesel.

''(C) APPLICABLE LAWS.—All provisions of law, including penalties, shall, insofar as applicable and not inconsistent with this section, apply in respect of any tax imposed under subparagraph (A) or (B) as if such tax were imposed by section 4081 and not by this chapter.

''(4) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

''(e) TERMINATION.—This section shall not apply to any sale or use after December 31, 2006.''.

(b) CREDIT TREATED AS PART OF GENERAL BUSINESS CREDIT.—Section 38(b) (relating to current year business credit) is amended by striking ''plus'' at the end of paragraph (14), by striking the period at the end of paragraph (15) and inserting '', plus'', and by adding at the end the following new paragraph:

''(16) the biodiesel fuels credit determined under section 40A(a).''.

(c) CONFORMING AMENDMENTS.—

(1) Section 39(d) is amended by adding at the end the following new paragraph:

''(11) NO CARRYBACK OF BIODIESEL FUELS CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the biodiesel fuels credit determined under section 40A may be carried back to a taxable year ending on or before September 30, 2004.''.

(2)(A) Section 87 is amended to read as follows:

''SEC. 87. ALCOHOL AND BIODIESEL FUELS CREDITS.

''Gross income includes—

''(1) the amount of the alcohol fuels credit determined with respect to the taxpayer for the taxable year under section 40(a), and

''(2) the biodiesel fuels credit determined with respect to the taxpayer for the taxable year under section 40A(a).''.

(B) The item relating to section 87 in the table of sections for part II of subchapter B of chapter 1 is amended by striking ''fuel credit'' and inserting ''and biodiesel fuels credits''.

(3) Section 196(c) is amended by striking ''and'' at the end of paragraph (9), by striking the period at the end of paragraph (10) and inserting '', and'', and by adding at the end the following new paragraph:

''(11) the biodiesel fuels credit determined under section 40A(a).''.

(4) The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding after the item relating to section 40 the following new item:

''Sec. 40A. Biodiesel used as fuel.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel produced, and sold or used, after September 30, 2004, in taxable years ending after such date.

Subtitle C—Fuel Fraud Prevention

SEC. 5200. SHORT TITLE.

This subtitle may be cited as the ''Fuel Fraud Prevention Act of 2004''.

PART I—AVIATION JET FUEL

SEC. 5211. TAXATION OF AVIATION-GRADE KEROSENE.

(a) RATE OF TAX.—

(1) IN GENERAL.—Subparagraph (A) of section 4081(a)(2) is amended by striking ''and'' at the end of clause (ii), by striking the period at the end of clause (iii) and inserting '', and'', and by adding at the end the following new clause:

''(iv) in the case of aviation-grade kerosene, 21.8 cents per gallon.''.

(2) COMMERCIAL AVIATION.—Paragraph (2) of section 4081(a) is amended by adding at the end the following new subparagraph:

''(C) TAXES IMPOSED ON FUEL USED IN COMMERCIAL AVIATION.—In the case of aviation-grade kerosene which is removed from any refinery or terminal directly into the fuel tank of an aircraft for use in commercial aviation, the rate of tax under subparagraph (A)(iv) shall be 4.3 cents per gallon.''.

(3) NONTAXABLE USES.—

(A) IN GENERAL.—Section 4082 is amended by redesignating subsections (e) and (f) as subsections (f) and (g), respectively, and by inserting after subsection (d) the following new subsection:

''(e) AVIATION-GRADE KEROSENE.—In the case of aviation-grade kerosene which is exempt from the tax imposed by section 4041(c) (other than by reason of a prior imposition of tax) and which is removed from any refinery or terminal directly into the fuel tank of an aircraft, the rate of tax under section 4081(a)(2)(A)(iv) shall be zero.''.

(B) CONFORMING AMENDMENTS.—

(i) Subsection (b) of section 4082 is amended by adding at the end the following new flush sentence: ''The term 'nontaxable use' does not include the use of aviation-grade kerosene in an aircraft.''.

(ii) Section 4082(d) is amended by striking paragraph (1) and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(4) NONAIRCRAFT USE OF AVIATION-GRADE KEROSENE.—

(A) IN GENERAL.—Subparagraph (B) of section 4041(a)(1) is amended by adding at the end the following new sentence: ''This subparagraph shall not apply to aviation-grade kerosene.''.

(B) CONFORMING AMENDMENT.—The heading for paragraph (1) of section 4041(a) is amended by inserting ''AND KEROSENE'' after ''DIESEL FUEL''.

(b) COMMERCIAL AVIATION.—Section 4083 is amended redesignating subsections (b) and (c) as subsections (c) and (d), respectively, and by inserting after subsection (a) the following new subsection:

''(b) COMMERCIAL AVIATION.—For purposes of this subpart, the term 'commercial aviation' means any use of an aircraft in a business of transporting persons or property for compensation or hire by air, unless properly allocable to any transportation exempt from the taxes imposed by section 4261 and 4271 by reason of section 4281 or 4282 or by reason of section 4261(h).''.

(c) REFUNDS.—

(1) IN GENERAL.—Paragraph (4) of section 6427(l) is amended to read as follows:

''(4) REFUNDS FOR AVIATION-GRADE KEROSENE.—

''(A) NO REFUND OF CERTAIN TAXES ON FUEL USED IN COMMERCIAL AVIATION.—In the case of aviation-grade kerosene used in commercial aviation (as defined in section 4083(b)) (other than supplies for vessels or aircraft within the meaning of section 4221(d)(3)), paragraph (1) shall not apply to so much of the tax imposed by section 4081 as is attributable to—

''(i) the Leaking Underground Storage Tank Trust Fund financing rate imposed by such section, and

''(ii) so much of the rate of tax specified in section 4081(a)(2)(A)(iv) as does not exceed 4.3 cents per gallon.

''(B) PAYMENT TO ULTIMATE, REGISTERED VENDOR.—With respect to aviation-grade kerosene, if the ultimate purchaser of such kerosene waives (at such time and in such form and manner as the Secretary shall prescribe) the right to payment under paragraph (1) and assigns such right to the ultimate vendor, then the Secretary shall pay the amount which would be paid under paragraph (1) to such ultimate vendor, but only if such ultimate vendor—

''(i) is registered under section 4101, and

''(ii) meets the requirements of subparagraph (A), (B), or (D) of section 6416(a)(1).''.

(2) TIME FOR FILING CLAIMS.—Paragraph (4) of section 6427(i) is amended by striking ''subsection (l)(5)'' and inserting ''paragraph (4)(B) or (5) of subsection (l)''.

(3) CONFORMING AMENDMENT.—Subparagraph (B) of section 6427(l)(2) is amended to read as follows:

''(B) in the case of aviation-grade kerosene—

''(i) any use which is exempt from the tax imposed by section 4041(c) other than by reason of a prior imposition of tax, or

''(ii) any use in commercial aviation (within the meaning of section 4083(b)).''.

(d) REPEAL OF PRIOR TAXATION OF AVIATION FUEL.—

(1) IN GENERAL.—Part III of subchapter A of chapter 32 is amended by striking subpart B and by redesignating subpart C as subpart B.

(2) CONFORMING AMENDMENTS.—

(A) Section 4041(c) is amended to read as follows:

''(c) AVIATION-GRADE KEROSENE.—

''(1) IN GENERAL.—There is hereby imposed a tax upon aviation-grade kerosene—

''(A) sold by any person to an owner, lessee, or other operator of an aircraft for use in such aircraft, or

''(B) used by any person in an aircraft unless there was a taxable sale of such fuel under subparagraph (A).

''(2) EXEMPTION FOR PREVIOUSLY TAXED FUEL.—No tax shall be imposed by this subsection on the sale or use of any aviation-grade kerosene if tax was imposed on such liquid under section 4081 and the tax thereon was not credited or refunded.

''(3) RATE OF TAX.—The rate of tax imposed by this subsection shall be the rate of tax specified in section 4081(a)(2)(A)(iv) which is in effect at the time of such sale or use.''.

(B) Section 4041(d)(2) is amended by striking ''section 4091'' and inserting ''section 4081''.

(C) Section 4041 is amended by striking subsection (e).

(D) Section 4041 is amended by striking subsection (i).

(E) Section 4041(m)(1) is amended to read as follows:

''(1) IN GENERAL.—In the case of the sale or use of any partially exempt methanol or ethanol fuel, the rate of the tax imposed by subsection (a)(2) shall be—

''(A) after September 30, 1997, and before September 30, 2009—

''(i) in the case of fuel none of the alcohol in which consists of ethanol, 9.15 cents per gallon, and

''(ii) in any other case, 11.3 cents per gallon, and

''(B) after September 30, 2009—

''(i) in the case of fuel none of the alcohol in which consists of ethanol, 2.15 cents per gallon, and

''(ii) in any other case, 4.3 cents per gallon.''.

(F) Sections 4101(a), 4103, 4221(a), and 6206 are each amended by striking '', 4081, or 4091'' and inserting ''or 4081''.

(G) Section 6416(b)(2) is amended by striking ''4091 or''.

(H) Section 6416(b)(3) is amended by striking ''or 4091'' each place it appears.

(I) Section 6416(d) is amended by striking ''or to the tax imposed by section 4091 in the case of refunds described in section 4091(d)''.

(J) Section 6427(j)(1) is amended by striking '', 4081, and 4091'' and inserting ''and 4081''.

(K)(i) Section 6427(l)(1) is amended to read as follows:

''(1) IN GENERAL.—Except as otherwise provided in this subsection and in subsection (k), if any diesel fuel or kerosene on which tax has been imposed by section 4041 or 4081 is used by any person in a nontaxable use, the Secretary shall pay (without interest) to the ultimate purchaser of such fuel an amount equal to the aggregate amount of tax imposed on such fuel under section 4041 or 4081, as the case may be, reduced by any refund paid to the ultimate vendor under paragraph (4)(B).''.

(ii) Paragraph (5)(B) of section 6427(l) is amended by striking ''Paragraph (1)(A) shall not apply to kerosene'' and inserting ''Paragraph (1) shall not apply to kerosene (other than aviation-grade kerosene)''.

(L) Subparagraph (B) of section 6724(d)(1) is amended by striking clause (xv) and by redesignating the succeeding clauses accordingly.

(M) Paragraph (2) of section 6724(d) is amended by striking subparagraph (W) and by redesignating the succeeding subparagraphs accordingly.

(N) Paragraph (1) of section 9502(b) is amended by adding ''and'' at the end of subparagraph (B) and by striking subparagraphs (C) and (D) and inserting the following new subparagraph:

''(C) section 4081 with respect to aviation gasoline and aviation-grade kerosene, and''.

(O) The last sentence of section 9502(b) is amended to read as follows:

''There shall not be taken into account under paragraph (1) so much of the taxes imposed by section 4081 as are determined at the rate specified in section 4081(a)(2)(B).''.

(P) Subsection (b) of section 9508 is amended by striking paragraph (3) and by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

(Q) Section 9508(c)(2)(A) is amended by striking ''sections 4081 and 4091'' and inserting ''section 4081''.

(R) The table of subparts for part III of subchapter A of chapter 32 is amended to read as follows:

''Subpart A. Motor and aviation fuels.

''Subpart B. Special provisions applicable to fuels tax.''.

(S) The heading for subpart A of part III of subchapter A of chapter 32 is amended to read as follows:

''Subpart A—Motor and Aviation Fuels''.

(T) The heading for subpart B of part III of subchapter A of chapter 32 is amended to read as follows:

''Subpart B—Special Provisions Applicable to Fuels Tax''.

(g) OTHER AMENDMENTS.—

(1) Section 4081(c) is amended by adding at the end the following new flush sentence:

''In the case of any taxable fuel which is aviation-grade keorsene, this subsection shall not apply and the rules of section 4091(c) (as in effect on the day before the date of the enactment of the Fuel Fraud Prevention Act of 2004) shall apply.''.

(2) For purposes of the Internal Revenue Code of 1986, any reference to section 4091(c) shall be treated as a reference to the rules of such section as in effect on the date before the date of the enactment of this Act.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to aviation-grade kerosene removed, entered, or sold after September 30, 2004.

(g) FLOOR STOCKS TAX.—

(1) IN GENERAL.—There is hereby imposed on aviation-grade kerosene held on October 1, 2004, by any person a tax equal to—

(A) the tax which would have been imposed before such date on such kerosene had the amendments made by this section been in effect at all times before such date, reduced by

(B) the tax imposed before such date under section 4091 of the Internal Revenue Code of 1986, as in effect on the day before the date of the enactment of this Act.

(2) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—The person holding the kerosene on October 1, 2004, to which the tax imposed by paragraph (1) applies shall be liable for such tax.

(B) METHOD AND TIME FOR PAYMENT.—The tax imposed by paragraph (1) shall be paid at such time and in such manner as the Secretary of the Treasury shall prescribe, including the nonapplication of such tax on de minimis amounts of kerosene.

(3) TRANSFER OF FLOOR STOCK TAX REVENUES TO TRUST FUNDS.—For purposes of determining the amount transferred to any trust fund, the tax imposed by this subsection shall be treated as imposed by section 4081 of the Internal Revenue Code of 1986—

(A) at the Leaking Underground Storage Tank Trust Fund financing rate under such section to the extent of 0.1 cents per gallon, and

(B) at the rate under section 4081(a)(2)(A)(iv) to the extent of the remainder.

(4) HELD BY A PERSON.—For purposes of this section, kerosene shall be considered as held by a person if title thereto has passed to such person (whether or not delivery to the person has been made).

(5) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the tax imposed by section 4081 of such Code shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply with respect to the floor stock tax imposed by paragraph (1) to the same extent as if such tax were imposed by such section.

SEC. 5212. TRANSFER OF CERTAIN AMOUNTS FROM THE AIRPORT AND AIRWAY TRUST FUND TO THE HIGHWAY TRUST FUND TO REFLECT HIGHWAY USE OF JET FUEL.

(a) IN GENERAL.—Section 9502(d) is amended by adding at the end the following new paragraph:

''(7) TRANSFERS FROM THE TRUST FUND TO THE HIGHWAY TRUST FUND TO REFLECT HIGHWAY USE OF JET FUEL.—

''(A) IN GENERAL.—The Secretary shall pay from the Airport and Airway Trust Fund into the Highway Trust Fund—

''(i) $395,000,000 in fiscal year 2005,

''(ii) $425,000,000 in fiscal year 2006,

''(iii) $429,000,000 in fiscal year 2007,

''(iv) $432,000,000 in fiscal year 2008, and

''(v) $435,000,000 in fiscal year 2009.

''(B) AMOUNTS TRANSFERRED TO MASS TRANSIT ACCOUNT.—The Secretary shall transfer 11 percent of the amounts paid into the Highway Trust Fund under subparagraph (A) to the Mass Transit Account established under section 9503(e).''.

(b) CONFORMING AMENDMENTS.—

(1) Subsection (a) of section 9503 is amended—

(A) by striking ''appropriated or credited'' and inserting ''paid, appropriated, or credited'', and

(B) by striking ''or section 9602(b)'' and inserting '', section 9502(d)(7), or section 9602(b)''.

(2) Subsection (e)(1) of section 9503 is amended by striking ''or section 9602(b)'' and inserting '', section 9502(d)(7), or section 9602(b)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

PART II—DYED FUEL

SEC. 5221. DYE INJECTION EQUIPMENT.

(a) IN GENERAL.—Section 4082(a)(2) (relating to exemptions for diesel fuel and kerosene) is amended by inserting ''by mechanical injection'' after ''indelibly dyed''.

(b) DYE INJECTOR SECURITY.—Not later than June 30, 2004, the Secretary of the Treasury shall issue regulations regarding mechanical dye injection systems described in the amendment made by subsection (a), and such regulations shall include standards for making such systems tamper resistant.

(c) PENALTY FOR TAMPERING WITH OR FAILING TO MAINTAIN SECURITY REQUIREMENTS FOR MECHANICAL DYE INJECTION SYSTEMS.—

(1) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by adding after section 6715 the following new section:

"SEC. 6715A. TAMPERING WITH OR FAILING TO MAINTAIN SECURITY REQUIREMENTS FOR MECHANICAL DYE INJECTION SYSTEMS.

''(a) IMPOSITION OF PENALTY—

''(1) TAMPERING.—If any person tampers with a mechanical dye injection system used to indelibly dye fuel for purposes of section 4082, then such person shall pay a penalty in addition to the tax (if any).

''(2) FAILURE TO MAINTAIN SECURITY REQUIREMENTS.—If any operator of a mechanical dye injection system used to indelibly dye fuel for purposes of section 4082 fails to maintain the security standards for such system as established by the Secretary, then such operator shall pay a penalty.

''(b) AMOUNT OF PENALTY.—The amount of the penalty under subsection (a) shall be—

''(1) for each violation described in paragraph (1), the greater of—

''(A) $25,000, or

''(B) $10 for each gallon of fuel involved, and

''(2) for each—

''(A) failure to maintain security standards described in paragraph (2), $1,000, and

''(B) failure to correct a violation described in paragraph (2), $1,000 per day for each day after which such violation was discovered or such person should have reasonably known of such violation.

''(c) JOINT AND SEVERAL LIABILITY.—

''(1) IN GENERAL.—If a penalty is imposed under this section on any business entity, each officer, employee, or agent of such entity or other contracting party who willfully participated in any act giving rise to such penalty shall be jointly and severally liable with such entity for such penalty.

''(2) AFFILIATED GROUPS.—If a business entity described in paragraph (1) is part of an affiliated group (as defined in section 1504(a)), the parent corporation of such entity shall be jointly and severally liable with such entity for the penalty imposed under this section.''.

(2) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by adding after the item related to section 6715 the following new item:

''Sec. 6715A. Tampering with or failing to maintain security requirements for mechanical dye injection systems.''.

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (c) shall take effect 180 days after the date on which the Secretary issues the regulations described in subsection (b).

SEC. 5222. ELIMINATION OF ADMINISTRATIVE REVIEW FOR TAXABLE USE OF DYED FUEL.

(a) IN GENERAL.—Section 6715 is amended by inserting at the end the following new subsection:

''(e) NO ADMINISTRATIVE APPEAL FOR THIRD AND SUBSEQUENT VIOLATIONS.—In the case of any person who is found to be subject to the penalty under this section after a chemical analysis of such fuel and who has been penalized under this section at least twice after the date of the enactment of this subsection, no administrative appeal or review shall be allowed with respect to such finding except in the case of a claim regarding—

''(1) fraud or mistake in the chemical analysis, or

''(2) mathematical calculation of the amount of the penalty.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to penalties assessed after the date of the enactment of this Act.

SEC. 5223. PENALTY ON UNTAXED CHEMICALLY ALTERED DYED FUEL MIXTURES.

(a) IN GENERAL.—Section 6715(a) (relating to dyed fuel sold for use or used in taxable use, etc.) is amended by striking ''or'' in paragraph (2), by inserting ''or'' at the end of paragraph (3), and by inserting after paragraph (3) the following new paragraph:

''(4) any person who has knowledge that a dyed fuel which has been altered as described in paragraph (3) sells or holds for sale such fuel for any use which the person knows or has reason to know is not a nontaxable use of such fuel,''.

(b) CONFORMING AMENDMENT.—Section 6715(a)(3) is amended by striking ''alters, or attempts to alter,'' and inserting ''alters, chemically or otherwise, or attempts to so alter,''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 5224. TERMINATION OF DYED DIESEL USE BY INTERCITY BUSES.

(a) IN GENERAL.—Paragraph (3) of section 4082(b) (relating to nontaxable use) is amended to read as follows:

''(3) any use described in section 4041(a)(1)(C)(iii)(II).''.

(b) ULTIMATE VENDOR REFUND.—Subsection (b) of section 6427 is amended by adding at the end the following new paragraph:

''(4) REFUNDS FOR USE OF DIESEL FUEL IN CERTAIN INTERCITY BUSES.—

''(A) IN GENERAL.—With respect to any fuel to which paragraph (2)(A) applies, if the ultimate purchaser of such fuel waives (at such time and in such form and manner as the Secretary shall prescribe) the right to payment under paragraph (1) and assigns such right to the ultimate vendor, then the Secretary shall pay the amount which would be paid under paragraph (1) to such ultimate vendor, but only if such ultimate vendor—

''(i) is registered under section 4101, and

''(ii) meets the requirements of subparagraph (A), (B), or (D) of section 6416(a)(1).

''(B) CREDIT CARDS.—For purposes of this paragraph, if the sale of such fuel is made by means of a credit card, the person extending credit to the ultimate purchaser shall be deemed to be the ultimate vendor.''.

(c) PAYMENT OF REFUNDS.—Subparagraph (A) of section 6427(i)(4), as amended by section 5211 of this Act, is amended by inserting ''subsections (b)(4) and'' after ''filed under''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel sold after September 30, 2004.

PART III—MODIFICATION OF INSPECTION OF RECORDS PROVISIONS

SEC. 5231. AUTHORITY TO INSPECT ON-SITE RECORDS.

(a) IN GENERAL.—Section 4083(d)(1)(A) (relating to administrative authority), as amended by section 5211 of this Act, is amended by striking ''and'' at the end of clause (i) and by inserting after clause (ii) the following new clause:

''(iii) inspecting any books and records and any shipping papers pertaining to such fuel, and''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 5232. ASSESSABLE PENALTY FOR REFUSAL OF ENTRY.

(a) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties), as amended by section 5221 of this Act, is amended by adding at the end the following new section:

"SEC. 6717. REFUSAL OF ENTRY.

''(a) IN GENERAL.—In addition to any other penalty provided by law, any person who refuses to admit entry or refuses to permit any other action by the Secretary authorized by section 4083(d)(1) shall pay a penalty of $1,000 for such refusal.

''(b) JOINT AND SEVERAL LIABILITY.—

''(1) IN GENERAL.—If a penalty is imposed under this section on any business entity, each officer, employee, or agent of such entity or other contracting party who willfully participated in any act giving rise to such penalty shall be jointly and severally liable with such entity for such penalty.

''(2) AFFILIATED GROUPS.—If a business entity described in paragraph (1) is part of an affiliated group (as defined in section 1504(a)), the parent corporation of such entity shall be jointly and severally liable with such entity for the penalty imposed under this section.

''(c) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 4083(d)(3), as amended by section 5211 of this Act, is amended—

(A) by striking ''ENTRY.—The penalty'' and inserting: ''ENTRY.—

''(A) FORFEITURE.—The penalty'', and

(B) by adding at the end the following new subparagraph:

''(B) ASSESSABLE PENALTY.—For additional assessable penalty for the refusal to admit entry or other refusal to permit an action by the Secretary authorized by paragraph (1), see section 6717.''.

(2) The table of sections for part I of subchapter B of chapter 68, as amended by section 5221 of this Act, is amended by adding at the end the following new item:

''Sec. 6717. Refusal of entry.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

PART IV—REGISTRATION AND REPORTING REQUIREMENTS

SEC. 5241. REGISTRATION OF PIPELINE OR VESSEL OPERATORS REQUIRED FOR EXEMPTION OF BULK TRANSFERS TO REGISTERED TERMINALS OR REFINERIES.

(a) IN GENERAL.—Section 4081(a)(1)(B) (relating to exemption for bulk transfers to registered terminals or refineries) is amended—

(1) by inserting ''by pipeline or vessel'' after ''transferred in bulk'', and

(2) by inserting '', the operator of such pipeline or vessel,'' after ''the taxable fuel''.

(b) CIVIL PENALTY FOR CARRYING TAXABLE FUELS BY NONREGISTERED PIPELINES OR VESSELS.—

(1) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties), as amended by section 5232 of this Act, is amended by adding at the end the following new section:

"SEC. 6718. CARRYING TAXABLE FUELS BY NONREGISTERED PIPELINES OR VESSELS.

''(a) IMPOSITION OF PENALTY.—If any person knowingly transfers any taxable fuel (as defined in section 4083(a)(1)) in bulk pursuant to section 4081(a)(1)(B) to an unregistered, such person shall pay a penalty in addition to the tax (if any).

''(b) AMOUNT OF PENALTY.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the amount of the penalty under subsection (a) on each act shall be an amount equal to the greater of—

''(A) $10,000, or

''(B) $1 per gallon.

''(2) MULTIPLE VIOLATIONS.—In determining the penalty under subsection (a) on any person, paragraph (1) shall be applied by increasing the amount in paragraph (1) by the product of such amount and the number of prior penalties (if any) imposed by this section on such person (or a related person or

any predecessor of such person or related person).

''(c) JOINT AND SEVERAL LIABILITY.—

''(1) IN GENERAL.—If a penalty is imposed under this section on any business entity, each officer, employee, or agent of such entity or other contracting party who willfully participated in any act giving rise to such penalty shall be jointly and severally liable with such entity for such penalty.

''(2) AFFILIATED GROUPS.—If a business entity described in paragraph (1) is part of an affiliated group (as defined in section 1504(a)), the parent corporation of such entity shall be jointly and severally liable with such entity for the penalty imposed under this section.

''(d) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.''.

(2) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68, as amended by section 5232 of this Act, is amended by adding at the end the following new item:

''Sec. 6718. Carrying taxable fuels by nonregistered pipelines or vessels.''.

(c) PUBLICATION OF REGISTERED PERSONS.—Not later than June 30, 2004, the Secretary of the Treasury shall publish a list of persons required to be registered under section 4101 of the Internal Revenue Code of 1986.

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on October 1, 2004.

SEC. 5242. DISPLAY OF REGISTRATION.

(a) IN GENERAL.—Subsection (a) of section 4101 (relating to registration) is amended—

(1) by striking ''Every'' and inserting the following:

''(1) IN GENERAL.—Every'', and

(2) by adding at the end the following new paragraph:

''(2) DISPLAY OF REGISTRATION.—Every operator of a vessel required by the Secretary to register under this section shall display proof of registration through an electronic identification device prescribed by the Secretary on each vessel used by such operator to transport any taxable fuel.''.

(b) CIVIL PENALTY FOR FAILURE TO DISPLAY REGISTRATION.—

(1) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties), as amended by section 5241 of this Act, is amended by adding at the end the following new section:

''SEC. 6719. FAILURE TO DISPLAY REGISTRATION OF VESSEL.

''(a) FAILURE TO DISPLAY REGISTRATION.—Every operator of a vessel who fails to display proof of registration pursuant to section 4101(a)(2) shall pay a penalty of $500 for each such failure. With respect to any vessel, only one penalty shall be imposed by this section during any calendar month.

''(b) MULTIPLE VIOLATIONS.—In determining the penalty under subsection (a) on any person, subsection (a) shall be applied by increasing the amount in subsection (a) by the product of such amount and the number of prior penalties (if any) imposed by this section on such person (or a related person or any predecessor of such person or related person).

''(c) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.''.

(2) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68, as amended by section 5241 of this Act, is amended by adding at the end the following new item:

''Sec. 6719. Failure to display registration of vessel.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

SEC. 5243. REGISTRATION OF PERSONS WITHIN FOREIGN TRADE ZONES, ETC..

(a) IN GENERAL.—Section 4101(a), as amended by section 5242 of this Act, is amended by redesignating paragraph (2) as paragraph (3), and by inserting after paragraph (1) the following new paragraph:

''(2) REGISTRATION OF PERSONS WITHIN FOREIGN TRADE ZONES, ETC..—The Secretary shall require registration by any person which—

''(A) operates a terminal or refinery within a foreign trade zone or within a customs bonded storage facility, or

''(B) holds an inventory position with respect to a taxable fuel in such a terminal.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

SEC. 5244. PENALTIES FOR FAILURE TO REGISTER AND FAILURE TO REPORT.

(a) INCREASED PENALTY.—Subsection (a) of section 7272 (relating to penalty for failure to register) is amended by inserting ''($10,000 in the case of a failure to register under section 4101)'' after ''$50''.

(b) INCREASED CRIMINAL PENALTY.—Section 7232 (relating to failure to register under section 4101, false representations of registration status, etc.) is amended by striking ''$5,000'' and inserting ''$10,000''.

(c) ASSESSABLE PENALTY FOR FAILURE TO REGISTER.—

(1) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties), as amended by section 5242 of this Act, is amended by adding at the end the following new section:

''SEC. 6720. FAILURE TO REGISTER.

''(a) FAILURE TO REGISTER.—Every person who is required to register under section 4101 and fails to do so shall pay a penalty in addition to the tax (if any).

''(b) AMOUNT OF PENALTY.—The amount of the penalty under subsection (a) shall be—

''(1) $10,000 for each initial failure to register, and

''(2) $1,000 for each day thereafter such person fails to register.

''(c) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.''.

(2) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68, as amended by section 5242 of this Act, is amended by adding at the end the following new item:

''Sec. 6720. Failure to register.''.

(d) ASSESSABLE PENALTY FOR FAILURE TO REPORT.—

(1) IN GENERAL.—Part II of subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end the following new section:

''SEC. 6725. FAILURE TO REPORT INFORMATION UNDER SECTION 4101.

''(a) IN GENERAL.—In the case of each failure described in subsection (b) by any person with respect to a vessel or facility, such person shall pay a penalty of $10,000 in addition to the tax (if any).

''(b) FAILURES SUBJECT TO PENALTY.—For purposes of subsection (a), the failures described in this subsection are—

''(1) any failure to make a report under section 4101(d) on or before the date prescribed therefor, and

''(2) any failure to include all of the information required to be shown on such report or the inclusion of incorrect information.

''(c) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.''.

(2) CLERICAL AMENDMENT.—The table of sections for part II of subchapter B of chapter 68 is amended by adding at the end the following new item:

''Sec. 6725. Failure to report information under section 4101.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to failures pending or occurring after September 30, 2004.

SEC. 5245. INFORMATION REPORTING FOR PERSONS CLAIMING CERTAIN TAX BENEFITS.

(a) IN GENERAL.—Subpart C of part III of subchapter A of chapter 32 is amended by adding at the end the following new section:

''SEC. 4104. INFORMATION REPORTING FOR PERSONS CLAIMING CERTAIN TAX BENEFITS.

''(a) IN GENERAL.—The Secretary shall require any person claiming tax benefits—

''(1) under the provisions of section 34, 40, and 40A to file a return at the time such person claims such benefits (in such manner as the Secretary may prescribe), and

''(2) under the provisions of section 4041(b)(2), 6426, or 6427(e) to file a monthly return (in such manner as the Secretary may prescribe).

''(b) CONTENTS OF RETURN.—Any return filed under this section shall provide such information relating to such benefits and the coordination of such benefits as the Secretary may require to ensure the proper administration and use of such benefits.

''(c) ENFORCEMENT.—With respect to any person described in subsection (a) and subject to registration requirements under this title, rules similar to rules of section 4222(c) shall apply with respect to any requirement under this section.''.

(b) CONFORMING AMENDMENT.—The table of sections for subpart C of part III of subchapter A of chapter 32 is amended by adding at the end the following new item:

''Sec. 4104. Information reporting for persons claiming certain tax benefits.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

PART V—IMPORTS

SEC. 5251. TAX AT POINT OF ENTRY WHERE IMPORTER NOT REGISTERED.

(a) TAX AT POINT OF ENTRY WHERE IMPORTER NOT REGISTERED.—

(1) IN GENERAL.—Subpart C of part III of subchapter A of chapter 31, as amended by section 5245 of this Act, is amended by adding at the end the following new section:

''SEC. 4105. TAX AT ENTRY WHERE IMPORTER NOT REGISTERED.

''(a) IN GENERAL.—Any tax imposed under this part on any person not registered under section 4101 for the entry of a fuel into the United States shall be imposed at the time and point of entry.

''(b) ENFORCEMENT OF ASSESSMENT.—If any person liable for any tax described under subsection (a) has not paid the tax or posted a bond, the Secretary may—

''(1) seize the fuel on which the tax is due, or

''(2) detain any vehicle transporting such fuel,

until such tax is paid or such bond is filed.

''(c) LEVY OF FUEL.—If no tax has been paid or no bond has been filed within 5 days from the date the Secretary seized fuel pursuant to subsection (b), the Secretary may sell such fuel as provided under section 6336.''.

(2) CONFORMING AMENDMENT.—The table of sections for subpart C of part III of subchapter A of chapter 31 of the Internal Revenue Code of 1986, as amended by section 5245 of this Act, is amended by adding after the last item the following new item:

''Sec. 4105. Tax at entry where importer not registered.''.

(b) DENIAL OF ENTRY WHERE TAX NOT PAID.—The Secretary of Homeland Security is authorized to deny entry into the United States of any shipment of a fuel which is taxable under section 4081 of the Internal Revenue Code of 1986 if the person entering such shipment fails to pay the tax imposed under such section or post a bond in accordance with the provisions of section 4105 of such Code.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 5252. RECONCILIATION OF ON-LOADED CARGO TO ENTERED CARGO.

(a) IN GENERAL.—Subsection (a) of section 343 of the Trade Act of 2002 is amended by inserting at the end the following new paragraph:

''(4) IN GENERAL.—Subject to paragraphs (2) and (3), not later than 1 year after the enactment of this paragraph, the Secretary of Homeland Security, together with the Secretary of the Treasury, shall promulgate regulations providing for the transmission to the Internal Revenue Service, through an electronic data interchange system, of information pertaining to cargo of taxable fuels (as defined in section 4083 of the Internal Revenue Code of 1986) destined for importation into the United States prior to such importation.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

PART VI—MISCELLANEOUS PROVISIONS

SEC. 5261. TAX ON SALE OF DIESEL FUEL WHETHER SUITABLE FOR USE OR NOT IN A DIESEL-POWERED VEHICLE OR TRAIN.

(a) IN GENERAL.—Section 4083(a)(3) is amended—

(1) by striking ''The term'' and inserting the following:

''(A) IN GENERAL.—The term'', and

(2) by inserting at the end the following new subparagraph:

''(B) LIQUID SOLD AS DIESEL FUEL.—The term 'diesel fuel' includes any liquid which is sold as or offered for sale as a fuel in a diesel-powered highway vehicle or a diesel-powered train.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 5262. MODIFICATION OF ULTIMATE VENDOR REFUND CLAIMS WITH RESPECT TO FARMING.

(a) IN GENERAL.—

(1) REFUNDS.—Section 6427(l) is amended by adding at the end the following new paragraph:

''(6) REGISTERED VENDORS PERMITTED TO ADMINISTER CERTAIN CLAIMS FOR REFUND OF DIESEL FUEL AND KEROSENE SOLD TO FARMERS.—

''(A) IN GENERAL.—In the case of diesel fuel or kerosene used on a farm for farming purposes (within the meaning of section 6420(c)), paragraph (1) shall not apply to the aggregate amount of such diesel fuel or kerosene if such amount does not exceed 500 gallons (as determined under subsection (i)(5)(A)(iii)).

''(B) PAYMENT TO ULTIMATE VENDOR.—The amount which would (but for subparagraph (A)) have been paid under paragraph (1) with respect to any fuel shall be paid to the ultimate vendor of such fuel, if such vendor—

''(i) is registered under section 4101, and

''(ii) meets the requirements of subparagraph (A), (B), or (D) of section 6416(a)(1).''.

(2) FILING OF CLAIMS.—Section 6427(i) is amended by inserting at the end the following new paragraph:

''(5) SPECIAL RULE FOR VENDOR REFUNDS WITH RESPECT TO FARMERS.—

''(A) IN GENERAL.—A claim may be filed under subsection (l)(6) by any person with respect to fuel sold by such person for any period—

''(i) for which $200 or more ($100 or more in the case of kerosene) is payable under subsection (l)(6),

''(ii) which is not less than 1 week, and

''(iii) which is for not more than 500 gallons for each farmer for which there is a claim.

Notwithstanding subsection (l)(1), paragraph (3)(B) shall apply to claims filed under the preceding sentence.

''(B) TIME FOR FILING CLAIM.—No claim filed under this paragraph shall be allowed unless filed on or before the last day of the first quarter following the earliest quarter included in the claim.''.

(3) CONFORMING AMENDMENTS.—

(A) Section 6427(l)(5)(A) is amended to read as follows:

''(A) IN GENERAL.—Paragraph (1) shall not apply to diesel fuel or kerosene used by a State or local government.''.

(B) The heading for section 6427(l)(5) is amended by striking ''FARMERS AND''.

(b) Section 6427(i)(3) is amended—

(1) by adding at the end of subparagraph (A) the following new flush sentence:

''In the case of an electronic claim, this subparagraph shall be applied without regard to clause (i).'', and

(2) by striking ''20 days of the date of the filing of such claim'' in subparagraph (B) and inserting ''45 days of the date of the filing of such claim (20 days in the case of an electronic claim)'', and

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to fuels sold for nontaxable use after the date of the enactment of this Act.

SEC. 5263. TAXABLE FUEL REFUNDS FOR CERTAIN ULTIMATE VENDORS.

(a) IN GENERAL.—Paragraph (4) of section 6416(a) (relating to abatements, credits, and refunds) is amended to read as follows:

''(4) REGISTERED ULTIMATE VENDOR TO ADMINISTER CREDITS AND REFUNDS OF GASOLINE TAX.—

''(A) IN GENERAL.—For purposes of this subsection, if an ultimate vendor purchases any gasoline on which tax imposed by section 4081 has been paid and sells such gasoline to an ultimate purchaser described in subparagraph (C) or (D) of subsection (b)(2) (and such gasoline is for a use described in such subparagraph), such ultimate vendor shall be treated as the person (and the only person) who paid such tax, but only if such ultimate vendor is registered under section 4101. For purposes of this subparagraph, if the sale of gasoline is made by means of a credit card, the person extending the credit to the ultimate purchaser shall be deemed to be the ultimate vendor.

''(B) TIMING OF CLAIMS.—The procedure and timing of any claim under subparagraph (A) shall be the same as for claims under section 6427(i)(4), except that the rules of section 6427(i)(3)(B) regarding electronic claims shall not apply unless the ultimate vendor has certified to the Secretary for the most recent quarter of the taxable year that all ultimate purchasers of the vendor are certified and entitled to a refund under subparagraph (C) or (D) of subsection (b)(2).''.

(b) CREDIT CARD PURCHASES OF DIESEL FUEL OR KEROSENE BY STATE AND LOCAL GOVERNMENTS.—Section 6427(l)(5)(C) (relating to nontaxable uses of diesel fuel, kerosene, and aviation fuel), as amended by section 5252 of this Act, is amended by adding at the end the following new sentence: ''For purposes of this subparagraph, if the sale of diesel fuel or kerosene is made by means of a credit card, the person extending the credit to the ultimate purchaser shall be deemed to be the ultimate vendor.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

SEC. 5264. TWO-PARTY EXCHANGES.

(a) IN GENERAL.—Subpart C of part III of subchapter A of chapter 32, as amended by section 5251 of this Act, is amended by adding at the end the following new section:

''SEC. 4106. TWO-PARTY EXCHANGES.

''(a) IN GENERAL.—In a two-party exchange, the delivering person shall not be liable for the tax imposed under of section 4081(a)(1)(A)(ii).

''(b) TWO-PARTY EXCHANGE.—The term 'two-party exchange' means a transaction, other than a sale, in which taxable fuel is transferred from a delivering person registered under section 4101 as a taxable fuel registrant to a receiving person who is so registered where all of the following occur:

''(1) The transaction includes a transfer from the delivering person, who holds the inventory position for taxable fuel in the terminal as reflected in the records of the terminal operator.

''(2) The exchange transaction occurs before or contemporaneous with completion of removal across the rack from the terminal by the receiving person.

''(3) The terminal operator in its books and records treats the receiving person as the person that removes the product across the terminal rack for purposes of reporting the transaction to the Secretary.

''(4) The transaction is the subject of a written contract.''.

(b) CONFORMING AMENDMENT.—The table of sections for subpart C of part III of subchapter A of chapter 32, as amended by section 5251 of this Act, is amended by adding after the last item the following new item:

''Sec. 4106. Two-party exchanges.''.

(c) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 5265. MODIFICATIONS OF TAX ON USE OF CERTAIN VEHICLES.

(a) NO PRORATION OF TAX UNLESS VEHICLE IS DESTROYED OR STOLEN.—

(1) IN GENERAL.—Section 4481(c) (relating to proration of tax) is amended to read as follows:

''(c) PRORATION OF TAX WHERE VEHICLE SOLD, DESTROYED, OR STOLEN.—

''(1) IN GENERAL.—If in any taxable period a highway motor vehicle is sold, destroyed, or stolen before the first day of the last month in such period and not subsequently used during such taxable period, the tax shall be reckoned proportionately from the first day of the month in such period in which the first use of such highway motor vehicle occurs to and including the last day of the month in which such highway motor vehicle was sold, destroyed, or stolen.

''(2) DESTROYED.—For purposes of paragraph (1), a highway motor vehicle is destroyed if such vehicle is damaged by reason of an accident or other casualty to such an extent that it is not economic to rebuild.''.

(2) CONFORMING AMENDMENTS.—

(A) Section 6156 (relating to installment payment of tax on use of highway motor vehicles) is repealed.

(B) The table of sections for subchapter A of chapter 62 is amended by striking the item relating to section 6156.

(b) DISPLAY OF TAX CERTIFICATE.—Paragraph (2) of section 4481(d) (relating to one tax liability for period) is amended to read as follows:

''(2) DISPLAY OF TAX CERTIFICATE.—Every taxpayer which pays the tax imposed under this section with respect to a highway motor

vehicle shall, not later than 1 month after the due date of the return of tax with respect to each taxable period, receive and display on such vehicle an electronic identification device prescribed by the Secretary.''.

(c) ELECTRONIC FILING.—Section 4481, as amended by section 5001 of this Act, is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

''(e) ELECTRONIC FILING.—Any taxpayer who files a return under this section with respect to 25 or more vehicles for any taxable period shall file such return electronically.''.

(d) REPEAL OF REDUCTION IN TAX FOR CERTAIN TRUCKS.—Section 4483 of the Internal Revenue Code of 1986 is amended by striking subsection (f).

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable periods beginning after the date of the enactment of this Act.

(2) SUBSECTION (b).—The amendment made by subsection (b) shall take effect on October 1, 2005.

SEC. 5266. DEDICATION OF REVENUES FROM CERTAIN PENALTIES TO THE HIGHWAY TRUST FUND.

(a) IN GENERAL.—Subsection (b) of section 9503 (relating to transfer to Highway Trust Fund of amounts equivalent to certain taxes), as amended by section 5001 of this Act, is amended by redesignating paragraph (5) as paragraph (6) and inserting after paragraph (4) the following new paragraph:

''(5) CERTAIN PENALTIES.—There are hereby appropriated to the Highway Trust Fund amounts equivalent to the penalties assessed under sections 6715, 6715A, 6717, 6718, 6719, 6720, 6725, 7232, and 7272 (but only with regard to penalties under such section related to failure to register under section 4101).''.

(b) CONFORMING AMENDMENTS.—

(1) The heading of subsection (b) of section 9503 is amended by inserting ''AND PENALTIES'' after ''TAXES''.

(2) The heading of paragraph (1) of section 9503(b) is amended by striking ''IN GENERAL'' and inserting ''CERTAIN TAXES''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to penalties assessed after October 1, 2004.

SEC. 5267. NONAPPLICATION OF EXPORT EXEMPTION TO DELIVERY OF FUEL TO MOTOR VEHICLES REMOVED FROM UNITED STATES.

(a) IN GENERAL.—Section 4221(d)(2) (defining export) is amended by adding at the end the following new sentence: ''Such term does not include the delivery of a taxable fuel (as defined in section 4083(a)(1)) into a fuel tank of a motor vehicle which is shipped or driven out of the United States.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 4041(g) (relating to other exemptions) is amended by adding at the end the following new sentence: ''Paragraph (3) shall not apply to the sale for delivery of a liquid into a fuel tank of a motor vehicle which is shipped or driven out of the United States.''.

(2) Clause (iv) of section 4081(a)(1)(A) (relating to tax on removal, entry, or sale) is amended by inserting ''or at a duty-free sales enterprise (as defined in section 555(b)(8) of the Tariff Act of 1930)'' after ''section 4101''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales or deliveries made after the date of the enactment of this Act.

PART VII—TOTAL ACCOUNTABILITY

SEC. 5271. TOTAL ACCOUNTABILITY.

(a) TAXATION OF REPORTABLE LIQUIDS.—

(1) IN GENERAL.—Section 4081(a), as amended by this Act, is amended—

(A) by inserting ''or reportable liquid'' after ''taxable fuel'' each place it appears, and

(B) by inserting ''such liquid'' after ''such fuel'' in paragraph (1)(A)(iv).

(2) RATE OF TAX.—Subparagraph (A) of section 4081(a)(2), as amended by section 5211 of this Act, is amended by striking ''and'' at the end of clause (iii), by striking the period at the end of clause (iv) and inserting '', and'', and by adding at the end the following new clause:

''(v) in the case of reportable liquids, the rate determined under section 4083(c)(2).''.

(3) EXEMPTION.—Section 4081(a)(1) is amended by adding at the end the following new subparagraph:

''(C) EXEMPTION FOR REGISTERED TRANSFERS OF REPORTABLE LIQUIDS.—The tax imposed by this paragraph shall not apply to any removal, entry, or sale of a reportable liquid if—

''(i) such removal, entry, or sale is to a registered person who certifies that such liquid will not be used as a fuel or in the production of a fuel, or

''(ii) the sale is to the ultimate purchaser of such liquid.''.

(4) REPORTABLE LIQUIDS.—Section 4083, as amended by this Act, is amended by redesignating subsections (c) and (d) (as redesignated by section 5211 of this Act) as subsections (d) and (e), respectively, and by inserting after subsection (b) the following new section:

''(c) REPORTABLE LIQUID.—For purposes of this subpart—

''(1) IN GENERAL.—The term 'reportable liquid' means any petroleum-based liquid other than a taxable fuel.

''(2) TAXATION.—

''(A) GASOLINE BLEND STOCKS AND ADDITIVES.—Gasoline blend stocks and additives which are reportable liquids (as defined in paragraph (1)) shall be subject to the rate of tax under clause (i) of section 4081(a)(2)(A).

''(B) OTHER REPORTABLE LIQUIDS.—Any reportable liquid (as defined in paragraph (1)) not described in subparagraph (A) shall be subject to the rate of tax under clause (iii) of section 4081(a)(2)(A).''.

(5) CONFORMING AMENDMENTS.—

(A) Section 4081(e) is amended by inserting ''or reportable liquid'' after ''taxable fuel''.

(B) Section 4083(d) (relating to certain use defined as removal), as redesignated by paragraph (4), is amended by inserting ''or reportable liquid'' after ''taxable fuel''.

(C) Section 4083(e)(1) (relating to administrative authority), as redesignated by paragraph (4), is amended—

(i) in subparagraph (A)—

(I) by inserting ''or reportable liquid'' after ''taxable fuel'', and

(II) by inserting ''or such liquid'' after ''such fuel'' each place it appears, and

(ii) in subparagraph (B), by inserting ''or any reportable liquid'' after ''any taxable fuel''.

(D) Section 4101(a)(2), as added by section 5243 of this Act, is amended by inserting ''or a reportable liquid'' after ''taxable fuel''.

(E) Section 4101(a)(3), as added by section 5242 of this Act and redesignated by section 5243 of this Act, is amended by inserting ''or any reportable liquid'' before the period at the end.

(F) Section 4102 is amended by inserting ''or any reportable liquid'' before the period at the end.

(G)(i) Section 6718, as added by section 5241 of this Act, is amended—

(I) in subsection (a), by inserting ''or any reportable liquid (as defined in section 4083(c)(1))'' after '' section 4083(a)(1))'', and

(II) in the heading, by inserting ''or reportable liquids'' after ''taxable fuel''.

(ii) The item relating to section 6718 in table of sections for part I of subchapter B of chapter 68, as added by section 5241 of this Act, is amended by inserting ''or reportable liquids'' after ''taxable fuels''.

(H) Section 6427(h) is amended to read as follows:

''(h) GASOLINE BLEND STOCKS OR ADDITIVES AND REPORTABLE LIQUIDS.—Except as provided in subsection (k)—

''(1) if any gasoline blend stock or additive (within the meaning of section 4083(a)(2)) is not used by any person to produce gasoline and such person establishes that the ultimate use of such gasoline blend stock or additive is not to produce gasoline, or

''(2) if any reportable liquid (within the meaning of section 4083(c)(1)) is not used by any person to produce a taxable fuel and such person establishes that the ultimate use of such reportable liquid is not to produce a taxable fuel,

then the Secretary shall pay (without interest) to such person an amount equal to the aggregate amount of the tax imposed on such person with respect to such gasoline blend stock or additive or such reportable fuel.''.

(I) Section 7232, as amended by this Act, is amended by inserting ''or reportable liquid (within the meaning of section 4083(c)(1))'' after ''section 4083)''.

(J) Section 343 of the Trade Act of 2002, as amended by section 5252 of this Act, is amended by inserting ''and reportable liquids (as defined in section 4083(c)(1) of such Code)'' after ''Internal Revenue Code of 1986)''.

(b) DYED DIESEL.—Section 4082(a) is amended by striking ''and'' at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting ''and'', and by inserting after paragraph (3) the following new paragraph:

''(4) which is removed, entered, or sold by a person registered under section 4101.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to reportable liquids (as defined in section 4083(c) of the Internal Revenue Code) and fuel sold or used after September 30, 2004.

SEC. 5272. EXCISE TAX REPORTING.

(a) IN GENERAL.—Part II of subchapter A of chapter 61 is amended by adding at the end the following new subpart:

''SUBPART E—EXCISE TAX REPORTING

''SEC. 6025. RETURNS RELATING TO FUEL TAXES.

''(a) IN GENERAL.—The Secretary shall require any person liable for the tax imposed under Part III of subchapter A of chapter 32 to file a return of such tax on a monthly basis.

''(b) INFORMATION INCLUDED WITH RETURN.—The Secretary shall require any person filing a return under subsection (a) to provide information regarding any refined product (whether or not such product is taxable under this title) removed from a terminal during the period for which such return applies.''.

(b) CONFORMING AMENDMENT.—The table of parts for subchapter A of chapter 61 is amended by adding at the end the following new item:

''Subpart E—Excise Tax Reporting''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel sold or used after September 30, 2004.

SEC. 5273. INFORMATION REPORTING.

(a) IN GENERAL.—Section 4101(d) is amended by adding at the end the following new flush sentence:

''The Secretary shall require reporting under the previous sentence with respect to taxable fuels removed, entered, or transferred from

any refinery, pipeline, or vessel which is registered under this section.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply on October 1, 2004.

Subtitle D—Definition of Highway Vehicle

SEC. 5301. EXEMPTION FROM CERTAIN EXCISE TAXES FOR MOBILE MACHINERY.

(a) EXEMPTION FROM TAX ON HEAVY TRUCKS AND TRAILERS SOLD AT RETAIL.—

(1) IN GENERAL.—Section 4053 (relating to exemptions) is amended by adding at the end the following new paragraph:

''(8) MOBILE MACHINERY.—Any vehicle which consists of a chassis—

''(A) to which there has been permanently mounted (by welding, bolting, riveting, or other means) machinery or equipment to perform a construction, manufacturing, processing, farming, mining, drilling, timbering, or similar operation if the operation of the machinery or equipment is unrelated to transportation on or off the public highways,

''(B) which has been specially designed to serve only as a mobile carriage and mount (and a power source, where applicable) for the particular machinery or equipment involved, whether or not such machinery or equipment is in operation, and

''(C) which, by reason of such special design, could not, without substantial structural modification, be used as a component of a vehicle designed to perform a function of transporting any load other than that particular machinery or equipment or similar machinery or equipment requiring such a specially designed chassis.''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall take effect on the day after the date of the enactment of this Act.

(b) EXEMPTION FROM TAX ON USE OF CERTAIN VEHICLES.—

(1) IN GENERAL.—Section 4483 (relating to exemptions) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

''(g) EXEMPTION FOR MOBILE MACHINERY.—No tax shall be imposed by section 4481 on the use of any vehicle described in section 4053(8).''.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the day after the date of the enactment of this Act.

(d) EXEMPTION FROM FUEL TAXES.—

(1) IN GENERAL.—Section 6421(e)(2) (defining off-highway business use) is amended by adding at the end the following new subparagraph:

''(C) USES IN MOBILE MACHINERY.—

''(i) IN GENERAL.—The term 'off-highway business use' shall include any use in a vehicle which meets the requirements described in clause (ii).

''(ii) REQUIREMENTS FOR MOBILE MACHINERY.—The requirements described in this clause are—

''(I) the design-based test, and

''(II) the use-based test.

''(iii) DESIGN-BASED TEST.—For purposes of clause (ii)(I), the design-based test is met if the vehicle consists of a chassis—

''(I) to which there has been permanently mounted (by welding, bolting, riveting, or other means) machinery or equipment to perform a construction, manufacturing, processing, farming, mining, drilling, timbering, or similar operation if the operation of the machinery or equipment is unrelated to transportation on or off the public highways,

''(II) which has been specially designed to serve only as a mobile carriage and mount (and a power source, where applicable) for the particular machinery or equipment involved, whether or not such machinery or equipment is in operation, and

''(III) which, by reason of such special design, could not, without substantial structural modification, be used as a component of a vehicle designed to perform a function of transporting any load other than that particular machinery or equipment or similar machinery or equipment requiring such a specially designed chassis.

''(iv) USE-BASED TEST.—For purposes of clause (ii)(II), the use-based test is met if the use of the vehicle on public highways was less than 5,000 miles during the taxpayer's taxable year.

''(v) SPECIAL RULE FOR USE BY CERTAIN TAX-EXEMPT ORGANIZATIONS.—In the case of any use in a vehicle by an organization which is described in section 501(c) and exempt from tax under section 501(a), clause (ii) shall be applied without regard to subclause (II) thereof.''.

(2) ANNUAL REFUND OF TAX PAID.—Section 6427(i)(2) (relating to exceptions) is amended by adding at the end the following new subparagraph:

''(C) NONAPPLICATION OF PARAGRAPH.—This paragraph shall not apply to any fuel used in any off-highway business use described in section 6421(e)(2)(C).''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 5302. MODIFICATION OF DEFINITION OF OFF-HIGHWAY VEHICLE.

(a) IN GENERAL.—Section 7701(a) (relating to definitions) is amended by adding at the end the following new paragraph:

''(48) OFF-HIGHWAY VEHICLES.—

''(A) OFF-HIGHWAY TRANSPORTATION VEHICLES.—

''(i) IN GENERAL.—A vehicle shall not be treated as a highway vehicle if such vehicle is specially designed for the primary function of transporting a particular type of load other than over the public highway and because of this special design such vehicle's capability to transport a load over the public highway is substantially limited or impaired.

''(ii) DETERMINATION OF VEHICLE'S DESIGN.—For purposes of clause (i), a vehicle's design is determined solely on the basis of its physical characteristics.

''(iii) DETERMINATION OF SUBSTANTIAL LIMITATION OR IMPAIRMENT.—For purposes of clause (i), in determining whether substantial limitation or impairment exists, account may be taken of factors such as the size of the vehicle, whether such vehicle is subject to the licensing, safety, and other requirements applicable to highway vehicles, and whether such vehicle can transport a load at a sustained speed of at least 25 miles per hour. It is immaterial that a vehicle can transport a greater load off the public highway than such vehicle is permitted to transport over the public highway.

''(B) NONTRANSPORTATION TRAILERS AND SEMITRAILERS.—A trailer or semitrailer shall not be treated as a highway vehicle if it is specially designed to function only as an enclosed stationary shelter for the carrying on of an off-highway function at an off-highway site.''.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by this section shall take effect on the date of the enactment of this Act.

(2) FUEL TAXES.—With respect to taxes imposed under subchapter B of chapter 31 and part III of subchapter A of chapter 32, the amendment made by this section shall apply to taxable periods beginning after the date of the enactment of this Act.

Subtitle E—Excise Tax Reform and Simplification

PART I—HIGHWAY EXCISE TAXES

SEC. 5401. DEDICATION OF GAS GUZZLER TAX TO HIGHWAY TRUST FUND.

(a) IN GENERAL.—Section 9503(b)(1) (relating to transfer to Highway Trust Fund of amounts equivalent to certain taxes) is amended by redesignating subparagraphs (C), (D), and (E) as subparagraphs (D), (E), and (F), respectively, and by inserting after subparagraph (B) the following new subparagraph:

''(C) section 4064 (relating to gas guzzler tax),''.

(b) UNIFORM APPLICATION OF TAX.—Subparagraph (A) of section 4064(b)(1) (defining automobile) is amended by striking the second sentence.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 5402. REPEAL CERTAIN EXCISE TAXES ON RAIL DIESEL FUEL AND INLAND WATERWAY BARGE FUELS.

(a) TAXES ON TRAINS.—

(1) IN GENERAL.—Subparagraph (A) of section 4041(a)(1) is amended by striking ''or a diesel-powered train'' each place it appears and by striking ''or train''.

(2) CONFORMING AMENDMENTS.—

(A) Subparagraph (C) of section 4041(a)(1), as amended by section 5001 of this Act, is amended by striking clause (ii) and by redesignating clause (iii) as clause (ii).

(B) Subparagraph (C) of section 4041(b)(1) is amended by striking all that follows ''section 6421(e)(2)'' and inserting a period.

(C) Subsection (d) of section 4041 is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

''(3) DIESEL FUEL USED IN TRAINS.—There is hereby imposed a tax of 0.1 cent per gallon on any liquid other than gasoline (as defined in section 4083)—

''(A) sold by any person to an owner, lessee, or other operator of a diesel-powered train for use as a fuel in such train, or

''(B) used by any person as a fuel in a diesel-powered train unless there was a taxable sale of such fuel under subparagraph (A).

No tax shall be imposed by this paragraph on the sale or use of any liquid if tax was imposed on such liquid under section 4081.''.

(D) Subsection (f) of section 4082 is amended by striking ''section 4041(a)(1)'' and inserting ''subsections (d)(3) and (a)(1) of section 4041, respectively''.

(E) Subparagraphs (A) and (B) of section 4083(a)(3), as amended by section 5261 of this Act, are amended by striking ''or a diesel-powered train''.

(F) Paragraph (3) of section 6421(f) is amended to read as follows:

''(3) GASOLINE USED IN TRAINS.—In the case of gasoline used as a fuel in a train, this section shall not apply with respect to the Leaking Underground Storage Tank Trust Fund financing rate under section 4081.''.

(G) Paragraph (3) of section 6427(l) is amended to read as follows:

''(3) REFUND OF CERTAIN TAXES ON FUEL USED IN DIESEL-POWERED TRAINS.—For purposes of this subsection, the term 'nontaxable use' includes fuel used in a diesel-powered train. The preceding sentence shall not apply to the tax imposed by section 4041(d) and the Leaking Underground Storage Tank Trust Fund financing rate under section 4081 except with respect to fuel sold for exclusive use by a State or any political subdivision thereof.''.

(b) FUEL USED ON INLAND WATERWAYS.—

(1) IN GENERAL.—Paragraph (1) of section 4042(b) is amended by adding ''and'' at the end of subparagraph (A), by striking '', and''

at the end of subparagraph (B) and inserting a period, and by striking subparagraph (C).

(2) CONFORMING AMENDMENT.—Paragraph (2) of section 4042(b) is amended by striking subparagraph (C).

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

PART II—AQUATIC EXCISE TAXES

SEC. 5411. ELIMINATION OF AQUATIC RESOURCES TRUST FUND AND TRANSFORMATION OF SPORT FISH RESTORATION ACCOUNT.

(a) SIMPLIFICATION OF FUNDING FOR BOAT SAFETY ACCOUNT.—

(1) IN GENERAL.—Section 9503(c)(3) (relating to transfers from Trust Fund for motorboat fuel taxes), as redesignated by section 5002 of this Act, is amended—

(A) by striking ''Fund—'' and all that follows through ''shall be transferred'' in subparagraph (B) and inserting ''Fund which is attributable to motorboat fuel taxes shall be transferred'', and

(B) by striking subparagraph (A), and

(C) by redesignating subparagraphs (B) through (E) as subparagraphs (A) through (D), respectively.

(2) CONFORMING AMENDMENTS.—

(A) Section 9503(b)(4) is amended by striking subparagraph (D).

(B) Subparagraph (B) of section 9503(c)(3), as redesignated by section 5002 of this Act and subsection (a)(3), is amended—

(i) by striking ''ACCOUNT'' in the heading and inserting ''TRUST FUND'',

(ii) by striking ''or (B)'' in clause (ii), and

(iii) by striking ''Account in the Aquatic Resources''.

(C) Subparagraph (C) of section 9503(c)(3), as redesignated by section 5002 of this Act and subsection (a)(3), is amended by striking '', but only to the extent such taxes are deposited into the Highway Trust Fund''.

(D) Paragraph (4) of section 9503(c), as redesignated by section 5002 of this Act, is amended—

(i) by striking ''Account in the Aquatic Resources'' in subparagraph (A), and

(ii) by striking '', but only to the extent such taxes are deposited into the Highway Trust Fund'' in subparagraph (B).

(b) MERGING OF ACCOUNTS.—

(1) IN GENERAL.—Subsection (a) of section 9504 is amended to read as follows:

''(a) CREATION OF TRUST FUND.—There is hereby established in the Treasury of the United States a trust fund to be known as the 'Sport Fish Restoration Trust Fund'. Such Trust Fund shall consist of such amounts as may be appropriated, credited, or paid to it as provided in this section, section 9503(c)(3), section 9503(c)(4), or section 9602(b).''.

(2) CONFORMING AMENDMENTS.—

(A) Subsection (b) of section 9504 is amended—

(i) by striking ''ACCOUNT'' in the heading and inserting ''TRUST FUND'',

(ii) by striking ''Account'' both places it appears in paragraphs (1) and (2) and inserting ''Trust Fund'', and

(iii) by striking ''ACCOUNT'' both places it appears in the headings for paragraphs (1) and (2) and inserting ''TRUST FUND''.

(B) Subsection (d) of section 9504, as amended by section 5001 of this Act, is amended—

(i) by striking ''AQUATIC RESOURCES'' in the heading,

(ii) by striking ''any Account in the Aquatic Resources'' in paragraph (1) and inserting ''the Sports Fish Restoration'', and

(iii) by striking ''any such Account'' in paragraph (1) and inserting ''such Trust Fund''.

(C) Subsection (e) of section 9504, as amended by section 5002 of this Act, is amended by striking ''Boat Safety Account and Sport Fish Restoration Account'' and inserting ''Sport Fish Restoration Trust Fund''.

(D) Section 9504 is amended by striking ''**AQUATIC RESOURCES**'' in the heading and inserting ''**SPORT FISH RESTORATION**''.

(E) The item relating to section 9504 in the table of sections for subchapter A of chapter 98 is amended by striking ''aquatic resources'' and inserting ''sport fish restoration''.

(c) PHASEOUT OF BOAT SAFETY ACCOUNT.—Subsection (c) of section 9504 is amended to read as follows:

''(c) EXPENDITURES FROM BOAT SAFETY ACCOUNT.—Amounts remaining in the Boat Safety Account on October 1, 2004, and amounts thereafter credited to the Account under section 9602(b), shall be available, as provided by appropriation Acts, for making expenditures before October 1, 2009, to carry out the purposes of section 13106 of title 46, United States Code (as in effect on the date of the enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004).''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

SEC. 5412. EXEMPTION OF LED DEVICES FROM SONAR DEVICES SUITABLE FOR FINDING FISH.

(a) IN GENERAL.—Section 4162(b) (defining sonar device suitable for finding fish) is amended by striking ''or'' at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting '', or'', and by adding at the end the following new paragraph:

''(5) an LED display.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to articles sold by the manufacturer, producer, or importer after September 30, 2004.

SEC. 5413. REPEAL OF HARBOR MAINTENANCE TAX ON EXPORTS.

(a) IN GENERAL.—Subsection (d) of section 4462 (relating to definitions and special rules) is amended to read as follows:

''(d) NONAPPLICABILITY OF TAX TO EXPORTS.—The tax imposed by section 4461(a) shall not apply to any port use with respect to any commercial cargo to be exported from the United States.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 4461(c)(1) is amended by adding ''or'' at the end of subparagraph (A), by striking subparagraph (B), and by redesignating subparagraph (C) as subparagraph (B).

(2) Section 4461(c)(2) is amended by striking ''imposed—'' and all that follows through ''in any other case,'' and inserting ''imposed''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect before, on, and after the date of the enactment of this Act.

SEC. 5414. CAP ON EXCISE TAX ON CERTAIN FISHING EQUIPMENT.

(a) IN GENERAL.—Paragraph (1) of section 4161(a) (relating to sport fishing equipment) is amended to read as follows:

''(1) IMPOSITION OF TAX.—

''(A) IN GENERAL.—There is hereby imposed on the sale of any article of sport fishing equipment by the manufacturer, producer, or importer a tax equal to 10 percent of the price for which so sold.

''(B) LIMITATION ON TAX IMPOSED ON FISHING RODS AND POLES.—The tax imposed by subparagraph (A) on any fishing rod or pole shall not exceed $10.''.

(b) CONFORMING AMENDMENTS.—Section 4161(a)(2) is amended by striking ''paragraph (1)'' both places it appears and inserting ''paragraph (1)(A)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to articles sold by the manufacturer, producer, or importer after September 30, 2004.

SEC. 5415. REDUCTION IN RATE OF TAX ON PORTABLE AERATED BAIT CONTAINERS.

(a) IN GENERAL.—Section 4161(a)(2)(A) (relating to 3 percent rate of tax for electric outboard motors and sonar devices suitable for finding fish) is amended by inserting ''or a portable aerated bait container'' after ''fish''.

(b) CONFORMING AMENDMENT.—The heading of section 4161(a)(2) is amended by striking ''ELECTRIC OUTBOARD MOTORS AND SONAR DEVICES SUITABLE FOR FINDING FISH'' and inserting ''CERTAIN SPORT FISHING EQUIPMENT''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to articles sold by the manufacturer, producer, or importer after September 30, 2004.

PART III—AERIAL EXCISE TAXES

SEC. 5421. CLARIFICATION OF EXCISE TAX EXEMPTIONS FOR AGRICULTURAL AERIAL APPLICATORS AND EXEMPTION FOR FIXED-WING AIRCRAFT ENGAGED IN FORESTRY OPERATIONS.

(a) NO WAIVER BY FARM OWNER, TENANT, OR OPERATOR NECESSARY.—Subparagraph (B) of section 6420(c)(4) (relating to certain farming use other than by owner, etc.) is amended to read as follows:

''(B) if the person so using the gasoline is an aerial or other applicator of fertilizers or other substances and is the ultimate purchaser of the gasoline, then subparagraph (A) of this paragraph shall not apply and the aerial or other applicator shall be treated as having used such gasoline on a farm for farming purposes.''.

(b) EXEMPTION INCLUDES FUEL USED BETWEEN AIRFIELD AND FARM.—Section 6420(c)(4), as amended by subsection (a), is amended by adding at the end the following new flush sentence:

''For purposes of this paragraph, in the case of an aerial applicator, gasoline shall be treated as used on a farm for farming purposes if the gasoline is used for the direct flight between the airfield and 1 or more farms.''.

(c) EXEMPTION FROM TAX ON AIR TRANSPORTATION OF PERSONS FOR FORESTRY PURPOSES EXTENDED TO FIXED-WING AIRCRAFT.—Subsection (f) of section 4261 (relating to tax on air transportation of persons) is amended to read as follows:

''(f) EXEMPTION FOR CERTAIN USES.—No tax shall be imposed under subsection (a) or (b) on air transportation—

''(1) by helicopter for the purpose of transporting individuals, equipment, or supplies in the exploration for, or the development or removal of, hard minerals, oil, or gas, or

''(2) by helicopter or by fixed-wing aircraft for the purpose of the planting, cultivation, cutting, or transportation of, or caring for, trees (including logging operations),

but only if the helicopter or fixed-wing aircraft does not take off from, or land at, a facility eligible for assistance under the Airport and Airway Development Act of 1970, or otherwise use services provided pursuant to section 44509 or 44913(b) or subchapter I of chapter 471 of title 49, United States Code, during such use. In the case of helicopter transportation described in paragraph (1), this subsection shall be applied by treating each flight segment as a distinct flight.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel use or air transportation after the date of the enactment of this Act.

SEC. 5422. MODIFICATION OF RURAL AIRPORT DEFINITION.

(a) IN GENERAL.—Section 4261(e)(1)(B) (defining rural airport) is amended—

(1) by inserting ''(in the case of any airport described in clause (ii)(III), on flight segments of at least 100 miles)'' after ''by air'' in clause (i), and

(2) by striking the period at the end of subclause (II) of clause (ii) and inserting '', or'', and by adding at the end of clause (ii) the following new subclause:

''(III) is not connected by paved roads to another airport.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on April 1, 2004.

SEC. 5423. EXEMPTION FROM TICKET TAXES FOR TRANSPORTATION PROVIDED BY SEAPLANES.

(a) IN GENERAL.—Section 4261 (relating to imposition of tax) is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

''(i) EXEMPTION FOR SEAPLANES.—No tax shall be imposed by this section or section 4271 on any air transportation by a seaplane with respect to any segment consisting of a takeoff from, and a landing on, water, but only if the places at which such takeoff and landing occur have not received and are not receiving financial assistance from the Airport and Airways Trust Fund.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to transportation beginning after March 31, 2004.

SEC. 5424. CERTAIN SIGHTSEEING FLIGHTS EXEMPT FROM TAXES ON AIR TRANSPORTATION.

(a) IN GENERAL.—Section 4281 (relating to small aircraft on nonestablished lines) is amended by adding at the end the following new sentence: ''For purposes of this section, an aircraft shall not be considered as operated on an established line if such aircraft is operated on a flight the sole purpose of which is sightseeing.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to transportation beginning on or after the date of the enactment of this Act, but shall not apply to any amount paid before such date for such transportation.

PART IV—ALCOHOLIC BEVERAGE EXCISE TAXES

SEC. 5431. REPEAL OF SPECIAL OCCUPATIONAL TAXES ON PRODUCERS AND MARKETERS OF ALCOHOLIC BEVERAGES.

(a) REPEAL OF OCCUPATIONAL TAXES.—

(1) IN GENERAL.—The following provisions of part II of subchapter A of chapter 51 (relating to occupational taxes) are hereby repealed:

(A) Subpart A (relating to proprietors of distilled spirits plants, bonded wine cellars, etc.).

(B) Subpart B (relating to brewer).

(C) Subpart D (relating to wholesale dealers) (other than sections 5114 and 5116).

(D) Subpart E (relating to retail dealers) (other than section 5124).

(E) Subpart G (relating to general provisions) (other than sections 5142, 5143, 5145, and 5146).

(2) NONBEVERAGE DOMESTIC DRAWBACK.—Section 5131 is amended by striking '', on payment of a special tax per annum,''.

(3) INDUSTRIAL USE OF DISTILLED SPIRITS.—Section 5276 is hereby repealed.

(b) CONFORMING AMENDMENTS.—

(1)(A) The heading for part II of subchapter A of chapter 51 and the table of subparts for such part are amended to read as follows:

''PART II—MISCELLANEOUS PROVISIONS

''Subpart A. Manufacturers of stills.

''Subpart B. Nonbeverage domestic drawback claimants.

''Subpart C. Recordkeeping by dealers.

''Subpart D. Other provisions.''.

(B) The table of parts for such subchapter A is amended by striking the item relating to part II and inserting the following new item:

''Part II. Miscellaneous provisions.''.

(2) Subpart C of part II of such subchapter (relating to manufacturers of stills) is redesignated as subpart A.

(3)(A) Subpart F of such part II (relating to nonbeverage domestic drawback claimants) is redesignated as subpart B and sections 5131 through 5134 are redesignated as sections 5111 through 5114, respectively.

(B) The table of sections for such subpart B, as so redesignated, is amended—

(i) by redesignating the items relating to sections 5131 through 5134 as relating to sections 5111 through 5114, respectively, and

(ii) by striking ''AND RATE OF TAX'' in the item relating to section 5111, as so redesignated.

(C) Section 5111, as redesignated by subparagraph (A), is amended—

(i) by striking ''AND RATE OF TAX'' in the section heading,

(ii) by striking the subsection heading for subsection (a), and

(iii) by striking subsection (b).

(4) Part II of subchapter A of chapter 51 is amended by adding after subpart B, as redesignated by paragraph (3), the following new subpart:

''Subpart C—Recordkeeping by Dealers

''Sec. 5121. Recordkeeping by wholesale dealers.

''Sec. 5122. Recordkeeping by retail dealers.

''Sec. 5123. Preservation and inspection of records, and entry of premises for inspection.''.

(5)(A) Section 5114 (relating to records) is moved to subpart C of such part II and inserted after the table of sections for such subpart.

(B) Section 5114 is amended—

(i) by striking the section heading and inserting the following new heading:

''SEC. 5121. RECORDKEEPING BY WHOLESALE DEALERS.'',

and

(ii) by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

''(c) WHOLESALE DEALERS.—For purposes of this part—

''(1) WHOLESALE DEALER IN LIQUORS.—The term 'wholesale dealer in liquors' means any dealer (other than a wholesale dealer in beer) who sells, or offers for sale, distilled spirits, wines, or beer, to another dealer.

''(2) WHOLESALE DEALER IN BEER.—The term 'wholesale dealer in beer' means any dealer who sells, or offers for sale, beer, but not distilled spirits or wines, to another dealer.

''(3) DEALER.—The term 'dealer' means any person who sells, or offers for sale, any distilled spirits, wines, or beer.

''(4) PRESUMPTION IN CASE OF SALE OF 20 WINE GALLONS OR MORE.—The sale, or offer for sale, of distilled spirits, wines, or beer, in quantities of 20 wine gallons or more to the same person at the same time, shall be presumptive evidence that the person making such sale, or offer for sale, is engaged in or carrying on the business of a wholesale dealer in liquors or a wholesale dealer in beer, as the case may be. Such presumption may be overcome by evidence satisfactorily showing that such sale, or offer for sale, was made to a person other than a dealer.''.

(C) Paragraph (3) of section 5121(d), as so redesignated, is amended by striking ''section 5146'' and inserting ''section 5123''.

(6)(A) Section 5124 (relating to records) is moved to subpart C of part II of subchapter A of chapter 51 and inserted after section 5121.

(B) Section 5124 is amended—

(i) by striking the section heading and inserting the following new heading:

''SEC. 5122. RECORDKEEPING BY RETAIL DEALERS.'',

(ii) by striking ''section 5146'' in subsection (c) and inserting ''section 5123'', and

(iii) by redesignating subsection (c) as subsection (d) and inserting after subsection (b) the following new subsection:

''(c) RETAIL DEALERS.—For purposes of this section—

''(1) RETAIL DEALER IN LIQUORS.—The term 'retail dealer in liquors' means any dealer (other than a retail dealer in beer or a limited retail dealer) who sells, or offers for sale, distilled spirits, wines, or beer, to any person other than a dealer.

''(2) RETAIL DEALER IN BEER.—The term 'retail dealer in beer' means any dealer (other than a limited retail dealer) who sells, or offers for sale, beer, but not distilled spirits or wines, to any person other than a dealer.

''(3) LIMITED RETAIL DEALER.—The term 'limited retail dealer' means any fraternal, civic, church, labor, charitable, benevolent, or ex-servicemen's organization making sales of distilled spirits, wine or beer on the occasion of any kind of entertainment, dance, picnic, bazaar, or festival held by it, or any person making sales of distilled spirits, wine or beer to the members, guests, or patrons of bona fide fairs, reunions, picnics, carnivals, or other similar outings, if such organization or person is not otherwise engaged in business as a dealer.

''(4) DEALER.—The term 'dealer' has the meaning given such term by section 5121(c)(3).''.

(7) Section 5146 is moved to subpart C of part II of subchapter A of chapter 51, inserted after section 5122, and redesignated as section 5123.

(8) Part II of subchapter A of chapter 51 is amended by inserting after subpart C the following new subpart:

''Subpart D—Other Provisions

''Sec. 5131. Packaging distilled spirits for industrial uses.

''Sec. 5132. Prohibited purchases by dealers.''.

(9) Section 5116 is moved to subpart D of part II of subchapter A of chapter 51, inserted after the table of sections, redesignated as section 5131, and amended by inserting ''(as defined in section 5121(c))'' after ''dealer'' in subsection (a).

(10) Subpart D of part II of subchapter A of chapter 51 is amended by adding at the end thereof the following new section:

''SEC. 5132. PROHIBITED PURCHASES BY DEALERS.

''(a) IN GENERAL.—Except as provided in regulations prescribed by the Secretary, it shall be unlawful for a dealer to purchase distilled spirits for resale from any person other than a wholesale dealer in liquors who is required to keep the records prescribed by section 5121.

''(b) LIMITED RETAIL DEALERS.—A limited retail dealer may lawfully purchase distilled spirits for resale from a retail dealer in liquors.

''(c) PENALTY AND FORFEITURE.—

''For penalty and forfeiture provisions applicable to violations of subsection (a), see sections 5687 and 7302.''.

(11) Subsection (b) of section 5002 is amended—

(A) by striking ''section 5112(a)'' and inserting ''section 5121(c)(3)'',

(B) by striking ''section 5112'' and inserting ''section 5121(c)'',

(C) by striking ''section 5122'' and inserting ''section 5122(c)''.

(12) Subparagraph (A) of section 5010(c)(2) is amended by striking ''section 5134'' and inserting ''section 5114''.

(13) Subsection (d) of section 5052 is amended to read as follows:

''(d) BREWER.—For purposes of this chapter, the term 'brewer' means any person who brews beer or produces beer for sale. Such term shall not include any person who produces only beer exempt from tax under section 5053(e).''.

(14) The text of section 5182 is amended to read as follows:

''For provisions requiring recordkeeping by wholesale liquor dealers, see section 5121, and by retail liquor dealers, see section 5122.''.

(15) Subsection (b) of section 5402 is amended by striking ''section 5092'' and inserting ''section 5052(d)''.

(16) Section 5671 is amended by striking ''or 5091''.

(17)(A) Part V of subchapter J of chapter 51 is hereby repealed.

(B) The table of parts for such subchapter J is amended by striking the item relating to part V.

(18)(A) Sections 5142, 5143, and 5145 are moved to subchapter D of chapter 52, inserted after section 5731, redesignated as sections 5732, 5733, and 5734, respectively, and amended by striking ''this part'' each place it appears and inserting ''this subchapter''.

(B) Section 5732, as redesignated by subparagraph (A), is amended by striking ''(except the tax imposed by section 5131)'' each place it appears.

(C) Paragraph (2) of section 5733(c), as redesignated by subparagraph (A), is amended by striking ''liquors'' both places it appears and inserting ''tobacco products and cigarette papers and tubes''.

(D) The table of sections for subchapter D of chapter 52 is amended by adding at the end thereof the following:

''Sec. 5732. Payment of tax.

''Sec. 5733. Provisions relating to liability for occupational taxes.

''Sec. 5734. Application of State laws.''.

(E) Section 5731 is amended by striking subsection (c) and by redesignating subsection (d) as subsection (c).

(19) Subsection (c) of section 6071 is amended by striking ''section 5142'' and inserting ''section 5732''.

(20) Paragraph (1) of section 7652(g) is amended—

(A) by striking ''subpart F'' and inserting ''subpart B'', and

(B) by striking ''section 5131(a)'' and inserting ''section 5111''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on July 1, 2004, but shall not apply to taxes imposed for periods before such date.

SEC. 5432. SUSPENSION OF LIMITATION ON RATE OF RUM EXCISE TAX COVER OVER TO PUERTO RICO AND VIRGIN ISLANDS.

(a) IN GENERAL.—Section 7652(f)(1) (relating to limitation on cover over of tax on distilled spirits) is amended by striking ''January 1, 2004'' and inserting ''October 1, 2004, and $13.50 in the case of distilled spirits brought into the United States after September 30, 2004, and before January 1, 2006''.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to articles containing distilled spirits brought into the United States after December 31, 2003.

(2) SPECIAL RULE.—

(A) IN GENERAL.—After September 30, 2004, the treasury of Puerto Rico shall make a Conservation Trust Fund transfer within 30 days from the date of each cover over payment to such treasury under section 7652(e) of the Internal Revenue Code of 1986.

(B) CONSERVATION TRUST FUND TRANSFER.—

(i) IN GENERAL.—For purposes of this paragraph, the term ''Conservation Trust Fund transfer'' means a transfer to the Puerto Rico Conservation Trust Fund of an amount equal to 50 cents per proof gallon of the taxes imposed under section 5001 or section 7652 of such Code on distilled spirits that are covered over to the treasury of Puerto Rico under section 7652(e) of such Code.

(ii) TREATMENT OF TRANSFER.—Each Conservation Trust Fund transfer shall be treated as principal for an endowment, the income from which to be available for use by the Puerto Rico Conservation Trust Fund for the purposes for which the Trust Fund was established.

(iii) RESULT OF NONTRANSFER.—

(I) IN GENERAL.—Upon notification by the Secretary of the Interior that a Conservation Trust Fund transfer has not been made by the treasury of Puerto Rico, the Secretary of the Treasury shall, except as provided in subclause (II), deduct and withhold from the next cover over payment to be made to the treasury of Puerto Rico under section 7652(e) of such Code an amount equal to the appropriate Conservation Trust Fund transfer and interest thereon at the underpayment rate established under section 6621 of such Code as of the due date of such transfer. The Secretary of the Treasury shall transfer such amount deducted and withheld, and the interest thereon, directly to the Puerto Rico Conservation Trust Fund.

(II) GOOD CAUSE EXCEPTION.—If the Secretary of the Interior finds, after consultation with the Governor of Puerto Rico, that the failure by the treasury of Puerto Rico to make a required transfer was for good cause, and notifies the Secretary of the Treasury of the finding of such good cause before the due date of the next cover over payment following the notification of nontransfer, then the Secretary of the Treasury shall not deduct the amount of such nontransfer from any cover over payment.

(C) PUERTO RICO CONSERVATION TRUST FUND.—For purposes of this paragraph, the term ''Puerto Rico Conservation Trust Fund'' means the fund established pursuant to a Memorandum of Understanding between the United States Department of the Interior and the Commonwealth of Puerto Rico, dated December 24, 1968.

PART V—SPORT EXCISE TAXES

SEC. 5441. CUSTOM GUNSMITHS.

(a) SMALL MANUFACTURERS EXEMPT FROM FIREARMS EXCISE TAX.—Section 4182 (relating to exemptions) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

''(c) SMALL MANUFACTURERS, ETC.—

''(1) IN GENERAL.—The tax imposed by section 4181 shall not apply to any article described in such section if manufactured, produced, or imported by a person who manufactures, produces, and imports less than 50 of such articles during the calendar year.

''(2) CONTROLLED GROUPS.—All persons treated as a single employer for purposes of subsection (a) or (b) of section 52 shall be treated as one person for purposes of paragraph (1).''.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to articles sold by the manufacturer, producer, or importer on or after the date which is the first day of the month beginning at least 2 weeks after the date of the enactment of this Act.

(2) NO INFERENCE.—Nothing in the amendments made by this section shall be construed to create any inference with respect to the proper tax treatment of any sales before the effective date of such amendments.

SEC. 5442. MODIFIED TAXATION OF IMPORTED ARCHERY PRODUCTS.

(a) BOWS.—Paragraph (1) of section 4161(b) (relating to bows) is amended to read as follows:

''(1) BOWS.—

''(A) IN GENERAL.—There is hereby imposed on the sale by the manufacturer, producer, or importer of any bow which has a peak draw weight of 30 pounds or more, a tax equal to 11 percent of the price for which so sold.

''(B) ARCHERY EQUIPMENT.—There is hereby imposed on the sale by the manufacturer, producer, or importer—

''(i) of any part or accessory suitable for inclusion in or attachment to a bow described in subparagraph (A), and

''(ii) of any quiver or broadhead suitable for use with an arrow described in paragraph (2),

a tax equal to 11 percent of the price for which so sold.''.

(b) ARROWS.—Subsection (b) of section 4161 (relating to bows and arrows, etc.) is amended by redesignating paragraph (3) as paragraph (4) and inserting after paragraph (2) the following:

''(3) ARROWS.—

''(A) IN GENERAL.—There is hereby imposed on the sale by the manufacturer, producer, or importer of any arrow, a tax equal to 12 percent of the price for which so sold.

''(B) EXCEPTION.—In the case of any arrow of which the shaft or any other component has been previously taxed under paragraph (1) or (2)—

''(i) section 6416(b)(3) shall not apply, and

''(ii) the tax imposed by subparagraph (A) shall be an amount equal to the excess (if any) of—

''(I) the amount of tax imposed by this paragraph (determined without regard to this subparagraph), over

''(II) the amount of tax paid with respect to the tax imposed under paragraph (1) or (2) on such shaft or component.

''(C) ARROW.—For purposes of this paragraph, the term 'arrow' means any shaft described in paragraph (2) to which additional components are attached.''.

(c) CONFORMING AMENDMENTS.—Section 4161(b)(2) is amended—

(1) by inserting ''(other than broadheads)'' after ''point'', and

(2) by striking ''ARROWS.—'' in the heading and inserting ''ARROW COMPONENTS.—''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to articles sold by the manufacturer, producer, or importer after the date of the enactment of this Act.

SEC. 5443. TREATMENT OF TRIBAL GOVERNMENTS FOR PURPOSES OF FEDERAL WAGERING EXCISE AND OCCUPATIONAL TAXES.

(a) IN GENERAL.—Subsection (a) of section 7871 (relating to Indian tribal governments treated as States for certain purposes) is amended by striking ''and'' at the end of paragraph (6), by striking the period at the end of paragraph (7) and inserting ''; and'', and by adding at the end the following new paragraph:

''(8) for purposes of chapter 35 (relating to taxes on wagering).''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on July 1, 2004, but shall not apply to taxes imposed for periods before such date.

PART VI—OTHER PROVISIONS

SEC. 5451. INCOME TAX CREDIT FOR DISTILLED SPIRITS WHOLESALERS AND FOR DISTILLED SPIRITS IN CONTROL STATE BAILMENT WAREHOUSES FOR COSTS OF CARRYING FEDERAL EXCISE TAXES ON BOTTLED DISTILLED SPIRITS.

(a) IN GENERAL.—Subpart A of part I of subchapter A of chapter 51 (relating to gallonage and occupational taxes) is amended by adding at the end the following new section:

"SEC. 5011. INCOME TAX CREDIT FOR AVERAGE COST OF CARRYING EXCISE TAX.

''(a) IN GENERAL.—For purposes of section 38, the amount of the distilled spirits credit for any taxable year is the amount equal to the product of—

''(1) in the case of—

''(A) any eligible wholesaler—

''(i) the number of cases of bottled distilled spirits—

''(I) which were bottled in the United States, and

''(II) which are purchased by such wholesaler during the taxable year directly from the bottler of such spirits, or

''(B) any person which is subject to section 5005 and which is not an eligible wholesaler, the number of cases of bottled distilled spirits which are stored in a warehouse operated by, or on behalf of, a State, or agency or political subdivision thereof, on which title has not passed on an unconditional sale basis, and

''(2) the average tax-financing cost per case for the most recent calendar year ending before the beginning of such taxable year.

''(b) ELIGIBLE WHOLESALER.—For purposes of this section, the term 'eligible wholesaler' means any person which holds a permit under the Federal Alcohol Administration Act as a wholesaler of distilled spirits which is not a State, or agency or political subdivision thereof.

''(c) AVERAGE TAX-FINANCING COST.—

''(1) IN GENERAL.—For purposes of this section, the average tax-financing cost per case for any calendar year is the amount of interest which would accrue at the deemed financing rate during a 60-day period on an amount equal to the deemed Federal excise tax per case.

''(2) DEEMED FINANCING RATE.—For purposes of paragraph (1), the deemed financing rate for any calendar year is the average of the corporate overpayment rates under paragraph (1) of section 6621(a) (determined without regard to the last sentence of such paragraph) for calendar quarters of such year.

''(3) DEEMED FEDERAL EXCISE TAX PER CASE.—For purposes of paragraph (1), the deemed Federal excise tax per case is $25.68.

''(d) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) CASE.—The term 'case' means 12 80-proof 750 milliliter bottles.

''(2) NUMBER OF CASES IN LOT.—The number of cases in any lot of distilled spirits shall be determined by dividing the number of liters in such lot by 9.''.

(b) CREDIT TREATED AS PART OF GENERAL BUSINESS CREDIT.—Section 38(b) (relating to current year business credit), as amended by section 5101 of this Act, is amended by striking ''plus'' at the end of paragraph (15), by striking the period at the end of paragraph (16) and inserting '', plus'', and by adding at the end the following new paragraph:

''(17) the distilled spirits credit determined under section 5011(a).''.

(c) CONFORMING AMENDMENTS.—

(1) Section 39(d), as amended by section 5101 of this Act, is amended by adding at the end the following new paragraph:

''(12) NO CARRYBACK OF SECTION 5011 CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the credit determined under section 5011(a) may be carried back to a taxable year beginning before the date of the enactment of section 5011.''.

(2) The table of sections for subpart A of part I of subchapter A of chapter 51 is amended by adding at the end the following new item:

''Sec. 5011. Income tax credit for average cost of carrying excise tax.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 5452. CREDIT FOR TAXPAYERS OWNING COMMERCIAL POWER TAKEOFF VEHICLES.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits) is amended by adding at the end the following new section:

"SEC. 45G. COMMERCIAL POWER TAKEOFF VEHICLES CREDIT.

''(a) GENERAL RULE.—For purposes of section 38, the amount of the commercial power takeoff vehicles credit determined under this section for the taxable year is $250 for each qualified commercial power takeoff vehicle owned by the taxpayer as of the close of the calendar year in which or with which the taxable year of the taxpayer ends.

''(b) DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED COMMERCIAL POWER TAKEOFF VEHICLE.—The term 'qualified commercial power takeoff vehicle' means any highway vehicle described in paragraph (2) which is propelled by any fuel subject to tax under section 4041 or 4081 if such vehicle is used in a trade or business or for the production of income (and is licensed and insured for such use).

''(2) HIGHWAY VEHICLE DESCRIBED.—A highway vehicle is described in this paragraph if such vehicle is—

''(A) designed to engage in the daily collection of refuse or recyclables from homes or businesses and is equipped with a mechanism under which the vehicle's propulsion engine provides the power to operate a load compactor, or

''(B) designed to deliver ready mixed concrete on a daily basis and is equipped with a mechanism under which the vehicle's propulsion engine provides the power to operate a mixer drum to agitate and mix the product en route to the delivery site.

''(c) EXCEPTION FOR VEHICLES USED BY GOVERNMENTS, ETC.—No credit shall be allowed under this section for any vehicle owned by any person at the close of a calendar year if such vehicle is used at any time during such year by—

''(1) the United States or an agency or instrumentality thereof, a State, a political subdivision of a State, or an agency or instrumentality of one or more States or political subdivisions, or

''(2) an organization exempt from tax under section 501(a).

''(d) TERMINATION.—This section shall not apply with respect to any calendar year after 2006.''.

(b) CREDIT TREATED AS PART OF GENERAL BUSINESS CREDIT.—Section 38(b) (relating to current year business credit), as amended by section 5451 of this Act, is amended by striking ''plus'' at the end of paragraph (16), by striking the period at the end of paragraph (17) and inserting '', plus'', and by adding at the end the following new paragraph:

''(18) the commercial power takeoff vehicles credit under section 45G(a).''.

(c) CONFORMING AMENDMENTS.—

(1) Section 39(d), as amended by section 5451 of this Act, is amended by adding at the end the following new paragraph:

''(13) NO CARRYBACK OF SECTION 45G CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the credit determined under section 45G(a) may be carried back to a taxable year beginning on or before the date of the enactment of section 45G.''.

(2) The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

''Sec. 45G. Commercial power takeoff vehicles credit.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 5453. CREDIT FOR AUXILIARY POWER UNITS INSTALLED ON DIESEL-POWERED TRUCKS.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits), as amended by section 5452 of this Act, is amended by adding at the end the following new section:

"SEC. 45H. AUXILIARY POWER UNIT CREDIT.

''(a) GENERAL RULE.—For purposes of section 38, the amount of the auxiliary power unit credit determined under this section for the taxable year is $250 for each qualified auxiliary power unit—

''(1) purchased by the taxpayer, and

''(2) installed or caused to be installed by the taxpayer on a qualified heavy-duty highway vehicle during such taxable year.

''(b) DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED AUXILIARY POWER UNIT.—The term 'qualified auxiliary power unit' means any integrated system which—

''(A) provides heat, air conditioning, engine warming, and electricity to the factory installed components on a qualified heavy-duty highway vehicle as if the main drive engine of such vehicle was in operation,

''(B) is employed to reduce long-term idling of the diesel engine on such a vehicle, and

''(C) is certified by the Environmental Protection Agency as meeting emission standards in regulations in effect on the date of the enactment of this section.

''(2) QUALIFIED HEAVY-DUTY HIGHWAY VEHICLE.—The term 'qualified heavy-duty highway vehicle' means any highway vehicle weighing more than 12,500 pounds and powered by a diesel engine.

''(c) TERMINATION.—This section shall not apply with respect to any installation occurring after December 31, 2006.''.

(b) CREDIT TREATED AS PART OF GENERAL BUSINESS CREDIT.—Section 38(b) (relating to current year business credit), as amended by section 5452 of this Act, is amended by striking ''plus'' at the end of paragraph (17), by striking the period at the end of paragraph (18) and inserting '', plus'', and by adding at the end the following new paragraph:

''(19) the auxiliary power unit credit under section 45H(a).''.

(c) CONFORMING AMENDMENTS.—

(1) Section 39(d), as amended by section 5452 of this Act, is amended by adding at the end the following new paragraph:

''(14) NO CARRYBACK OF SECTION 45H CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the credit determined under section 45H(a) may be carried back to a taxable year beginning on or before the date of the enactment of section 45H.''.

(2) The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by section 5452 of this Act, is amended by adding at the end the following new item:

''Sec. 45H. Auxiliary power unit credit.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to auxiliary power units purchased and installed for taxable years beginning after the date of the enactment of this Act.

Subtitle F—Miscellaneous Provisions

SEC. 5501. MOTOR FUEL TAX ENFORCEMENT ADVISORY COMMISSION.

(a) ESTABLISHMENT.—There is established a Motor Fuel Tax Enforcement Advisory Commission (in this section referred to as the ''Commission'').

(b) FUNCTION.—The Commission shall—

(1) review motor fuel revenue collections, historical and current;

(2) review the progress of investigations;

(3) develop and review legislative proposals with respect to motor fuel taxes;

(4) monitor the progress of administrative regulation projects relating to motor fuel taxes;

(5) review the results of Federal and State agency cooperative efforts regarding motor fuel taxes;

(6) review the results of Federal interagency cooperative efforts regarding motor fuel taxes; and

(7) evaluate and make recommendations regarding—

(A) the effectiveness of existing Federal enforcement programs regarding motor fuel taxes,

(B) enforcement personnel allocation, and

(C) proposals for regulatory projects, legislation, and funding.

(c) MEMBERSHIP.—

(1) APPOINTMENT.—The Commission shall be composed of the following representatives appointed by the Chairmen and the Ranking Members of the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives:

(A) At least 1 representative from each of the following Federal entities: the Department of Homeland Security, the Department of Transportation - Office of Inspector General, the Federal Highway Administration, the Department of Defense, and the Department of Justice.

(B) At least 1 representative from the Federation of State Tax Administrators.

(C) At least 1 representative from any State department of transportation.

(D) 2 representatives from the highway construction industry.

(E) 5 representatives from industries relating to fuel distribution — refiners (2 representatives), distributors (1 representative), pipelines (1 representative), and terminal operators (2 representatives).

(F) 1 representative from the retail fuel industry.

(G) 2 representatives from the staff of the Committee on Finance of the Senate and 2 representatives from the staff of the Committee on Ways and Means of the House of Representatives.

(2) TERMS.—Members shall be appointed for the life of the Commission.

(3) VACANCIES.—A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(4) TRAVEL EXPENSES.—Members shall serve without pay but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(5) CHAIRMAN.—The Chairman of the Commission shall be elected by the members.

(d) FUNDING.—Such sums as are necessary shall be available from the Highway Trust fund for the expenses of the Commission.

(e) CONSULTATION.—Upon request of the Commission, representatives of the Department of the Treasury and the Internal Revenue Service shall be available for consultation to assist the Commission in carrying out its duties under this section.

(f) OBTAINING DATA.—The Commission may secure directly from any department or agency of the United States, information (other than information required by any law to be kept confidential by such department or agency) necessary for the Commission to carry out its duties under this section. Upon request of the Commission, the head of that department or agency shall furnish such nonconfidential information to the Commission. The Commission shall also gather evidence through such means as it may deem appropriate, including through holding hearings and soliciting comments by means of Federal Register notices.

(g) TERMINATION.—The Commission shall terminate after September 30, 2009.

SEC. 5502. NATIONAL SURFACE TRANSPORTATION INFRASTRUCTURE FINANCING COMMISSION.

(a) ESTABLISHMENT.—There is established a National Surface Transportation Infrastructure Financing Commission (in this section referred to as the ''Commission''). The Commission shall hold its first meeting within 90 days of the appointment of the eighth individual to be named to the Commission.

(b) FUNCTION.—

(1) IN GENERAL.—The Commission shall—

(A) make a thorough investigation and study of revenues flowing into the Highway Trust Fund under current law, including the individual components of the overall flow of such revenues;

(B) consider whether the amount of such revenues is likely to increase, decline, or remain unchanged, absent changes in the law, particularly by taking into account the impact of possible changes in public vehicular choice, fuel use, or travel alternatives that could be expected to reduce or increase revenues into the Highway Trust Fund;

(C) consider alternative approaches to generating revenues for the Highway Trust Fund, and the level of revenues that such alternatives would yield;

(D) consider highway and transit needs and whether additional revenues into the Highway Trust Fund, or other Federal revenues dedicated to highway and transit infrastructure, would be required in order to meet such needs; and

(E) study such other matters closely related to the subjects described in the preceding subparagraphs as it may deem appropriate.

(2) TIME FRAME OF INVESTIGATION AND STUDY.—The time frame to be considered by the Commission shall extend through the year 2015.

(3) PREPARATION OF REPORT.—Based on such investigation and study, the Commission shall develop a final report, with recommendations and the bases for those recommendations, indicating policies that should be adopted, or not adopted, to achieve various levels of annual revenue for the Highway Trust Fund and to enable the Highway Trust Fund to receive revenues sufficient to meet highway and transit needs. Such recommendations shall address, among other matters as the Commission may deem appropriate—

(A) what levels of revenue are required by the Federal Highway Trust Fund in order for it to meet needs to—

(i) maintain, and

(ii) improve the condition and performance of the Nation's highway and transit systems;

(B) what levels of revenue are required by the Federal Highway Trust Fund in order to ensure that Federal levels of investment in highways and transit do not decline in real terms; and

(C) the extent, if any, to which the Highway Trust Fund should be augmented by other mechanisms or funds as a Federal means of financing highway and transit infrastructure investments.

(c) MEMBERSHIP.—

(1) APPOINTMENT.—The Commission shall be composed of 15 members, appointed as follows:

(A) 7 members appointed by the Secretary of Transportation, in consultation with the Secretary of the Treasury.

(B) 2 members appointed by the Chairman of the Committee on Ways and Means of the House of Representatives.

(C) 2 members appointed by the Ranking Minority Member of the Committee on Ways and Means of the House of Representatives.

(D) 2 members appointed by the Chairman of the Committee on Finance of the Senate.

(E) 2 members appointed by the Ranking Minority Member of the Committee on Finance of the Senate.

(2) QUALIFICATIONS.—Members appointed pursuant to paragraph (1) shall be appointed from among individuals knowledgeable in the fields of public transportation finance or highway and transit programs, policy, and needs, and may include representatives of interested parties, such as State and local governments or other public transportation authorities or agencies, representatives of the transportation construction industry (including suppliers of technology, machinery and materials), transportation labor (including construction and providers), transportation providers, the financial community, and users of highway and transit systems.

(3) TERMS.—Members shall be appointed for the life of the Commission.

(4) VACANCIES.—A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(5) TRAVEL EXPENSES.—Members shall serve without pay but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(6) CHAIRMAN.—The Chairman of the Commission shall be elected by the members.

(d) STAFF.—The Commission may appoint and fix the pay of such personnel as it considers appropriate.

(e) FUNDING.—Funding for the Commission shall be provided by the Secretary of the Treasury and by the Secretary of Transportation, out of funds available to those agencies for administrative and policy functions.

(f) STAFF OF FEDERAL AGENCIES.—Upon request of the Commission, the head of any department or agency of the United States may detail any of the personnel of that department or agency to the Commission to assist in carrying out its duties under this section.

(g) OBTAINING DATA.—The Commission may secure directly from any department or agency of the United States, information (other than information required by any law to be kept confidential by such department or agency) necessary for the Commission to carry out its duties under this section. Upon request of the Commission, the head of that department or agency shall furnish such nonconfidential information to the Commission. The Commission shall also gather evidence through such means as it may deem appropriate, including through holding hearings and soliciting comments by means of Federal Register notices.

(h) REPORT.—Not later than 2 years after the date of its first meeting, the Commission shall transmit its final report, including recommendations, to the Secretary of Transportation, the Secretary of the Treasury, and the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, the Committee on Transportation and Infrastructure of the House of Representatives, the Committee on

Environment and Public Works of the Senate, and the Committee on Banking, Housing, and Urban Affairs of the Senate.

(i) TERMINATION.—The Commission shall terminate on the 180th day following the date of transmittal of the report under subsection (h). All records and papers of the Commission shall thereupon be delivered to the Administrator of General Services for deposit in the National Archives.

SEC. 5503. TREASURY STUDY OF FUEL TAX COMPLIANCE AND INTERAGENCY COOPERATION.

(a) IN GENERAL.—Not later than January 31, 2006, the Secretary of the Treasury shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report regarding fuel tax enforcement which shall include the information and analysis specified in subsections (b) and (c) and any other information and recommendations the Secretary of the Treasury may deem appropriate.

(b) AUDITS.—With respect to audits conducted by the Internal Revenue Service, the report required under subsection (a) shall include—

(1) the number and geographic distribution of audits conducted annually, by fiscal year, between October 1, 2001, and September 30, 2005;

(2) the total volume involved for each of the taxable fuels covered by such audits and a comparison to the annual production of such fuels;

(3) the staff hours and number of personnel devoted to the audits per year; and

(4) the results of such audits by year, including total tax collected, total penalties collected, and number of referrals for criminal prosecution.

(c) ENFORCEMENT ACTIVITIES.—With respect to enforcement activities, the report required under subsection (a) shall include—

(1) the number and geographic distribution of criminal investigations and prosecutions annually, by fiscal year, between October 1, 2001, and September 30, 2005, and the results of such investigations and prosecutions;

(2) to the extent such investigations and prosecutions involved other agencies, State or Federal, a breakdown by agency of the number of joint investigations involved;

(3) an assessment of the effectiveness of joint action and cooperation between the Department of the Treasury and other Federal and State agencies, including a discussion of the ability and need to share information across agencies for both civil and criminal Federal tax enforcement and enforcement of State or Federal laws relating to fuels;

(4) the staff hours and number of personnel devoted to criminal investigations and prosecutions per year;

(5) the staff hours and number of personnel devoted to administrative collection of fuel taxes; and

(6) the results of administrative collection efforts annually, by fiscal year, between October 1, 2001, and September 30, 2005.

SEC. 5504. EXPANSION OF HIGHWAY TRUST FUND EXPENDITURE PURPOSES TO INCLUDE FUNDING FOR STUDIES OF SUPPLEMENTAL OR ALTERNATIVE FINANCING FOR THE HIGHWAY TRUST FUND.

(a) IN GENERAL.—From amounts available in the Highway Trust Fund, there is authorized to be expended for 2 comprehensive studies of supplemental or alternative funding sources for the Highway Trust Fund—

(1) $1,000,000 to the Western Transportation Institute of the College of Engineering at Montana State University for the study and report described in subsection (b), and

(2) $16,500,000 to the Public Policy Center of the University of Iowa for the study and report described in subsection (c).

(b) STUDY OF FUNDING MECHANISMS.—Not later than December 31, 2006, the Western Transportation Institute of the College of Engineering at Montana State University shall report to the Secretary of the Treasury and the Secretary of Transportation on a study of highway funding mechanisms of other industrialized nations, an examination of the viability of alternative funding proposals, including congestion pricing, greater reliance on tolls, privatization of facilities, and bonding for construction of added capacity, and an examination of increasing the rates of motor fuels taxes in effect on the date of the enactment of this Act, including the indexation of such rates.

(c) STUDY ON FIELD TEST OF ON-BOARD COMPUTER ASSESSMENT OF HIGHWAY USE TAXES.—Not later than December 31, 2011, the Public Policy Center of the University of Iowa shall direct, analyze, and report to the Secretary of the Treasury and the Secretary of Transportation on a long-term field test of an approach to assessing highway use taxes based upon actual mileage driven by a specific vehicle on specific types of highways by use of an on-board computer—

(1) which is linked to satellites to calculate highway mileage traversed,

(2) which computes the appropriate highway use tax for each of the Federal, State, and local governments as the vehicle makes use of the highways, and

(3) the data from which is periodically downloaded by the vehicle owner to a collection center for an assessment of highway use taxes due in each jurisdiction traversed.The components of the field test shall include 2 years for preparation, including selection of vendors and test participants, and 3-year testing period.

SEC. 5505. TREASURY STUDY OF HIGHWAY FUELS USED BY TRUCKS FOR NON-TRANSPORTATION PURPOSES.

(a) STUDY.—The Secretary of the Treasury shall conduct a study regarding the use of highway motor fuel by trucks that is not used for the propulsion of the vehicle. As part of such study—

(1) in the case of vehicles carrying equipment that is unrelated to the transportation function of the vehicle—

(A) the Secretary of the Treasury, in consultation with the Secretary of Transportation, and with public notice and comment, shall determine the average annual amount of tax paid fuel consumed per vehicle, by type of vehicle, used by the propulsion engine to provide the power to operate the equipment attached to the highway vehicle, and

(B) the Secretary of the Treasury shall review the technical and administrative feasibility of exempting such nonpropulsive use of highway fuels for the highway motor fuels excise taxes,

(2) in the case where non-transportation equipment is run by a separate motor—

(A) the Secretary of the Treasury shall determine the annual average amount of fuel exempted from tax in the use of such equipment by equipment type, and

(B) the Secretary of the Treasury shall review issues of administration and compliance related to the present-law exemption provided for such fuel use, and

(3) the Secretary of the Treasury shall—

(A) estimate the amount of taxable fuel consumed by trucks and the emissions of various pollutants due to the long-term idling of diesel engines, and

(B) determine the cost of reducing such long-term idling through the use of plug-ins at truck stops, auxiliary power units, or other technologies.

(b) REPORT.—Not later than January 1, 2006, the Secretary of the Treasury shall report the findings of the study required under subsection (a) to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

SEC. 5506. DELTA REGIONAL TRANSPORTATION PLAN.

(a) STUDY.—The Delta Regional Authority shall conduct a study of the transportation assets and needs in the States of Alabama, Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri, and Tennessee which comprise the Delta region.

(b) REGIONAL STRATEGIC TRANSPORTATION PLAN.—Upon completion of the study required under subsection (a), the Delta Regional Authority shall establish a regional strategic transportation plan to achieve efficient transportation systems in the Delta region. In developing the regional strategic transportation plan, the Delta Regional Authority shall consult with local planning and development districts, local and regional governments, metropolitan planning organizations, State transportation entities, and Federal transportation agencies.

(c) ELEMENTS OF STUDY AND PLAN.—The study and plan under this section shall include the following transportation modes and systems: transit, rail, highway, interstate, bridges, air, airports, waterways and ports.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Delta Regional Authority $1,000,000 to carry out the purposes of this section, to remain available until expended.

SEC. 5507. TREATMENT OF EMPLOYER-PROVIDED TRANSIT AND VAN POOLING BENEFITS.

(a) IN GENERAL.—Subparagraph (A) of section 132(f)(2) (relating to limitation on exclusion) is amended by striking ''$100'' and inserting ''$120''.

(b) INFLATION ADJUSTMENT CONFORMING AMENDMENTS.—The last sentence of section 132(f)(6)(A) (relating to inflation adjustment) is amended—

(1) by striking ''2002'' and inserting ''2005'', and

(2) by striking ''2001'' and inserting ''2004''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

SEC. 5508. STUDY OF INCENTIVES FOR PRODUCTION OF BIODIESEL.

(a) STUDY.—The General Comptroller of the United States shall conduct a study related to biodiesel fuels and the tax credit for biodiesel fuels established under this Act. Such study shall include—

(1) an assessment on whether such credit provides sufficient assistance to the producers of biodiesel fuel to establish the fuel as a viable energy alternative in the current market place,

(2) an assessment on how long such credit or similar subsidy would have to remain in effect before biodiesel fuel can compete in the market place without such assistance,

(3) a cost-benefit analysis of such credit, comparing the cost of the credit in forgone revenue to the benefits of lower fuel costs for consumers, increased profitability for the biodiesel industry, increased farm income, reduced program outlays from the Department of Agriculture, and the improved environmental conditions through the use of biodiesel fuel, and

(4) an assessment on whether such credit results in any unintended consequences for unrelated industries, including the impact, if any, on the glycerin market.

(b) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Comptroller General of the United States shall report the findings of the study required under subsection (a) to the Committee on Finance of the Senate and the

Committee on Ways and Means of the House of Representatives.

SEC. 5509. REDUCTION OF EXPENDITURES FROM THE HIGHWAY TRUST FUND.

The amount made available under titles I, II, III, and IV of this Act shall be reduced on a pro rata basis, so that the total of such reductions equals $214,000,000,000.

Subtitle G—Revenue Offsets

PART I—LIMITATION ON EXPENSING CERTAIN PASSENGER AUTOMOBILES

SEC. 5601. EXPANSION OF LIMITATION ON DEPRECIATION OF CERTAIN PASSENGER AUTOMOBILES.

(a) IN GENERAL.—Section 179(b) (relating to limitations) is amended by adding at the end the following new paragraph:

''(6) LIMITATION ON COST TAKEN INTO ACCOUNT FOR CERTAIN PASSENGER VEHICLES.—

''(A) IN GENERAL.—The cost of any sport utility vehicle for any taxable year which may be taken into account under this section shall not exceed $25,000.

''(B) SPORT UTILITY VEHICLE.—For purposes of subparagraph (A)—

''(i) IN GENERAL.—The term 'sport utility vehicle' means any 4-wheeled vehicle which—

''(I) is manufactured primarily for use on public streets, roads, and highways,

''(II) is not subject to section 280F, and

''(III) is rated at not more than 14,000 pounds gross vehicle weight.

''(ii) CERTAIN VEHICLES EXCLUDED.—Such term does not include any vehicle which—

''(I) does not have the primary load carrying device or container attached,

''(II) has a seating capacity of more than 12 individuals,

''(III) is designed for more than 9 individuals in seating rearward of the driver's seat,

''(IV) is equipped with an open cargo area, or a covered box not readily accessible from the passenger compartment, of at least 72.0 inches in interior length, or

''(V) has an integral enclosure, fully enclosing the driver compartment and load carrying device, does not have seating rearward of the driver's seat, and has no body section protruding more than 30 inches ahead of the leading edge of the windshield.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after February 2, 2004.

SEC. 5612. Section 9053(b) is amended by adding at the end the following new paragraph:

''(6) The Secretary shall transfer to the Highway Trust Fund an amount equal to $6 billion total to terminate at the end of fiscal year 2009.''

SA 2474. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. PROHIBITION OF ISSUANCE OF DRIVER'S LICENSES TO ILLEGAL ALIENS.

(a) WITHHOLDING OF FUNDS FOR NONCOMPLIANCE.—The Secretary of Transportation shall withhold 1 per cent of the amount required to be apportioned to any State under this Act on the first day of each fiscal year after the second fiscal year beginning after September 30, 2004, if such State does not prohibit by statute, regulation, or executive order issuance of a State driver's license or identification card to aliens who do not present valid documentation of lawful presence in the United States as determined by the Immigration and Nationality Act (8 U.S.C. 1001 et seq.).

(b) EFFECT OF WITHHOLDING OF FUNDS.—Any funds recovered due to a reduction in State funding in accordance with subsection (a) shall be redistributed amongst the States that are in compliance with this section in accordance with the formulas set forth in this Act, calculated without taking into account the States that have violated this section.

(c) The Bureau of Immigration and Customs Enforcement of the Department of Homeland Security shall issue a list of documents or combination of documents establishing legal presence in the United States by September 30, 2004. The Secretary shall utilize such list for the purpose of determinations of compliance with subsection (a).

SA 2475. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title IV, add the following:

Subtitle G—Immigration Related Provisions

SEC. 4701. PROHIBITION OF EMPLOYMENT OF ILLEGAL ALIENS ON FEDERALLY FUNDED TRANSPORTATION PROJECTS.

(a) IN GENERAL.—No funds authorized to be appropriated by this Act may be used to hire, retain, or compensate any alien who is not in lawful status, as determined under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), for performing work on any projects authorized or funded by this Act.

(b) ENFORCEMENT.—

(1) FINE.—Any person or entity who violates subsection (a) shall be subject to a fine of $100,000 per violation.

(2) EXCEPTION.—No person or entity may be fined in accordance with paragraph (1) if that person or entity utilizes the basic pilot program for employment eligibility confirmation established by title IV of Public Law 104–208 (8 U.S.C. 1324a note) to confirm the eligibility of the alien for employment and the employment eligibility confirmation system reports represent that the alien is eligible for employment.

(3) IMMIGRATION ENFORCEMENT ACCOUNT.—Any fines collected under paragraph (1) shall be deposited in the Immigration Enforcement Account established under section 280(b) of the Immigration and Nationality Act (8 U.S.C. 1330(b)) and made available for immigration enforcement activities described in clauses (i) and (ii) of section 280(b)(3)(A) of that Act (8 U.S.C. 1330(b)(3)(A)(i) and (ii)) within the interior of the United States and for the costs of operation and modernization of the employment eligibility confirmation pilot programs established by title IV of Public Law 104–208 (8 U.S.C. 1324a note).

(4) EFFECTIVE DATE.—This subsection shall take effect in a State on the date on which the operation of the basic pilot program for employment eligibility confirmation referred to in paragraph (2) is expanded to such State.

SA 2476. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. PROHIBITION OF ISSUANCE OF DRIVERS LICENSES TO ILLEGAL ALIENS.

(a) WITHHOLDING OF FUNDS FOR NONCOMPLIANCE.—The Secretary of Transportation shall withhold 1 per cent of the amount required to be apportioned to any State under this Act on the first day of each fiscal year after the second fiscal year beginning after September 30, 2004, if such State does not prohibit by statute, regulation, or executive order issuance of a State driver's license or identification card to aliens who do not present valid documentation of lawful presence in the United States as determined by the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

(b) EFFECT OF WITHHOLDING OF FUNDS.—Any funds recovered due to a reduction in State funding in accordance with subsection (a) shall be redistributed amongst the States that are in compliance with this section in accordance with the formulas set forth in this Act, calculated without taking into account the States that have violated this section.

(c) The Bureau of Immigration and Customs Enforcement of the Department of Homeland Security shall issue a list of documents or combinations of documents establishing a legal presence in the United States by September 30, 2004. The Secretary shall utilize such list for the purpose of determining compliance with subsection (a).

SEC. ___. PROHIBITION OF EMPLOYMENT OF ILLEGAL ALIENS ON FEDERALLY FUNDED TRANSPORTATION PROJECTS.

(a) IN GENERAL.—No funds authorized to be appropriated by this Act may be used to hire, retain, or compensate any alien who is not in lawful status, as determined under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), for performing work on any projects authorized or funded by this Act.

(b) ENFORCEMENT.—

(1) FINE.—Any person or entity who violates subsection (a) shall be subject to a fine of $100,000 per violation.

(2) EXCEPTION.—No person or entity may be fined in accordance with paragraph (1) if that person or entity utilizes the basic pilot program for employment eligibility confirmation established by title IV of Public Law 104–208 (8 U.S.C. 1324a note) to confirm the eligibility of the alien for employment and the employment eligibility confirmation system reports represent that the alien is eligible for employment.

(3) IMMIGRATION ENFORCEMENT ACCOUNT.—Any fines collected under paragraph (1) shall be deposited in the Immigration Enforcement Account established under section 280(b) of the Immigration and Nationality Act (8 U.S.C. 1330(b)) and made available for immigration enforcement activities described in clauses (i) and (ii) of section 280(b)(3)(A) of that Act (8 U.S.C. 1330(b)(3)(A)(i) and (ii)) within the interior of the United States and for the costs of operation and modernization of the employment eligibility confirmation pilot programs established by title IV of Public Law 104–208 (8 U.S.C. 1324a note).

(4) EFFECTIVE DATE.—This subsection shall take effect in a State on the date on which the operation of the basic pilot program for employment eligibility confirmation referred to in paragraph (2) is expanded to such State.

SA 2477. Mr. SESSIONS submitted an amendment intended to be proposed to

amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title IV, add the following:

Subtitle G—Immigration Related Provisions

SEC. 4701. PROHIBITION OF ISSUANCE OF DRIVERS LICENSES TO ILLEGAL ALIENS.

(a) WITHHOLDING OF FUNDS FOR NONCOMPLIANCE.—The Secretary of Transportation shall withhold 1 per cent of the amount required to be apportioned to any State under this Act on the first day of each fiscal year after the second fiscal year beginning after September 30, 2004, if such State permits by statute, regulation, or executive order issuance of a State's driver's license or identification card to aliens who do not present valid documentation of lawful presence in the United States as determined by the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

(b) EFFECT OF WITHHOLDING OF FUNDS.—Any funds recovered due to a reduction in State funding in accordance with subsection (a) shall be redistributed amongst the States that are in compliance with this section in accordance with the formulas set forth in this Act, calculated without taking into account the States that have violated this section.

(c) The Bureau of Immigration and Customs Enforcement of the Department of Homeland Security shall issue a list of documents or combinations of documents establishing legal presence in the United States by September 30, 2004. The Secretary shall utilize such list for the purpose of determinations of compliance with subsection (a).

SEC. 4702. PROHIBITION OF EMPLOYMENT OF ILLEGAL ALIENS ON FEDERALLY FUNDED TRANSPORTATION PROJECTS.

(a) IN GENERAL.—No funds authorized to be appropriated by this Act may be used to hire, retain, or compensate any alien who is not in lawful status, as determined under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), for performing work on any projects authorized or funded by this Act.

(b) ENFORCEMENT.—

(1) FINE.—Any person or entity who violates subsection (a) shall be subject to a fine of $100,000 per violation.

(2) EXCEPTION.—No person or entity may be fined in accordance with paragraph (1) if that person or entity utilizes the basic pilot program for employment eligibility confirmation established by title IV of Public Law 104–208 (8 U.S.C. 1324a note) to confirm the eligibility of the alien for employment and the employment eligibility confirmation system reports represent that the alien is eligible for employment.

(3) IMMIGRATION ENFORCEMENT ACCOUNT.—Any fines collected under paragraph (1) shall be deposited in the Immigration Enforcement Account established under section 280(b) of the Immigration and Nationality Act (8 U.S.C. 1330(b)) and made available for immigration enforcement activities described in clauses (i) and (ii) of section 280(b)(3)(A) of that Act (8 U.S.C. 1330(b)(3)(A)(i) and (ii)) within the interior of the United States and for the costs of operation and modernization of the employment eligibility confirmation pilot programs established by title IV of Public Law 104–208 (8 U.S.C. 1324a note).

(4) EFFECTIVE DATE.—This subsection shall take effect in a State on the date on which the operation of the basic pilot program for employment eligibility confirmation referred to in paragraph (2) is expanded to such State.

SA 2478. Mr. BOND submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle D of title I, add the following:

SEC. 1409. RENTED OR LEASED MOTOR VEHICLES.

(a) IN GENERAL.—Subchapter I of chapter 301 of title 49, United States Code, is amended by adding at the end the following:

"§ 30106. Rented or leased motor vehicle safety and responsibility

''(a) IN GENERAL.—Provided that there is no negligence or criminal wrongdoing on the part of the owner of a motor vehicle, no such owner engaged in the trade or business of renting or leasing motor vehicles may be held liable under State law for harm caused by a person to himself or herself, another person, or to property, which results or arises from that person's use, operation, or possession of a rented or leased motor vehicle, by reason of being the owner of such motor vehicle.

''(b) CONSTRUCTION.—Subsection (a) shall not apply if such owner does not maintain the required limits of financial responsibility for such vehicle, as required by State law in the State in which the vehicle is registered.

''(c) APPLICABILITY AND EFFECTIVE DATE.—Notwithstanding any other provision of law, this section shall apply with respect to any action commenced on or after the date of enactment of this section without regard to whether the harm that is the subject of the action or the conduct that caused the harm occurred before such date of enactment.

''(d) DEFINITIONS.—In this section:

''(1) MOTOR VEHICLE.—The term 'motor vehicle' shall have the meaning given the term under section 13102(14) of this title.

''(2) OWNER.—The term 'owner' means a person who is—

''(A) a record or beneficial owner, lessor, or lessee of a motor vehicle;

''(B) entitled to the use and possession of a motor vehicle subject to a security interest in another person; or

''(C) a lessor, lessee, or bailee of a motor vehicle, in the trade or business of renting or leasing motor vehicles, having the use or possession of such motor vehicle, under a lease, bailment, or otherwise.

''(3) PERSON.—The term 'person' means any individual, corporation, company, limited liability company, trust, association, firm, partnership, society, joint stock company, or any other entity.

''(4) STATE.—The term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, any other territory or possession of the United States, or any political subdivision of any such State, commonwealth, territory, or possession.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 301 of title 49, United States Code, is amended by inserting after the item relating to section 30105 the following:

''30106. Rented or leased motor vehicle safety and responsibility.''.

SA 2479. Mr. REED submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

(1) Not later than 90 days after enactment, the Secretary of Homeland Security shall enter into a memorandum of understanding with the Secretary to define and clarify the roles and responsibilities of the department of Transportation and Homeland Security as they relate to public transportation security. Such memorandum of understanding shall:

(a) establish national security standards for public transportation agencies;

(b) establish funding priorities for Department of Homeland Security grants to public transportation agencies; and

(c) create a method of coordination with public transportation agencies on security matters.

SA 2480. Mrs. LINCOLN (for herself and Mr. MILLER) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 389, between lines 15 and 16, insert the following:

SEC. ____. SPECIAL EXEMPTION FOR VEHICLE WEIGHT LIMITS FOR SEASONAL SEED COTTON HAULERS.

Section 127(a) of title 23, United States Code, is amended by striking ''not to exceed 100 days annually.'' and inserting the following: ''not to exceed 100 days annually. States may allow, by special permit, the operation of vehicles with a gross vehicle weight of up to 80,000 pounds for the hauling of seed cotton during the harvest season, not to exceed 180 days annually.''.

SA 2481. Mr. CARPER submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle F of title V, insert the following:

SEC. ____. CREDIT FOR MAINTENANCE OF RAILROAD TRACK;

(a) CREDIT FOR MAINTENANCE OF RAILROAD TRACK.—

(1) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits) is amended by adding at the end the following new section:

"SEC. 45I. RAILROAD TRACK MAINTENANCE CREDIT.

''(a) GENERAL RULE.—For purposes of section 38, the railroad track maintenance credit determined under this section for the taxable year is 50 percent of the amount of qualified railroad track maintenance expenditures paid or incurred by an eligible taxpayer during the taxable year.

''(b) LIMITATION.—The credit allowed under subsection (a) shall not exceed the product of—

''(1) $20,000, and

''(2) the number of miles of railroad track owned or leased by the taxpayer as of the close of the taxable year.

''(c) QUALIFIED RAILROAD TRACK MAINTENANCE EXPENDITURES.—For purposes of this section, the term 'qualified railroad track maintenance expenditures' means expenditures (whether or not otherwise chargeable to capital account) for maintaining railroad track (including roadbed, bridges, and related track structures) owned or leased as of January 1, 2004, by the taxpayer of Class II or Class III railroads (as determined by the Surface Transportation Board).

''(d) CONTROLLED GROUPS.—For purposes of subsection (b), rules similar to the rules of paragraph (1) of section 41(f) shall apply for purposes of this subsection.

''(e) BASIS ADJUSTMENT.—For purposes of this subtitle, if a credit is allowed under this section with respect to any railroad track, the basis of such track shall be reduced by the amount of the credit so allowed.

''(f) APPLICATION OF SECTION.—This section shall apply to qualified railroad track maintenance expenditures paid or incurred during taxable years beginning after December 31, 2003, and before January 1, 2009.

''(g) ELIGIBLE TAXPAYER.—For purposes of this subsection, the term 'eligible taxpayer' means—

''(1) any person who transports property using the rail facilities of the taxpayer or who furnishes railroad-related property or services to the taxpayer, and

''(2) any Class II or Class III railroad.''.

(2) LIMITATION ON CARRYBACK.—Section 39(d) (relating to transition rules), as amended by section 5453, is amended by adding at the end the following new paragraph:

''(14) NO CARRYBACK OF RAILROAD TRACK MAINTENANCE CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the railroad track maintenance credit determined under section 45G may be carried to a taxable year beginning before January 1, 2004.''.

(3) CONFORMING AMENDMENTS.—

(A) Section 38(b) (relating to general business credit), as amended by section 5253 of this Act, is amended by striking ''plus'' at the end of paragraph (18), by striking the period at the end of paragraph (19) and inserting '', plus'', and by adding at the end the following new paragraph:

''(20) the railroad track maintenance credit determined under section 45I(a).''.

(B) Subsection (a) of section 1016 is amended by striking ''and'' at the end of paragraph (27), by striking the period at the end of paragraph (28) and inserting '', and'', and by adding at the end the following new paragraph:

''(29) in the case of railroad track with respect to which a credit was allowed under section 45I, to the extent provided in section 45I(e).''.

(4) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 45H the following new item:

''Sec. 45I. Railroad track maintenance credit.''.

(5) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

(b) RAILROAD REVITALIZATION AND SECURITY INVESTMENT CREDIT.—

(1) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits) is amended by adding at the end the following new section:

''SEC. 45J. RAILROAD REVITALIZATION AND SECURITY INVESTMENT CREDIT.

''(a) GENERAL RULE.—For purposes of section 38, the railroad revitalization and security investment credit determined under this section for the taxable year is the amount of qualified project expenditures paid or incurred by an eligible taxpayer during the taxable year.

''(b) QUALIFIED PROJECT EXPENDITURES.—For purposes of this section, the term 'qualified project expenditures' means expenditures (whether or not otherwise chargeable to capital account) with respect to rail lines which are included in a State rail plan (within the meaning of section 22101 of title 49, United States Code) for—

''(A) planning and environmental review,

''(B) rail line rehabilitation,

''(C) upgrades and development of rail lines,

''(D) projects for safety and security with respect to rail lines,

''(E) passenger equipment acquisition with respect to rail lines,

''(F) rail station improvement, and

''(G) intermodal facilities development.

An expenditure shall not be a qualified project expenditure unless there is a written agreement between a State and the owner of the infrastructure improved by the expenditures regarding the use and ownership of such infrastructure, including compensation for such use and assurances regarding the capacity of such infrastructure.

''(c) LIMITATIONS.—

''(1) IN GENERAL.—The credit allowed under subsection (a) shall not exceed 50 percent of the amount allocated to such project under this subsection.

''(2) NATIONAL LIMITATION.—There is a railroad revitalization and security investment credit limitation of $167,000,000 for each calendar year.

''(3) ALLOCATION OF LIMITATION.—The limitation under paragraph (2) shall be allocated by the Secretary to each State with a State rail plan (within the meaning of section 22101 of title 49, United States Code) based on the following considerations:

''(A) the number of rail miles in active use in the State;

''(B) the number of rail cars loaded in the State;

''(C) the number of railroad and public road grade crossings in the State;

''(D) the number of intercity passenger rail miles; and

''(E) the number of intercity passenger embarkations.

''(d) ELIGIBLE TAXPAYER.—For purposes of this section, the term 'eligible taxpayer' means a taxpayer who is an employer for purposes of the Railroad Retirement Act of 1974 and who is a carrier for purposes of the Railway Labor Act (unless such person is a commuter rail passenger transportation (as defined in section 24102 of title 49, United States Code) operator of a State or local authority (as defined in section 5302 of such title) or an Alaska railroad or it contractor).

''(e) CONTROLLED GROUPS.—For purposes of subsection (b), rules similar to the rules of paragraph (1) of section 41(f) shall apply for purposes of this subsection.

''(f) BASIS ADJUSTMENT.—For purposes of this subtitle, if a credit is allowed under this section with respect to any railroad track, the basis of such track shall be reduced by the amount of the credit so allowed.

''(g) APPLICATION OF SECTION.—This section shall apply to qualified railroad track maintenance expenditures paid or incurred during taxable years beginning after December 31, 2003, and before January 1, 2009.

''(h) CREDIT TRANSFERABILITY.—

''(1) IN GENERAL.—Any credit allowable under this section may be transferred (but not more than once) as provided by the Secretary, and the determination as to whether the credit is allowable shall be made without regard to the tax-exempt status of the transferor.

''(2) MINIMUM PRICE FOR TRANSFER.—No transfer shall be allowed under this subsection unless the transferor receives compensation for the credit transfer equal to at least 50 percent of the amount of credit transferred. The excess of the amount of credit transferred over the compensation received by the transferor for such transfer shall be included in the gross income of the transferee.''.

(2) LIMITATION ON CARRYBACK.—Section 39(d) (relating to transition rules), as amended by subsection (a), is amended by adding at the end the following new paragraph:

''(16) NO CARRYBACK OF SECTION 45J CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the credit determined under section 45J(a) may be carried back to a taxable year beginning on or before the date of the enactment of section 45J.''.

(3) CONFORMING AMENDMENTS.—

(A) Section 38(b) (relating to general business credit), as amended by subsection (a), is amended by striking ''plus'' at the end of paragraph (19), by striking the period at the end of paragraph (20) and inserting '', plus'', and by adding at the end the following new paragraph:

''(21) the railroad revitalization and security investment credit determined under section 45J(a).''.

(B) Subsection (a) of section 1016 is amended by striking ''and'' at the end of paragraph (28), by striking the period at the end of paragraph (29) and inserting '', and'', and by adding at the end the following new paragraph:

''(30) in the case of qualified projects with respect to which a credit was allowed under section 45J, to the extent provided in section 45J(f).''.

(4) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by subsection (a), is amended by inserting after the item relating to section 45I the following new item:

''Sec. 45J. Railroad revitalization and security investment credit.''.

(5) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

SEC. ____. CONSISTENT AMORTIZATION OF PERIODS FOR INTANGIBLES.

(a) START-UP EXPENDITURES.—

(1) ALLOWANCE OF DEDUCTION.—Paragraph (1) of section 195(b) (relating to start-up expenditures) is amended to read as follows:

''(1) ALLOWANCE OF DEDUCTION.—If a taxpayer elects the application of this subsection with respect to any start-up expenditures—

''(A) the taxpayer shall be allowed a deduction for the taxable year in which the active trade or business begins in an amount equal to the lesser of—

''(i) the amount of start-up expenditures with respect to the active trade or business, or

''(ii) $5,000, reduced (but not below zero) by the amount by which such start-up expenditures exceed $50,000, and

''(B) the remainder of such start-up expenditures shall be allowed as a deduction ratably over the 180-month period beginning with the month in which the active trade or business begins.''.

(2) CONFORMING AMENDMENT.—Subsection (b) of section 195 is amended by striking ''AMORTIZE'' and inserting ''DEDUCT'' in the heading.

(b) ORGANIZATIONAL EXPENDITURES.—Subsection (a) of section 248 (relating to organizational expenditures) is amended to read as follows:

''(a) ELECTION TO DEDUCT.—If a corporation elects the application of this subsection (in

accordance with regulations prescribed by the Secretary) with respect to any organizational expenditures—

''(1) the corporation shall be allowed a deduction for the taxable year in which the corporation begins business in an amount equal to the lesser of—

''(A) the amount of organizational expenditures with respect to the taxpayer, or

''(B) $5,000, reduced (but not below zero) by the amount by which such organizational expenditures exceed $50,000, and

''(2) the remainder of such organizational expenditures shall be allowed as a deduction ratably over the 180-month period beginning with the month in which the corporation begins business.''.

(c) TREATMENT OF ORGANIZATIONAL AND SYNDICATION FEES OR PARTNERSHIPS.—

(1) IN GENERAL.—Section 709(b) (relating to amortization of organization fees) is amended by redesignating paragraph (2) as paragraph (3) and by amending paragraph (1) to read as follows:

''(1) ALLOWANCE OF DEDUCTION.—If a taxpayer elects the application of this subsection (in accordance with regulations prescribed by the Secretary) with respect to any organizational expenses—

''(A) the taxpayer shall be allowed a deduction for the taxable year in which the partnership begins business in an amount equal to the lesser of—

''(i) the amount of organizational expenses with respect to the partnership, or

''(ii) $5,000, reduced (but not below zero) by the amount by which such organizational expenses exceed $50,000, and

''(B) the remainder of such organizational expenses shall be allowed as a deduction ratably over the 180-month period beginning with the month in which the partnership begins business.

''(2) DISPOSITIONS BEFORE CLOSE OF AMORTIZATION PERIOD.—In any case in which a partnership is liquidated before the end of the period to which paragraph (1)(B) applies, any deferred expenses attributable to the partnership which were not allowed as a deduction by reason of this section may be deducted to the extent allowable under section 165.''.

(2) CONFORMING AMENDMENT.—Subsection (b) of section 709 is amended by striking ''AMORTIZATION'' and inserting ''DEDUCTION'' in the heading.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after the date of the enactment of this Act.

SA 2482. Mr. TALENT (for himself and Mr. WYDEN) submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 1298, after line 24, add insert the following:

Subtitle H—Tax-Exempt Financing of Highway Projects and Rail-Truck Transfer Facilities

SEC. 5671. TAX-EXEMPT FINANCING OF HIGHWAY PROJECTS AND RAIL-TRUCK TRANSFER FACILITIES.

(a) TREATMENT AS EXEMPT FACILITY BOND.—Subsection (a) of section 142 (relating to exempt facility bond) is amended by striking ''or'' at the end of paragraph (12), by striking the period at the end of paragraph (13), and by adding at the end the following:

''(14) qualified highway facilities, or

''(15) qualified surface freight transfer facilities.''.

(b) QUALIFIED HIGHWAY FACILITIES AND QUALIFIED SURFACE FREIGHT TRANSFER FACILITIES.—Section 142 is amended by adding at the end the following:

''(l) QUALIFIED HIGHWAY AND SURFACE FREIGHT TRANSFER FACILITIES.—

''(1) QUALIFIED HIGHWAY FACILITIES.—For purposes of subsection (a)(14), the term 'qualified highway facilities' means—

''(A) any surface transportation project which receives Federal assistance under title 23, United States Code (as in effect on the date of the enactment of this subsection), or

''(B) any project for an international bridge or tunnel for which an international entity authorized under Federal or State law is responsible and which receives Federal assistance under such title 23.

''(2) QUALIFIED SURFACE FREIGHT TRANSFER FACILITIES.—For purposes of subsection (a)(15), the term 'qualified surface freight transfer facilities' means facilities for the transfer of freight from truck to rail or rail to truck (including any temporary storage facilities directly related to such transfers) which receives Federal assistance under either title 23 or title 49, United States Code (as in effect on the date of the enactment of this subsection).

''(3) AGGREGATE FACE AMOUNT OF TAX-EXEMPT FINANCING FOR FACILITIES.—

''(A) IN GENERAL.—An issue shall not be treated as an issue described in subsection (a)(14) or (a)(15) if the aggregate face amount of bonds issued by any State pursuant thereto (when added to the aggregate face amount of bonds previously so issued) exceeds $15,000,000,000.

''(B) ALLOCATION BY SECRETARY OF TRANSPORTATION.—The Secretary of Transportation shall allocate the amount described in subparagraph (A) among eligible projects described in subsections (a)(14) and (a)(15) in such manner as the Secretary determines appropriate.''.

(c) EXEMPTION FROM GENERAL STATE VOLUME CAPS.—Paragraph (3) of section 146(g) of the Internal Revenue Code of 1986 (relating to exception for certain bonds) is amended by striking ''or (13)'' and all that follows through the end of the paragraph and inserting ''(13), (14), or (15) of section 142(a), and''.

(d) EFFECTIVE DATE.—The amendments made by this section apply to bonds issued after the date of the enactment of this Act.

SEC. 5672. ADDITION OF VACCINES AGAINST HEPATITIS A TO LIST OF TAXABLE VACCINES.

(a) IN GENERAL.—Section 4132(a)(1) (defining taxable vaccine) is amended by redesignating subparagraphs (I), (J), (K), and (L) as subparagraphs (J), (K), (L), and (M), respectively, and by inserting after subparagraph (H) the following new subparagraph:

''(I) Any vaccine against hepatitis A.''.

(b) CONFORMING AMENDMENT.—Section 9510(c)(1)(A) is amended by striking ''October 18, 2000'' and inserting ''the date of the enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004''.

(c) EFFECTIVE DATE.—

(1) SALES, ETC.—The amendments made by this section shall apply to sales and uses on or after the first day of the first month which begins more than 4 weeks after the date of the enactment of this Act.

(2) DELIVERIES.—For purposes of paragraph (1) and section 4131 of the Internal Revenue Code of 1986, in the case of sales on or before the effective date described in such paragraph for which delivery is made after such date, the delivery date shall be considered the sale date.

SEC. 5674. ADDITION OF VACCINES AGAINST INFLUENZA TO LIST OF TAXABLE VACCINES.

(a) IN GENERAL.—Section 4132(a)(1) (defining taxable vaccine), as amended by section 5673 of this Act, is amended by adding at the end the following new subparagraph:

''(N) Any trivalent vaccine against influenza.''.

(b) EFFECTIVE DATE.—

(1) SALES, ETC.—The amendment made by this section shall apply to sales and uses on or after the later of—

(A) the first day of the first month which begins more than 4 weeks after the date of the enactment of this Act, or

(B) the date on which the Secretary of Health and Human Services lists any vaccine against influenza for purposes of compensation for any vaccine-related injury or death through the Vaccine Injury Compensation Trust Fund.

(2) DELIVERIES.—For purposes of paragraph (1) and section 4131 of the Internal Revenue Code of 1986, in the case of sales on or before the effective date described in such paragraph for which delivery is made after such date, the delivery date shall be considered the sale date.

SEC. 5675. EXTENSION OF AMORTIZATION OF INTANGIBLES TO SPORTS FRANCHISES.

(a) IN GENERAL.—Section 197(e) (relating to exceptions to definition of section 197 intangible) is amended by striking paragraph (6) and by redesignating paragraphs (7) and (8) as paragraphs (6) and (7), respectively.

(b) CONFORMING AMENDMENTS.—

(1)(A) Section 1056 (relating to basis limitation for player contracts transferred in connection with the sale of a franchise) is repealed.

(B) The table of sections for part IV of subchapter O of chapter 1 is amended by striking the item relating to section 1056.

(2) Section 1245(a) (relating to gain from disposition of certain depreciable property) is amended by striking paragraph (4).

(3) Section 1253 (relating to transfers of franchises, trademarks, and trade names) is amended by striking subsection (e).

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to property acquired after the date of the enactment of this Act.

(2) SECTION 1245.—The amendment made by subsection (b)(2) shall apply to franchises acquired after the date of the enactment of this Act.

SA 2483. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 54 line 11, insert after the word census, ''vehicle miles traveled per lane mile in excess of 4,000 in the year 2001.''

SA 2484. Mr. LIEBERMAN (for himself and Mr. DODD) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. HIGH LEVEL OF SERVICE BONUS.

(a) IN GENERAL.—Amounts made available for projects under sections 103, 133, 144, and 149 of title 23, United States Code, shall be apportioned to the States as follows:

(1) ⅓ in the ratio that—

(A) the population density of each State that has a population of over 250 residents per square mile; bears to

(B) the population density of a State that has a population of 250 residents per square mile;

(2) ⅓ in the ratio that—

(A) the vehicle miles traveled per lane mile in each State in which such ratio exceeds the ratio of total vehicle miles traveled for the States to the total lane miles of the States; bears to

(B) the ration of total vehicle miles traveled for the States to the total lane miles of the States; and

(3) ⅓ in the ratio that—

(A) the funding apportioned to each State for projects eligible under section 144 of title 23, United States Code, that exceeds the average of such funds apportioned; bears to

(B) the total of such funds apportioned to the States.

(b) MINIMUM STATE SHARE.—The minimum share apportioned to a State under paragraphs (1) and (2) of subsection (a) shall be at least ½ of 1 percent.

(c) MAXIMUM FEDERAL SHARE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the maximum Federal share payable for projects funded under this program shall not exceed 80 percent.

(2) EXCEPTION.—The maximum Federal share payable for projects on the Interstate system shall not exceed 90 percent.

(d) EQUITY BONUS.—The calculation and distribution of funds under section 105 shall not be adjusted as a result of the allocations of funds under this section.

(e) FUNDING.—There is authorized to be appropriated to carry out this section $1,000,000,000 for each fiscal year.

SA 2485. Mr. HOLLINGS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 780, lines 21 and 22, strike ''shall consider the prescription of'' and insert ''shall prescribe''.

SA 2486. Mr. LIEBERMAN (for himself and Mr. DODD) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. LEVEL OF SERVICE BONUS.

(a) IN GENERAL.—Amounts made available for projects under sections 103, 133, 144, and 149 of title 23, United States Code, shall be apportioned to the States as follows:

(1) ⅓ in the ratio that—

(A) the population density of each State; bears to

(B) the population density of the State with the least population density;

(2) ⅓ in the ratio that—

(A) the vehicle miles traveled per lane mile in each State; bears to

(B) the State with the least such ratio; and

(3) ⅓ in the ratio that—

(A) the funding apportioned to each State for projects eligible under section 144 of title 23, United States Code; bears to

(B) the total of such funds apportioned to the States.

(b) MINIMUM STATE SHARE.—The minimum share apportioned to a State under paragraphs (1) and (2) of subsection (a) shall be at least ½ of 1 percent.

(c) MAXIMUM FEDERAL SHARE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the maximum Federal share payable for projects funded under this program shall not exceed 80 percent.

(2) EXCEPTION.—The maximum Federal share payable for projects on the Interstate system shall not exceed 90 percent.

(d) EQUITY BONUS.—The calculation and distribution of funds under section 105 shall not be adjusted as a result of the allocations of funds under this section.

(e) FUNDING.—There is authorized to be appropriated to carry out this section $1,000,000,000 for each fiscal year.

SA 2487. Mr. SPECTER submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 489, after line 23, add the following:

SEC. 21___. TRANSPORTATION TECHNOLOGY INNOVATION AND DEMONSTRATION PROGRAM.

(a) IN GENERAL.—Section 5117(b)(3) of the Transportation Equity Act for the 21st Century (112 Stat. 449; 112 Stat. 864; 115 Stat. 2330) is amended—

(1) in subparagraph (B)—

(A) in clause (i)—

(i) in the first sentence—

(I) by striking ''Build an'' and inserting ''Build or integrate an''; and

(II) by striking ''2,000,000'' and inserting ''2,500,000''; and

(ii) in the second sentence—

(I) by striking ''300,000 and that'' and inserting ''300,000,''; and

(II) by inserting before the period at the end the following: '', and includes major transportation corridors serving that metropolitan area'';

(B) in clause (ii), by striking all that follows ''will be'' and inserting ''reinvested in the intelligent transportation infrastructure system.'';

(C) by striking clause (iii); and

(D) by redesignating clauses (iv) and (v) as clauses (iii) and (iv), respectively;

(2) in subparagraph (C)(ii), by striking ''July 1, 2002'' and inserting ''the date that is 180 days after the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003'';

(3) in subparagraph (E), by striking clause (ii) and inserting the following:

''(ii) The term ''follow-on deployment areas'' means the metropolitan areas of Albany, Atlanta, Austin, Baltimore, Birmingham, Boston, Charlotte, Chicago, Cleveland, Columbus, Dallas/Ft. Worth, Denver, Detroit, Greensboro, Hartford, Houston, Indianapolis, Jacksonville, Kansas City, Las Vegas, Los Angeles, Louisville, Miami, Milwaukee, Minneapolis-St. Paul, Nashville, New Orleans, New York/Northern New Jersey, Norfolk, Northern Kentucky/Cincinnati, Oklahoma City, Orlando, Philadelphia, Phoenix, Pittsburgh, Portland, Providence, Raleigh, Richmond, Sacramento, Salt Lake, San Diego, San Francisco, San Jose, St. Louis, Seattle, Tampa, Tucson, Tulsa, and Washington, District of Columbia.'';

(4) in subparagraph (F)—

(A) by striking ''Of the amounts'' and inserting the following:

''(i) THIS ACT.—Of the amounts''; and

(B) by adding at the end the following:

''(ii) SAFETEA.—Of the amounts made available by section 1101(5) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003 for fiscal years 2004 through 2009, $5,000,000 for each fiscal year shall be made available by the Secretary to carry out this paragraph.

''(iii) AVAILABILITY; NO REDUCTION OR SETASIDE.—Amounts made available by this subparagraph—

''(I) shall remain available until expended; and

''(II) shall not be subject to any reduction or setaside.''; and

(5) by adding at the end the following:

''(H) USE OF RIGHTS-OF-WAY.—

''(i) IN GENERAL.—An intelligent transportation system project described in paragraph (3) or (6) that involves privately owned intelligent transportation system components and is carried out using funds made available from the Highway Trust Fund shall not be subject to any law (including a regulation) of a State or political subdivision of a State prohibiting or regulating commercial activities in the rights-of-way of a highway for which Federal-aid highway funds have been used for planning, design, construction, or maintenance, if the Secretary of Transportation determines that such use is in the public interest.

''(ii) EFFECT OF SUBPARAGRAPH.—Nothing in this subparagraph affects the authority of a State or political subdivision of a State to regulate highway safety.''.

(b) CONFORMING AMENDMENT.—Section 5204(k) of the Transportation Equity Act for the 21st Century (112 Stat. 453) is amended by striking subsection (k) (112 Stat. 2681–478).

SA 2488. Mr. SPECTER submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 396, line 4, strike ''$40,000,000'' and insert ''$50,000,000''.

On page 396, line 5, strike ''$45,000,000'' and insert ''$55,000,000''.

On page 403, in the analysis for chapter 5 of title 23, United States Code (as added by section 2101(a)), strike the item relating to section 511 and insert the following:

''511. University bridge research centers.

''512. Multistate corridor operations and management.

On page 475, strike lines 15 and 16 and insert the following:

''§ 511. University bridge research centers

''(a) IN GENERAL.—The Secretary shall establish and implement a university bridge research center program in accordance with this section.

''(b) PURPOSES.—The Secretary, in coordination with nonprofit institutions of higher learning, shall encourage and promote specific research on—

''(1) advanced highway bridge materials and systems for economical, rapid, and durable repair, replacement, and protection of highway bridges; and

''(2) technology to monitor and evaluate bridge damage and deterioration to significantly extend the useful life of highway bridges.

''(c) BRIDGE CENTERS.—The Secretary shall make grants to nonprofit institutions of

higher learning to establish and operate university bridge research centers.

''(d) SELECTION OF GRANT RECIPIENTS.—

''(1) APPLICATIONS.—To be eligible to receive a grant under this section, a nonprofit institution of higher learning shall submit to the Secretary an application in such form and containing such information as the Secretary may require.

''(2) SELECTION CRITERIA.—

''(A) IN GENERAL.—Except as otherwise provided by subparagraph (B), the Secretary shall select each recipient of a grant under this section through a competitive process on the basis of—

''(i) the demonstrated research and development resources available to the recipient to carry out this section;

''(ii) the capability of the recipient to provide leadership in making national and regional contributions to the solution of immediate and long-range bridge deterioration and structure problems;

''(iii) the demonstrated commitment by the recipient of at least $200,000 in regularly budgeted institutional amounts each year to support ongoing bridge research and education programs;

''(iv) the demonstrated ability of the recipient to disseminate results of bridge transportation research and education programs through a statewide or regionwide program;

''(v) the demonstrated ability of the recipient to partner with other institutions that have highway bridge research expertise;

''(vi) the demonstrated ability of the recipient to conduct analysis, laboratory testing, and field verification of bridge design through a record of demonstration projects with State transportation departments and private, public and quasi-public bridge authorities;

''(vii) the demonstrated record of the recipient in transferring technology to practitioners;

''(viii) the demonstrated record of the recipient in testing full-scale bridge components in laboratory facilities and implementing results in design changes and field verification; and

''(ix) the strategic plan that the recipient proposes to carry out under the grant.

''(B) PREFERENCE.—Preference shall be given to nonprofit institutions of higher learning located in the 10 States with the worst deficiencies in highway bridges, as ranked by the 2002 Federal Highway Administration National Bridge Inventory.

''(e) ACTIVITIES.—A Federal Highway Administration university bridge transportation center that receives a grant under this section shall conduct—

''(1) basic and applied bridge research, the products of which are judged by peers or other experts in the field to advance the body of knowledge in bridge longevity;

''(2) an education program that includes multidisciplinary course work and student participation in research; and

''(3) an ongoing program of technology transfer that makes research results available to potential users in a form that can be implemented, used, or otherwise applied.

''(f) FEDERAL SHARE.—

''(1) IN GENERAL.—The Federal share of the costs of activities carried out using a grant made under this section shall be 50 percent.

''(2) NON-FEDERAL SHARE.—The non-Federal share may include funds provided to a recipient under section 503, 504(b), or 505 of title 23.

''(g) PROGRAM COORDINATION.—

''(1) COORDINATION.—The Secretary shall—

''(A) coordinate the research, education, training, and technology transfer activities that grant recipients carry out under this section; and

''(B) establish a clearinghouse for dissemination of the results of the research.

''(2) ANNUAL REVIEW AND EVALUATION.—At least annually the Secretary shall review and evaluate programs carried out by grant recipients.

''(3) FUNDING LIMITATION.—The Secretary shall use not more than 1 percent of amounts made available from Government sources to carry out this subsection.

''(h) LIMITATION ON AVAILABILITY OF FUNDS.—Funds made available to carry out this section shall remain available for obligation for 2 years after the last day of the fiscal year for which the funds are made available.

''(i) NUMBER AND AMOUNT OF GRANTS.—For each of fiscal years 2005, 2006, 2007, 2008, and 2009, the Secretary shall make a grant of $2,000,000 to each of 5 nonprofit institutions of higher education to conduct bridge transportation research.

''§ 512. Multistate corridor operations and management

SA 2489. Mr. WARNER submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 346, before line 1, insert the following:

(c) ADDITION.—

(1) DESIGNATION.—There is designated as an addition to the Appalachian development highway system under section 14501 of title 40, United States Code, Segment B of the Coalfields Expressway from Corridor B near Pound to Clintwood in Virginia.

(2) CONFORMING AMENDMENT.—Section 14501 of title 40, United States Code, is amended in the second sentence by striking ''not be more than'' and all that follows through the period and insert ''not be more than 3,102 miles.''.

SA 2490. Mr. WARNER submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 346, before line 1, insert the following:

(c) ADDITION.—

(1) DESIGNATION.—There is designated as an addition to the Appalachian development highway system under section 14501 of title 40, United States Code, Segment B of the Coalfields Expressway from Corridor B near Pound to Clintwood in Virginia.

(2) SUBTRACTION.—The portion of Corridor H in Virginia from the West Virginia State line to Interstate 81—

(A) shall be subtracted from Corridor H; and

(B) may be included on a map of that system only for the purpose of continuity.

(3) CONFORMING AMENDMENT.—Section 14501 of title 40, United States Code, is amended in the second sentence by striking ''not be more than'' and all that follows through the period and insert ''not be more than 3,102 miles.''.

SA 2491. Mrs. MURRAY (for herself, Ms. COLLINS, Mrs. BOXER, Ms. CANTWELL, Mrs. CLINTON, Mr. COCHRAN, Mr. CORZINE, Mr. EDWARDS, Mrs. FEINSTEIN, Mr. KENNEDY, Mr. LAUTENBERG, Ms. MIKULSKI, Mr. SCHUMER, Ms. SNOWE, and Mr. STEVENS) submitted an amendment intended to be proposed by her to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 38, strike line 22 and all that follows through page 39, line 6, and insert the following:

(13) INFRASTRUCTURE PERFORMANCE AND MAINTENANCE PROGRAM.—For carrying out the infrastructure performance and maintenance program under section 139 of that title $1,328,000,000 for fiscal year 2004.

(14) CONSTRUCTION OF FERRY BOATS AND FERRY TERMINAL FACILITIES.—For construction of ferry boats and ferry terminal facilities under section 147 of that title, $$150,000,000 for each of fiscal years 2004 through 2009.

SA 2492. Mrs. MURRAY (for herself, Ms. COLLINS, Mrs. BOXER, Ms. CANTWELL, Mrs. CLINTON, Mr. COCHRAN, Mr. CORZINE, Mr. EDWARDS, Mrs. FEINSTEIN, Mr. KENNEDY, Mr. LAUTENBERG, Ms. MIKULSKI, Ms. MURKOWSKI, Mr. SCHUMER, Ms. SNOWE, and Mr. STEVENS) submitted an amendment intended to be proposed by her to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 80, strike line 7 and all that follows through page 81, line 3, and insert the following:

SEC. 1204. CONSTRUCTION OF FERRY BOATS AND FERRY TERMINAL AND MAINTENANCE FACILITIES.

(a) IN GENERAL.—Section 147 of title 23, United States Code, is amended to read as follows:

''§ 147. Construction of ferry boats and ferry terminal and maintenance facilities

''(a) IN GENERAL.—The Secretary shall carry out a program for construction of ferry boats and ferry terminal and maintenance facilities in accordance with section 129(c).

''(b) FEDERAL SHARE.—The Federal share of the cost of construction of ferry boats and ferry terminals and maintenance facilities under this section shall be 80 percent.

''(c) ALLOCATION OF FUNDS.—The Secretary shall give priority in the allocation of funds under this section to those ferry systems, and public entities responsible for developing ferries, that—

''(1) carry the greatest number of passengers and vehicles;

''(2) carry the greatest number of passengers in passenger-only service; or

''(3) provide critical access to areas that are not well-served by other modes of surface transportation.

''(d) SET-ASIDE.—Of the amounts made available under section 1101(a)(14) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003, $112,000,000 for each of fiscal years 2004 through 2009 shall be made available to carry out this section.

''(e) RULE OF CONSTRUCTION.—Notwithstanding any other provision of law—

''(1) paragraph (13) of section 1101(a) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003 shall be applied by substituting '$1,328,000,000' for '$2,000,000,000'; and

''(2) paragraph (14) of section 1101(a) of that Act shall be applied by substituting '$150,000,000' for '$38,000,000'.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 129(c) of title 23, United States Code, is amended—

(A) in the matter preceding paragraph (1), by inserting ''and maintenance'' after ''terminal''; and

(B) in paragraph (3), by inserting ''or maintenance'' after ''terminal'' each place it appears.

(2) The analysis for subchapter I of chapter 1 of title 23, United States Code, is amended by striking the item relating to section 147 and inserting the following:

''147. Construction of ferry boats and ferry terminal and maintenance facilities.''.

(3) Section 1064 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2005) is repealed.

SA 2493. Mr. CARPER submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 588, strike line 21 and all that follows through page 589, line 2, and insert the following:

(E) by amending subparagraph (C), as redesignated, to read as follows:

''(C) capital projects to replace, rehabilitate, and purchase buses and related equipment, including the differential cost of purchasing alternative fuels (as defined in section 301 of the Energy Policy Act of 1992 (42 U.S.C. 13211)), not to exceed the difference in purchasing costs between conventional bus fuels and such alternative fuels, and to construct bus-related facilities, including programs of bus and bus-related projects for assistance to subrecipients that are public agencies, private companies engaged in public transportation, or private nonprofit organizations; and''; and

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SA 2494. Mr. REED submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

In subsection (b)(1)(B) of section 105 of title 23, United States Code (as added by section 1104(a)), strike ''1,000,000'' and insert ''1,100,000''.

SA 2495. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 61, strike line 4 and all that follows through line 8 on page 64, and insert the following:

SEC. 1201. HIGH TRAFFIC DENSITY EQUITY ADJUSTMENT PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code, is amended by inserting after section 138 the following:

''§ 139. High traffic density equity adjustment program

''(a) ESTABLISHMENT OF PROGRAM.—The Secretary shall establish and implement a high traffic density equity adjustment program in accordance with this section.

''(b) ELIGIBLE PROJECTS.—

''(1) IN GENERAL.—A State may obligate funds allocated to the State under this section only for projects eligible under the Interstate maintenance program under section 119, the National Highway System program under section 103, the surface transportation program under section 133, the highway safety improvement program under section 148, the highway bridge replacement and rehabilitation program under section 144, and the congestion mitigation and air quality improvement program under section 149 that will—

''(A) preserve, maintain, or otherwise extend, in a cost-effective manner, the useful life of existing highway infrastructure elements; or

''(B) provide operational improvements (including traffic management and intelligent transportation system strategies and limited capacity enhancements) at points of recurring highway congestion.

''(2) SET-ASIDE.—Notwithstanding any other provision of law, of the amounts made available under section 1101(a)(14) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003, $439,000,000 shall be available for obligation to carry out this section without further appropriation.

''(3) HIGH TRAFFIC DENSITY EQUITY ADJUSTMENT PROGRAM.—

''(A) IN GENERAL.—The Secretary shall allocate the amounts made available under paragraph (2) for a fiscal year to each State in the proportion that—

''(i) the excess, if any, of the number of annual vehicle miles per lane mile in the State over the average of that number for all of the States; bears to

''(ii) the average of that number for all of the States.

''(B) DETERMINATION OF ANNUAL VEHICLE MILES TRAVEL.—In determining annual vehicle miles per lane mile for purposes of this paragraph, the Secretary shall use the latest available annual estimates prepared by the Secretary of Transportation.

''(c) PERIOD OF AVAILABILITY.—

''(1) OBLIGATION WITHIN 180 DAYS.—

''(A) IN GENERAL.—Funds allocated to a State under this section shall be obligated by the State not later than 180 days after the date of apportionment.

''(B) UNOBLIGATED FUNDS.—Any amounts that remain unobligated at the end of that period shall be allocated in accordance with subsection (d).

''(2) OBLIGATION BY END OF FISCAL YEAR.—

''(A) IN GENERAL.—All funds allocated or reallocated under this section shall remain available for obligation until the last day of the fiscal year for which the funds are apportioned.

''(B) UNOBLIGATED FUNDS.—Any amounts allocated that remain unobligated at the end of the fiscal year shall lapse.

''(d) REDISTRIBUTION OF ALLOCATED FUNDS AND OBLIGATION AUTHORITY.—

''(1) IN GENERAL.—On the date that is 180 days after the date of allocation, or as soon thereafter as practicable, for each fiscal year, the Secretary shall -

''(A) withdraw—

''(i) any funds allocated to a State under this section that remain unobligated; and

''(ii) an equal amount of obligation authority provided for the use of the funds in accordance with section 1101(a)(14) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003; and

''(B) reallocate the funds and redistribute the obligation authority to States that—

''(i) have fully obligated all amounts allocated under this section for the fiscal year; and

(ii) demonstrate that the State is able to obligate additional amounts for projects eligible under this section before the end of the fiscal year.

''(2) EQUITY BONUS.—The calculation and distribution of funds under section 105 shall not be adjusted as a result of the allocation of funds under this subsection.

''(e) FEDERAL SHARE PAYABLE.—The Federal share payable for a project funded under this section shall be determined in accordance with section 120.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 1 of title 23, United States Code, is amended by adding after the item relating to section 138 the following:

''139. High traffic density equity adjustment program.''.

SA 2496. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 61, strike line 4 and all that follows through page 64, line 23 and insert the following:

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code, is amended by inserting after section 138 the following:

''SEC. 139. HIGH TRAFFIC DENSITY APPORTIONMENT PROGRAM.

''(a) ESTABLISHMENT.—The Secretary shall establish and implement a high traffic density apportionment program in accordance with this section.

''(b) ELIGIBLE PROJECTS.—

''(1) IN GENERAL.—A State may obligate funds allocated to the State under this section only for projects eligible under the Interstate maintenance program under section 119, the National Highway System program under section 103, the surface transportation program under section 133, the highway safety improvement program under section 148, the highway bridge replacement and rehabilitation program under section 144, and the congestion mitigation and air quality improvement program under section 149 that will—

''(A) preserve, maintain, or otherwise extend, in a cost-effective manner, the useful life of existing highway infrastructure elements; or

''(B) provide operational improvements (including traffic management and intelligent transportation system strategies and limited capacity enhancements) at points of recurring highway congestion.

''(2) SET-ASIDE.—Notwithstanding any other provision of law, of the amounts made available under section 1101(13) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003, $1,000,000,000 shall be available for obligation to carry out this section without further appropriation.

''(3) HIGH TRAFFIC DENSITY APPORTIONMENT PROGRAM.—

''(A) IN GENERAL.—The Secretary shall allocate the amounts made available under paragraph (2) for a fiscal year to each State in the proportion that—

''(i) the excess, if any, of the number of annual vehicle miles traveled per lane mile of each State-owned public road in the State over the average of that number for all of the States; bears to

''(ii) the number of daily vehicle miles traveled per the total lane miles of all State-owned public roads in the State.

''(B) DETERMINATION OF ANNUAL VEHICLE MILES TRAVELED.—In determining annual vehicle miles per lane mile for purposes of this paragraph, the Secretary shall use the latest available annual estimates prepared by the Secretary.

''(c) PERIOD OF AVAILABILITY.—

''(1) OBLIGATION WITHIN 180 DAYS.—

''(A) IN GENERAL.—Funds allocated to a State under this section shall be obligated by the State not later than 180 days after the date of apportionment.

''(B) UNOBLIGATED FUNDS.—Any amounts that remain unobligated at the end of that period shall be allocated in accordance with subsection (d).

''(2) OBLIGATION BY END OF FISCAL YEAR.—

''(A) IN GENERAL.—All funds allocated or reallocated under this section shall remain available for obligation until the last day of the fiscal year for which the funds are apportioned.

''(B) UNOBLIGATED FUNDS.—Any amounts allocated that remain unobligated at the end of the fiscal year shall lapse.

''(d) REDISTRIBUTION OF ALLOCATED FUNDS AND OBLIGATION AUTHORITY.—

''(1) IN GENERAL.—On the date that is 180 days after the date of allocation, or as soon thereafter as practicable, for each fiscal year, the Secretary shall—

''(A) withdraw—

''(i) any funds allocated to a State under this section that remain unobligated; and

''(ii) an equal amount of obligation authority provided for the use of the funds in accordance with section 1101(13) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003; and

''(B) reallocate the funds and redistribute the obligation authority to States that—

''(i) have fully obligated all amounts allocated under this section for the fiscal year; and

''(ii) demonstrate that the State is able to obligate additional amounts for projects eligible under this section before the end of the fiscal year.

''(2) EQUITY BONUS.—The calculation and distribution of funds under section 105 shall not be adjusted as a result of the allocation of funds under this subsection.

''(e) FEDERAL SHARE PAYABLE.—The Federal share payable for a project funded under this section shall be determined in accordance with section 120.''.

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code, is amended by adding after the item relating the section 138 the following:

''105. High traffic density apportionment program.''.

SEC. 1202. FUTURE OF SURFACE TRANSPORTATION SYSTEM.

SA 2497. Mr. LIEBERMAN (for himself and Mr. DODD) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 61, strike line 4 and all that follows through page 64, line 8 and insert the following:

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code, is amended by inserting after section 138 the following:

''SEC. 139. WEIGHTED HIGH TRAFFIC DENSITY APPORTIONMENT PROGRAM.

''(a) ESTABLISHMENT.—The Secretary shall establish and implement a weighted high traffic density apportionment program in accordance with this section.

''(b) ELIGIBLE PROJECTS.—

''(1) IN GENERAL.—A State may obligate funds allocated to the State under this section only for projects eligible under the Interstate maintenance program under section 119, the National Highway System program under section 103, the surface transportation program under section 133, the highway safety improvement program under section 148, the highway bridge replacement and rehabilitation program under section 144, and the congestion mitigation and air quality improvement program under section 149 that will—

''(A) preserve, maintain, or otherwise extend, in a cost-effective manner, the useful life of existing highway infrastructure elements; or

''(B) provide operational improvements (including traffic management and intelligent transportation system strategies and limited capacity enhancements) at points of recurring highway congestion.

''(2) SET-ASIDE.—Notwithstanding any other provision of law, of the amounts made available under section 1101(13) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003, $1,000,000,000 shall be available for obligation to carry out this section without further appropriation.

''(3) WEIGHTED HIGH TRAFFIC DENSITY APPORTIONMENT PROGRAM.—

''(A) IN GENERAL.—Of amounts made available under paragraph (2) for a fiscal year to each State—

''(i) the Secretary shall allocate ⅓ in the proportion that—

''(I) the excess, if any, of the number of annual daily vehicle miles traveled per lane mile of State-owned rural public roads in the State over the average of that number for all of the States; bears to

''(II) the total of those numbers for all of the States; and

''(ii) the Secretary shall allocate ⅔ in the proportion that—

''(I) the excess, if any, of the number of annual daily vehicle miles traveled per lane mile of State-owned urban public roads in the State over the average of that number for all of the States; bears to

''(II) the total of those numbers for all of the States.

''(B) DETERMINATION OF ANNUAL VEHICLE MILES TRAVELED.—In determining annual vehicle miles per lane mile for purposes of this paragraph, the Secretary shall use the latest available annual estimates prepared by the Secretary.

''(c) PERIOD OF AVAILABILITY.—

''(1) OBLIGATION WITHIN 180 DAYS.—

''(A) IN GENERAL.—Funds allocated to a State under this section shall be obligated by the State not later than 180 days after the date of apportionment.

''(B) UNOBLIGATED FUNDS.—Any amounts that remain unobligated at the end of that period shall be allocated in accordance with subsection (d).

''(2) OBLIGATION BY END OF FISCAL YEAR.—

''(A) IN GENERAL.—All funds allocated or reallocated under this section shall remain available for obligation until the last day of the fiscal year for which the funds are apportioned.

''(B) UNOBLIGATED FUNDS.—Any amounts allocated that remain unobligated at the end of the fiscal year shall lapse.

''(d) REDISTRIBUTION OF ALLOCATED FUNDS AND OBLIGATION AUTHORITY.—

''(1) IN GENERAL.—On the date that is 180 days after the date of allocation, or as soon thereafter as practicable, for each fiscal year, the Secretary shall—

''(A) withdraw—

''(i) any funds allocated to a State under this section that remain unobligated; and

''(ii) an equal amount of obligation authority provided for the use of the funds in accordance with section 1101(13) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003; and

''(B) reallocate the funds and redistribute the obligation authority to States that—

''(i) have fully obligated all amounts allocated under this section for the fiscal year; and

''(ii) demonstrate that the State is able to obligate additional amounts for projects eligible under this section before the end of the fiscal year.

''(2) EQUITY BONUS.—The calculation and distribution of funds under section 105 shall not be adjusted as a result of the allocation of funds under this subsection.

''(e) FEDERAL SHARE PAYABLE.—The Federal share payable for a project funded under this section shall be determined in accordance with section 120.''.

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code, is amended by adding after the item relating the section 138 the following:

''105. Weighted high traffic density apportionment program.''.

SEC. 1202. FUTURE OF SURFACE TRANSPORTATION SYSTEM.

SA 2498. Ms. MURKOWSKI (for herself and Mr. STEVENS) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 39, between lines 22 and 23, insert the following:

(17) DENALI ACCESS SYSTEM.—For the Denali Access System under section 309 of the Denali Commission Act of 1998 (42 U.S.C. 3121 note; Public Law 105–277), $50,000,000 for each of fiscal years 2004 through 2009.

SA 2499. Ms. MURKOWSKI (for herself and Mr. STEVENS) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 389, between lines 15 and 16, insert the following:

SEC. 18___. DENALI ACCESS SYSTEM.

(a) IN GENERAL.—The Denali Commission Act of 1998 (42 U.S.C. 3121 note; Public Law 105–277) is amended—

(1) by redesignating section 309 as section 310; and

(2) by inserting after section 308 the following:

''SEC. 309. DENALI ACCESS SYSTEM.

''(a) PURPOSE.—It is the purpose of this section to fund the construction of roads necessary to connect isolated rural communities to a road system and to construct essential access routes within isolated communities.

''(b) DEFINITIONS.—In this section:

''(1) STATE.—The term 'State' means the State of Alaska.

''(2) SYSTEM.—The term 'System' means the Denali Access System constructed under subsection (c).

''(c) PROGRAM.—The Secretary shall establish a program that provides for the transfer to the Commission of funds for the costs of construction (including the costs of planning, design, engineering, permitting, right-of-way acquisition, utility relocation, project management, and maintenance) of segments of the System in the State.

''(d) DESIGNATION OF SYSTEM BY COMMISSION.—The Commission shall submit to the Secretary—

''(1) designations by the Commission of the general location and description of segments comprising the System;

''(2) priorities for construction of segments of the System; and

''(3) other criteria applicable to the program established under this section.

''(e) CONNECTING INFRASTRUCTURE.—In carrying out this section, the Commission may construct such access infrastructure as the Commission determines to be necessary to provide for adequate surface, water, or air access for communities and regions in the State.

''(f) DESIGN STANDARDS.—Each project carried out under this section shall use technology and design standards determined by the Commission to be appropriate for the associated segments of the System.

''(g) ADDITION TO PUBLIC TRANSPORTATION SYSTEMS.—At the request of the Governor of the State, each completed segment of the System may be added to the National Highway System or other public transportation system, as appropriate, under the conditions applicable to other segments of that system in the State.

''(h) PREFERENCE TO ALASKA MATERIALS AND PRODUCTS.—In the construction of the System under this section, the Commission—

''(1) shall, to the maximum extent practicable, encourage the use of employees and businesses that are residents of the State; and

''(2) may give preference—

''(A) to the use of materials and products produced in the State; and

''(B) with respect to construction projects in the State, to local residents and firms.

''(i) MATCHING FUNDS.—Notwithstanding any other provision of law—

''(1) funds made available under this section may be used as matching shares for any other Federal funds; and

''(2) Federal funds from any other source may be used as matching funds for funds made available under this section if the use of those Federal funds would contribute to the purposes for which funds are made available under this section, as determined by the State.

''(j) LEAD AGENCY.—The Secretary shall delegate authority to the Commission to serve as the lead agency in determining the purpose of and need for, and in developing and implementing all segments of, the System.

''(k) OBLIGATION OF FUNDS.—Funds made available to carry out this section shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code.''.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 310 of the Denali Commission Act of 1998 (42 U.S.C. 3121 note; Public Law 105–277) (as redesignated by subsection (a)) is amended by striking subsection (a) and inserting the following:

''(a) IN GENERAL.—There are authorized to be appropriated to the Commission—

''(1) to carry out the duties of the Commission under this title (other than section 309), and in accordance with the work plan approved under section 304, such sums as are necessary for each fiscal year; and

''(2) to carry out section 309, $50,000,000 for each of fiscal years 2004 through 2009.''.

SA 2500. Ms. MURKOWSKI (for herself, Mr. INHOFE, Mr. STEVENS, and Mr. CAMPBELL) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 119, strike line 6 and all that follows through page 129, line 18, and insert the following:

highway safety matters (including motorcyclist safety); or

''(ii) enforce highway safety laws.

''(4) STATE HIGHWAY SAFETY IMPROVEMENT PROGRAM.—The term 'State highway safety improvement program' means projects or strategies included in the State strategic highway safety plan carried out as part of the State transportation improvement program under section 135(f).

''(5) STATE STRATEGIC HIGHWAY SAFETY PLAN.—The term 'State strategic highway safety plan' means a plan developed by the State transportation department that—

''(A) is developed after consultation with—

''(i) a highway safety representative of the Governor of the State;

''(ii) regional transportation planning organizations and metropolitan planning organizations, if any;

''(iii) representatives of major modes of transportation (including motorcycling);

''(iv) State and local traffic enforcement officials;

''(v) persons responsible for administering section 130 at the State level;

''(vi) representatives conducting Operation Lifesaver;

''(vii) representatives conducting a motor carrier safety program under section 31104 or 31107 of title 49;

''(viii) motor vehicle administration agencies; and

''(ix) other major State and local safety stakeholders;

''(B) analyzes and makes effective use of State, regional, or local crash data;

''(C) addresses engineering, management, operation, education, enforcement, and emergency services elements of highway safety as key factors in evaluating highway projects;

''(D) considers safety needs of, and high-fatality segments of, public roads;

''(E) considers the results of State, regional, or local transportation and highway safety planning processes;

''(F) describes a program of projects or strategies to reduce or eliminate safety hazards;

''(G) is approved by the Governor of the State or a responsible State agency; and

''(H) is consistent with the requirements of section 135(f).

''(b) PROGRAM.—

''(1) IN GENERAL.—The Secretary shall carry out a highway safety improvement program.

''(2) PURPOSE.—The purpose of the highway safety improvement program shall be to achieve a significant reduction in traffic fatalities and serious injuries on public roads.

''(c) ELIGIBILITY.—

''(1) IN GENERAL.—To obligate funds apportioned under section 104(b)(5) to carry out this section, a State shall have in effect a State highway safety improvement program under which the State—

''(A) develops and implements a State strategic highway safety plan that identifies and analyzes highway safety problems and opportunities as provided in paragraph (2);

''(B) produces a program of projects or strategies to reduce identified safety problems;

''(C) evaluates the plan on a regular basis to ensure the accuracy of the data and priority of proposed improvements; and

''(D) submits to the Secretary an annual report that—

''(i) describes, in a clearly understandable fashion, not less than 5 percent of locations determined by the State, using criteria established in accordance with paragraph (2)(B)(ii), as exhibiting the most severe safety needs; and

''(ii) contains an assessment of—

''(I) potential remedies to hazardous locations identified;

''(II) estimated costs associated with those remedies; and

''(III) impediments to implementation other than cost associated with those remedies.

''(2) IDENTIFICATION AND ANALYSIS OF HIGHWAY SAFETY PROBLEMS AND OPPORTUNITIES.—As part of the State strategic highway safety plan, a State shall—

''(A) have in place a crash data system with the ability to perform safety problem identification and countermeasure analysis;

''(B) based on the analysis required by subparagraph (A)—

''(i) identify hazardous locations, sections, and elements (including roadside obstacles, railway-highway crossing needs, and unmarked or poorly marked roads) that constitute a danger to motorists (including motorcyclists), bicyclists, pedestrians, and other highway users; and

''(ii) using such criteria as the State determines to be appropriate, establish the relative severity of those locations, in terms of accidents, injuries, deaths, traffic volume levels, and other relevant data;

''(C) adopt strategic and performance-based goals that—

''(i) address traffic safety, including behavioral and infrastructure problems and opportunities on all public roads;

''(ii) focus resources on areas of greatest need; and

''(iii) are coordinated with other State highway safety programs;

''(D) advance the capabilities of the State for traffic records data collection, analysis, and integration with other sources of safety data (such as road inventories) in a manner that—

''(i) complements the State highway safety program under chapter 4 and the commercial vehicle safety plan under section 31102 of title 49;

''(ii) includes all public roads;

''(iii) identifies hazardous locations, sections, and elements on public roads that constitute a danger to motorists (including motorcyclists), bicyclists, pedestrians, and other highway users; and

''(iv) includes a means of identifying the relative severity of hazardous locations described in clause (iii) in terms of accidents, injuries, deaths, and traffic volume levels;

''(E)(i) determine priorities for the correction of hazardous road locations, sections, and elements (including railway-highway crossing improvements), as identified through crash data analysis;

''(ii) identify opportunities for preventing the development of such hazardous conditions; and

''(iii) establish and implement a schedule of highway safety improvement projects for hazard correction and hazard prevention; and

''(F)(i) establish an evaluation process to analyze and assess results achieved by highway safety improvement projects carried out

in accordance with procedures and criteria established by this section; and

''(ii) use the information obtained under clause (i) in setting priorities for highway safety improvement projects.

''(d) ELIGIBLE PROJECTS.—

''(1) IN GENERAL.—A State may obligate funds apportioned to the State under section 104(b)(5) to carry out—

''(A) any highway safety improvement project on any public road or publicly owned bicycle or pedestrian pathway or trail; or

''(B) as provided in subsection (e), for other safety projects.

''(2) USE OF OTHER FUNDING FOR SAFETY.—

''(A) EFFECT OF SECTION.—Nothing in this section prohibits the use of funds made available under other provisions of this title for highway safety improvement projects.

''(B) USE OF OTHER FUNDS.—States are encouraged to address the full scope of their safety needs and opportunities by using funds made available under other provisions of this title (except a provision that specifically prohibits that use).

''(e) FLEXIBLE FUNDING FOR STATES WITH A STRATEGIC HIGHWAY SAFETY PLAN.—

''(1) IN GENERAL.—To further the implementation of a State strategic highway safety plan, a State may use up to 25 percent of the amount of funds made available under this section for a fiscal year to carry out safety projects under any other section as provided in the State strategic highway safety plan.

''(2) OTHER TRANSPORTATION AND HIGHWAY SAFETY PLANS.—Nothing in this subsection requires a State to revise any State process, plan, or program in effect on the date of enactment of this section.

''(f) REPORTS.—

''(1) IN GENERAL.—A State shall submit to the Secretary a report that—

''(A) describes progress being made to implement highway safety improvement projects under this section;

''(B) assesses the effectiveness of those improvements; and

''(C) describes the extent to which the improvements funded under this section contribute to the goals of—

''(i) reducing the number of fatalities on roadways;

''(ii) reducing the number of roadway-related injuries;

''(iii) reducing the occurrences of roadway-related crashes;

''(iv) mitigating the consequences of roadway-related crashes; and

''(v) reducing the occurrences of roadway-railroad grade crossing crashes.

''(2) CONTENTS; SCHEDULE.—The Secretary shall establish the content and schedule for a report under paragraph (1).

''(3) TRANSPARENCY.—The Secretary shall make reports under paragraph (1) available to the public through—

''(A) the Internet site of the Department; and

''(B) such other means as the Secretary determines to be appropriate.

''(4) DISCOVERY AND ADMISSION INTO EVIDENCE OF CERTAIN REPORTS, SURVEYS, AND INFORMATION.—Notwithstanding any other provision of law, no report, survey, schedule, list, or other data compiled or collected for any purpose directly relating to paragraph (1) or subsection (c)(1)(D), or published by the Secretary in accordance with paragraph (3), shall be—

''(A) subject to discovery or admitted into evidence in any Federal or State judicial proceeding; or

''(B) considered for any other purpose in any action for damages arising from an occurrence at a location identified or addressed in the report, survey, schedule, list, or other collection of data.

''(g) FEDERAL SHARE OF HIGHWAY SAFETY IMPROVEMENT PROJECTS.—Except as provided in sections 120 and 130, the Federal share of the cost of a highway safety improvement project carried out with funds made available under this section shall be 90 percent.

''(h) FUNDS FOR BICYCLE AND PEDESTRIAN SAFETY.—A State shall allocate for bicycle and pedestrian improvements in the State a percentage of the funds remaining after implementation of sections 130(e) and 150, in an amount that is equal to or greater than the percentage of all fatal crashes in the States involving bicyclists and pedestrians.

''(i) ROADWAY SAFETY IMPROVEMENTS FOR OLDER DRIVERS AND PEDESTRIANS.—For each of fiscal years 2004 through 2009, $25,000,000 is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for projects in all States to improve traffic signs and pavement markings in a manner consistent with the recommendations included in the publication of the Federal Highway Administration entitled 'Guidelines and Recommendations to Accommodate Older Drivers and Pedestrians (FHWA–RD–01–103)' and dated October 2001.''.

(2) MOTORCYCLIST SAFETY—

(A) MOTORCYCLIST SAFETY TRAINING AND MOTORIST AWARENESS PROGRAMS.—

(i) IN GENERAL.—Chapter 4 of title 23, United States Code, is amended—

(I) by redesignating section 413 (as added by section 4161(a)) as section 414; and

(II) by adding after section 414 (as redesignated by subparagraph (A)) the following:

''§ 415. Motorcyclist safety training and motorist awareness programs

''(a) DEFINITIONS.—In this section:

''(1) MOTORCYCLIST SAFETY TRAINING.—The term 'motorcyclist safety training' means any formal program of instruction that—

''(A) provides accident avoidance and other safety-oriented operational skills to motorcyclists, including innovative training opportunities to meet unique regional needs; and

''(B) is approved for use in a State by the designated State authority having jurisdiction over motorcyclist safety issues, which may include the State Motorcycle Safety Administrator or a motorcycle advisory council appointed by the Governor of the State.

''(2) MOTORIST AWARENESS.—The term 'motorist awareness' means individual or collective motorist awareness of—

''(A) the presence of motorcycles on or near roadways; and

''(B) safe driving practices that avoid injury to motorcyclists, bicyclists, and pedestrians.

''(3) MOTORIST AWARENESS PROGRAM.—The term 'motorist awareness program' means any informational or public awareness program designed to enhance motorist awareness that is developed by or in coordination with the designated State authority having jurisdiction over motorcyclist safety issues, which may include the State Motorcycle Safety Administrator or, in the absence of a State Administrator, a motorcycle advisory council appointed by a Governor of the State.

''(4) STATE.—The term 'State' means—

''(A) a State;

''(B) the District of Columbia; and

''(C) the Commonwealth of Puerto Rico.

''(b) ELIGIBILITY.—Not later than 90 days after the date of enactment of this section, on September 1, 2004, and on September 1 of each fiscal year thereafter, and based on a letter of certification provided by the Governor of each State, the Secretary shall develop and publish a list of States that, as of the date of publication of the list, have established motorcyclist safety training programs and motorist awareness programs, including information that indicates—

''(1) the level of base funding provided for each such program for the applicable fiscal year; and

''(2) whether the level of base funding provided for each such program for the applicable fiscal year was increased, decreased, or maintained from the level of funding provided for the program for the previous fiscal year.

''(c) ALLOCATION.—Not later than 120 days after the date of enactment of this section, on October 1, 2004, and on October 1 of each fiscal year thereafter, the Secretary shall allocate to each State for which the base funding allocated for motorcyclist safety training and motorist awareness programs was not less than the amount allocated for the previous year, not less than $100,000, to be used only for motorcyclist safety training and motorist awareness programs, including—

''(1) improvements to motorcyclist safety training curricula;

''(2) improvements in program delivery to both urban and rural areas, including—

''(A) procurement or repair of practice motorcycles;

''(B) instructional aides;

''(C) mobile training units; and

''(D) leasing or purchase of facilities for classroom instruction and closed-course skill training;

''(3) an increase in the recruitment or retention of motorcyclist safety training instructors certified by a State Motorcycle Safety Administrator or motorcycle advisory council appointed by the Governor; and

''(4) public awareness, public service announcements, and other outreach programs to enhance motorist awareness.

''(d) CONTRACTS WITH ORGANIZATIONS.—The Secretary may enter into an agreement with an organization that is recommended by and represents the interests of State Motorcycle Safety Administrators to review, determine, and disseminate a description of best practices in motorcycle safety training and motorist awareness, and to recommend such practices, to State administrators, governors, State legislative bodies, and chief licensing officers of States.

''(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section from the Highway Trust Fund (other than the Mass Transit Account) $5,200,000 for each of fiscal years 2004 through 2009.''.

(ii) CONFORMING AMENDMENT.—The analysis for chapter 4 of title 23, United States Code, is amended—

(I) by redesignating the item relating to section 413 (as added by section 4161(b)) as relating to section 414; and

(II) by adding at the end the following:

''415. Motorcyclist safety training and motorist awareness programs.''.

(B) REDUCTION OF CRASHES INVOLVING MOTORCYCLES.—Section 402 of title 23, United States Code, is amended by inserting after subsection (h) (as added by section 4103(c)) the following:

''(i) REDUCTION OF CRASHES INVOLVING MOTORCYCLES.—

''(1) IN GENERAL.—As part of the program carried out under this section, the Secretary shall make annual grants to States to pay the Federal share of expanding programs to reduce single- and multiple-vehicle crashes involving motorcycles.

''(2) ELIGIBILITY.—To be eligible for a grant under this subsection, a State shall demonstrate to the Secretary that for each of fiscal years 2004 and 2005, at least 1, for fiscal years 2006 and 2007, at least 2, and for fiscal

years 2008 and 2009, at least 3, of the programs or conditions described in the following subparagraphs apply to the State:

''(A) DRIVERS LICENSE SUSPENSION OR REVOCATION SYSTEM.—The State has implemented a statewide drivers license suspension or revocation system that suspends a drivers license for at least 1 year for an individual who operates a motor vehicle in a reckless or negligent manner that causes—

''(i) an accident with a motorcycle or other motor vehicle; and

''(ii) injury or death to an individual.

''(B) REDUCTION OF CRASH RATE INVOLVING MOTORCYCLES.—The State demonstrates to the Secretary that, for the year following receipt of a grant under this section, there has been a reduction in the crash rate of motor vehicles involving motorcycles in the State (expressed as a function of crashes per 10,000 motorcycle registrations as compared to the previous year).

''(C) MOTORCYCLE RIDER TRAINING COURSES.—The State demonstrates to the Secretary that, between the fiscal year for which a grant is received under this section and the preceding fiscal year, there has been no reduction in the number of individuals enrolled in motorcycle rider training based on a course of instruction approved for the State by the State Motorcycle Safety Administrator or, in the absence of a State Administrator, by a motorcycle advisory council appointed by the Governor of the State.

''(D) MOTORIST AWARENESS.—The State—

''(i) has implemented a statewide program to enhance motorist awareness of motorcyclists; and

''(ii) demonstrates to the Secretary that, between each fiscal year for which a grant is received under this section and the preceding fiscal year, there has been a reduction in the rate of multiple-vehicle collisions in the State involving motorcycles (expressed as a function of crashes per 10,000 motorcycle registrations).

''(E) IMPAIRED MOTORCYCLE OPERATION.—The State—

''(i) has implemented a statewide program to reduce impaired motorcycle operation; and

''(ii) demonstrates to the Secretary that, between each fiscal year for which a grant is received under this section and the preceding fiscal year, there has been a reduction in the rate of reported accidents involving alcohol- or drug-impaired motorcycle operators (expressed as a function of 10,000 motorcycle registrations).

''(F) MOTORCYCLIST TRAINING.—The State—

''(i) has implemented a statewide program to expedite delivery of motorcyclist training to urban and rural areas; and

''(ii) demonstrates to the Secretary that, between each fiscal year for which a grant is received under this section and the preceding fiscal year, there has been a reduction in the rate of reported accidents involving motorcyclists with improper licenses or lacking a motorcycle endorsement (expressed as a function of 10,000 motorcycle registrations).

''(3) FEDERAL SHARE.—The Federal share of the cost of implementing and enforcing a program described in paragraph (2) for a fiscal year shall not exceed (as determined by the Secretary)—

''(A) for the first 3 years for which a State receives a grant under this subsection, 50 percent; and

''(B) for each additional year for which a State receives a grant under this subsection, 25 percent.

''(4) MAINTENANCE OF EFFORT.—No grant may be made to a State under this subsection for any fiscal year unless the State enters into such agreement with the Secretary as the Secretary may require to ensure that the State will maintain the aggregate expenditures of the State from all other sources for motorcycle safety programs at a level that is at or above the average level of such expenditures for each of the 2 fiscal years preceding the date of enactment of this section, as determined by the Secretary.

''(5) FUNDING.—

''(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall use funds authorized to be appropriated to carry out this section for a fiscal year to carry out this subsection for the fiscal year.

''(B) LIMITATION.—The amount of a grant made to a State under this subsection for a fiscal year shall not exceed 10 percent of the amount apportioned to the State under this section for fiscal year 2002.''.

SA 2501. Mr. SPECTER submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 384, strike line 21 and all that follows through page 386, line 19, and insert the following:

SEC. 1818. HIGH-SPEED MAGNETIC LEVITATION SYSTEM DEPLOYMENT PROGRAM.

(a) IN GENERAL.—Section 322 of title 23, United States Code, is amended to read as follows:

''§ 322. High-speed magnetic levitation system deployment program

''(a) DEFINITIONS.—In this section:

''(1) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Federal Railroad Administration.

''(2) ELIGIBLE PROJECT COSTS.—

''(A) IN GENERAL.—The term 'eligible project costs' means the capital cost of the fixed guideway infrastructure of a MAGLEV project, including land, piers, guideways, propulsion equipment and other components attached to guideways, power distribution facilities (including substations), control and communications facilities, access roads, and storage, repair, and maintenance facilities.

''(B) INCLUSION.—The term 'eligible project costs' includes the costs of preconstruction planning activities.

''(C) EXCLUSION.—The term 'eligible project costs' does not include costs incurred for a new station.

''(3) FULL PROJECT COSTS.—The term 'full project costs' means the total capital costs of a MAGLEV project, including eligible project costs and the costs of stations, vehicles, and equipment.

''(4) MAGLEV.—

''(A) IN GENERAL.—The term 'MAGLEV' means transportation systems in revenue service employing magnetic levitation that would be capable of safe use by the public at a speed in excess of 240 miles per hour.

''(B) INCLUSION.—The term 'MAGLEV' includes power, control, and communication facilities required for the safe operation of the vehicles within a system described in subparagraph (A).

''(b) PHASE I—PRECONSTRUCTION PLANNING.—

''(1) IN GENERAL.—A State, State-designated authority, multi-State-designated authority, or special purpose entity may apply to the Administrator for grants to conduct preconstruction planning for proposed new MAGLEV projects, or extensions to MAGLEV systems planned, studied, or deployed under this or any other program.

''(2) APPLICATIONS.—An application for a grant under this subsection shall include a description of the proposed MAGLEV project, including, at a minimum—

''(A) a description of the purpose and need for the proposed project;

''(B) a description of the travel market to be served;

''(C) a description of the technology selected for the project;

''(D) forecasts of ridership and revenues;

''(E) a description of preliminary engineering that is sufficient to provide a reasonable estimate of the capital cost of constructing, operating, and maintaining the project;

''(F) a realistic schedule for construction and equipment for the project;

''(G) an environmental assessment;

''(H) a preliminary identification of the 1 or more organizations that will construct and operate the project; and

''(I) a cost-benefit analysis and tentative financial plan for construction and operation of the project.

''(3) DEADLINE FOR APPLICATIONS.—The Administrator shall establish an annual deadline for receipt of applications under this subsection.

''(4) EVALUATION.—The Administrator shall evaluate all applications received by the annual deadline to determine whether the applications meet criteria established by the Administrator.

''(5) SELECTION.—The Administrator shall select for Federal support for preconstruction planning any project that the Administrator determines meets the criteria.

''(c) PHASE II—ENVIRONMENTAL IMPACT STUDIES.—

''(1) IN GENERAL.—A State, State-designated authority, multi-State-designated authority, or special purpose entity that has conducted (under this section or any other provision of law) 1 or more studies that address each of the requirements of subsection (b)(2) may submit the studies to the Administrator, to support an application for Federal funding to assist in—

''(A) preparing an environmental impact statement or similar analysis required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

''(B) planning for construction, operation, and maintenance of a MAGLEV project.

''(2) ENVIRONMENTAL IMPACT STATEMENT.—The final environmental impact statement or analysis described in paragraph (1)(A) shall—

''(A) identify a preferred alternative; and

''(B) describe the organization that will own, plan, finance, construct, equip, operate, and maintain the proposed project.

''(3) DEADLINE FOR APPLICATIONS.—

''(A) IN GENERAL.—The Administrator shall—

''(i) establish an annual deadline for receipt of Phase II applications; and

''(ii) evaluate all applications received by that deadline in accordance with criteria established under subparagraph (B).

''(B) CRITERIA.—The Administrator shall establish criteria to evaluate applications that include whether—

''(i) the technology selected is available for deployment at the time of the application;

''(ii) operating revenues combined with known and dedicated sources of other revenues in any year will exceed annual operation and maintenance costs;

''(iii) over the life of the MAGLEV project, total project benefits will exceed total project costs; and

''(iv) the proposed capital financing plan is realistic and does not assume Federal assistance that is greater than the maximums specified in clause (ii).

''(C) PROJECTS SELECTED.—If the Administrator determines that a MAGLEV project meets the criteria established under subparagraph (B), the Administrator shall—

''(i) select that project for Federal Phase II support; and

''(ii) publish in the Federal Register a notice of intent to prepare an environmental impact statement or similar analysis required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

''(d) PHASE III—DEPLOYMENT.—

''(1) IN GENERAL.—A proposed owner of a MAGLEV project that has initiated a final environmental impact statement or similar analysis required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and has refined planning for the construction, operation, and maintenance of the MAGLEV project, under this or any other program, may submit an application to the Administrator for Federal funding of a portion of the capital costs of planning, financing, constructing, and equipping the preferred alternative identified in the final environmental impact statement or analysis.

''(2) RECORD OF DECISION.—

''(A) IN GENERAL.—The Administrator shall publish a record of decision for each application, based on the information provided in the application and the environmental impact statement or similar analysis required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

''(B) DECISION TO CONSTRUCT.—The Administrator shall issue a record of decision to construct for a project determined by the Administrator—

''(i) to have a high probability of being financed, constructed, equipped, and operated by the proposed owners; and

''(ii) to meet other criteria established by the Administrator.

''(C) FEDERAL FUNDING.—To the extent that funds are available, the Administrator shall negotiate a Federal funding agreement for each project that is recommended for deployment in the record of decision.

''(e) FINANCIAL ASSISTANCE.—

''(1) IN GENERAL.—The Secretary shall make available financial assistance to pay the Federal share of the full project costs of projects selected under this section.

''(2) PREVAILING WAGE AND BUY AMERICA REQUIREMENTS.—Sections 5333(a) and 5323(j) of title 49 shall apply to financial assistance made available under this section and projects funded with that assistance.

''(3) FEDERAL SHARE.—

''(A) PHASE I AND PHASE II.—For Phase I—preconstruction planning and Phase II—environmental impact studies carried out under subsections (b) and (c), respectively, the Federal share of the costs of the planning and studies shall be not more than ⅔ of the full cost of the planning and studies.

''(B) PHASE III.—For Phase III—deployment projects carried out under subsection (d), not more than ⅔ of the full capital cost of such a project shall be made available from funds appropriated for this program.

''(4) FUNDING.—

''(A) CONTRACT AUTHORITY; AUTHORIZATION OF APPROPRIATIONS.—

''(i) IN GENERAL.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) for fiscal years 2004 through 2009 to carry out this section—

''(I) $10,000,000 for Phase I—preconstruction planning studies;

''(II) $20,000,000 for Phase II—environmental impact studies; and

''(III) $60,000,000 for Phase III—deployment projects.

''(ii) OBLIGATION AUTHORITY.—Funds authorized by this subparagraph shall be available for obligation in the same manner as if the funds were apportioned under chapter I, except that—

''(I) the Federal share of the cost of the project shall be in accordance with paragraph (2); and

''(II) the availability of the funds shall be in accordance with subsection (f).

''(B) NONCONTRACT AUTHORITY AUTHORIZATION OF APPROPRIATIONS.—

''(i) PHASE I.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out Phase I—preconstruction planning studies under subsection (b)—

''(I) $12,000,000 for fiscal year 2004;

''(II) $6,000,000 for fiscal year 2005; and

''(III) $2,000,000 for each of fiscal years 2006 through 2009.

''(ii) PHASE II.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out Phase II—environmental impact studies under subsection (c)—

''(I) $5,000,000 for fiscal year 2004;

''(II) $5,000,000 for fiscal year 2005;

''(III) $5,000,000 for fiscal year 2006;

''(IV) $5,000,000 for fiscal year 2007; and

''(V) $5,000,000 for fiscal year 2008.

''(iii) PHASE III.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out Phase III—deployment projects under subsection (d)—

''(I) $355,500,000 for fiscal year 2004;

''(II) $376,000,000 for fiscal year 2005;

''(III) $392,000,000 for fiscal year 2006;

''(IV) $410,000,000 for fiscal year 2007;

''(V) $423,000,000 for fiscal year 2008; and

''(VI) $443,000,000 for fiscal year 2009.

''(iv) PROGRAM ADMINISTRATION.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out administration of this program—

''(I) $2,500,000 for fiscal year 2004;

''(II) $13,000,000 for fiscal year 2005;

''(III) $16,000,000 for fiscal year 2006;

''(IV) $8,000,000 for fiscal year 2007; and

''(V) $5,000,000 for each of fiscal years 2008 and 2009.

''(v) RESEARCH AND DEVELOPMENT.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out research and development activities to reduce MAGLEV deployment costs $4,000,000 for each of fiscal years 2004 through 2009.

''(f) AVAILABILITY OF FUNDS.—Funds made available under subsection (e) shall remain available until expended.

''(g) OTHER FEDERAL FUNDS.—Funds made available to a State to carry out the surface transportation program under section 133 and the congestion mitigation and air quality improvement programs under section 149 may be used by any State to pay a portion of the full project costs of an eligible project selected under this section, without requirement for non-Federal funds.

''(h) OTHER FEDERAL FUNDS.—A project selected for funding under this section shall be eligible for other forms of financial assistance provided by this title and title V of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821 et seq.), including loans, loan guarantees, and lines of credit.

''(i) MANDATORY ADDITIONAL SELECTION.—

''(1) IN GENERAL.—Subject to paragraph 2, in selecting projects for preconstruction planning, deployment, and financial assistance, the Administrator may only provide funds to MAGLEV projects that meet the criteria established under subsection (b)(4).

''(2) PRIORITY FUNDING.—The Administrator shall give priority funding to a MAGLEV project that—

Has received funding prior to the date of enactment of this section as a result of evaluation and contracting procedures for MAGLEV transportation, to the extent that the project continues to fulfill the requirements of this section;

''(B) to the maximum extent practicable, has met safety guidelines established by the Administrator to protect the health and safety of the public;

''(C) is based on designs that ensure the greatest life cycle advantages for the project;

''(D) contains domestic content of at least 70 percent; and

''(E) Those projects eligible for (d) Phase III—Deployment which were developed through a public-private partnership shall be implemented through the efforts of such a public-private partnership with the private sector taking a leadership position with regard to design, development and deployment those private sector industry participants involved throughout the development of the various projects under TEA–21 Section 1218, shall continue to participate in the Phase III-Deployment effort, if the private sector industry participants so choose.

SA 2502. Mr. BOND submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 876, strike line 12 and all that follows through the matter between lines 6 and 7 on page 880.

SA 2503. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 1609.

SA 2504. Ms. MURKOWSKI submitted an amendment intended to be proposed by her to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, add the following:

SEC. . NATIONAL TRIBAL ROADS INVENTORY.

(a) IN GENERAL.—Chapter 2 of title 23, United States Code (as amended by section), is amended by adding at the end the following:

''§ . National tribal roads inventory

''(a) DEFINITIONS.—In this section:

''(1) INVENTORY.—The term 'inventory' means the comprehensive national tribal roads inventory completed under subsection (b).

''(2) NATIVE VILLAGE.—The term 'Native village' has the meaning given the term in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602).

''(3) PRIMARY ACCESS ROUTE.—

''(A) IN GENERAL.—The term 'primary access route' means, as determined by a Native village in accordance with the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), a route within the boundaries of land held or managed by a Village Corporation for the Native village that—

''(i) is most commonly used;

''(ii)(I) is a community street; or

''(II) provides access to the center of the Native village by the shortest practicable route; or

''(iii) in the case of a proposed route, is the shortest practicable route connecting 2 points.

''(B) INCLUSIONS.—The term 'primary access route' includes a road or trail that—

''(i) connects 2 villages (including a bridge over water);

''(ii) leads to a landfill;

''(iii) leads to a drinking water source;

''(iv) leads to a natural resource identified for economic development; and

''(v) provides access to an intermodal terminus such as an airport, harbor, or boat landing.

''(4) VILLAGE CORPORATION.—The term 'Village Corporation' has the meaning given the term in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602).

''(b) INVENTORY.—

''(1) IN GENERAL.—Not later than 2 years after the date of enactment of this section, the Secretary, in conjunction with the Secretary of the Interior, shall complete a comprehensive national tribal roads inventory.

''(2) INCLUSIONS.—The Secretary shall include in the inventory—

''(A) routes previously included in any similar inventory; and

''(B) primary access routes.

''(c) AVAILABILITY OF ACTIVITIES, FUNCTIONS, AND SERVICES.—All activities, functions, and services relating to or associated with the inventory shall be available to Indian tribes and tribal organizations in accordance with the contracting and compacting provisions of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b et seq.).

''(d) REPORT.—Not later than January 1, 2006, the Secretary shall submit to Congress a report that includes the data gathered in completing, and the results of, the inventory.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 2 of title 23, United States Code (as amended by section), is amended by adding at the end the following:

'' . National tribal roads inventory.''.

SA 2505. Mr. BUNNING submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 1406.

SA 2506. Mr. BUNNING submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. GRANTS IN AID FOR AIRPORTS.

(a) APPROPRIATIONS TRANSFER.—Title I of Division I of the Consolidated Appropriations Resolution, 2003 (Public Law 108–7) is amended—

(1) under the heading ''GRANTS-IN-AID FOR AIRPORTS''—

(A) by striking ''$3,100,000,000'' and inserting ''$3,100,500,000''; and

(B) by striking ''$3,400,000,000'' and inserting ''$3,400,500,000''; and

(2) under the heading ''CAPITAL INVESTMENT GRANTS'', by striking ''$607,200,000'' each place it appears and inserting ''$606,700,000''.

(b) EARMARK ADJUSTMENT.—

(1) INCREASE.—Page 1258 of House Conference Report 108–10 is deemed to be amended by increasing the amount earmarked for Grants-in-Aid for Airports, high priority projects by $500,000, which is reserved for various improvements to the Henderson City-County, Kentucky Airport.

(2) OFFSET.—Page 1297 of House Conference Report 108–10 is deemed to be amended by striking the line that earmarks $500,000 for the Henderson County, Kentucky bus facility.

SA 2507. Mr. PRYOR (for himself and Mrs. LINCOLN) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 389, between lines 15 and 16, insert the following:

SEC. 1823. DEPARTEE CREEK WATERSHED PROJECT.

Pursuant to Subpart 505D of the National Watershed Manual, the Committee on Environment and Public Works of the Senate approves of the watershed plan and environmental impact statement submitted by the Departee Creek Watershed Project in Independence and Jackson Counties, Arkansas.

SA 2508. Mr. SMITH submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 1148, between lines 6 and 7, insert the following:

SEC. 5454. CREDIT FOR MAINTENANCE OF RAILROAD TRACK.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business-related credits), as amended by section 5453 of this Act, is further amended by adding at the end the following new section:

''SEC. 45I. RAILROAD TRACK MAINTENANCE CREDIT.

''(a) GENERAL RULE.—For purposes of section 38, the railroad track maintenance credit determined under this section for the taxable year is the amount of qualified railroad track maintenance expenditures paid or incurred by the taxpayer during the taxable year.

''(b) LIMITATION.—The credit allowed under subsection (a) shall not exceed the product of—

''(1) $10,000, and

''(2) the number of miles of railroad track owned or leased by the taxpayer as of the close of the taxable year.

''(c) QUALIFIED RAILROAD TRACK MAINTENANCE EXPENDITURES.—For purposes of this section, the term 'qualified railroad track maintenance expenditures' means expenditures (whether or not otherwise chargeable to capital account) for maintaining railroad track (including roadbed, bridges, and related track structures) owned or leased by the taxpayer of Class II or Class III railroads (as determined by the Surface Transportation Board).

''(d) CONTROLLED GROUPS.—For purposes of subsection (b), rules similar to the rules of paragraph (1) of section 41(f) shall apply for purposes of this subsection.

''(e) BASIS ADJUSTMENT.—For purposes of this subtitle, if a credit is allowed under this section with respect to any railroad track, the basis of such track shall be reduced by the amount of the credit so allowed.

''(f) APPLICATION OF SECTION.—This section shall apply to qualified railroad track maintenance expenditures paid or incurred during taxable years beginning after December 31, 2003, and before January 1, 2009.

''(g) CREDIT TRANSFERABILITY.—

''(1) IN GENERAL.—Any credit allowable under this section may be transferred as provided in this subsection, and the determination as to whether the credit is allowable shall be made without regard to the tax-exempt status of the transferor.

''(2) TRANSFER TO ELIGIBLE TAXPAYER.—Any credit transferred under paragraph (1) shall be transferred to an eligible taxpayer. Any credit so transferred shall be allowed to the transferee, but the transferee may not assign such credit to any other person.

''(3) ELIGIBLE TAXPAYER.—For purposes of this subsection, the term 'eligible taxpayer' means—

''(A) any person who transports property using the rail facilities of the taxpayer or who furnishes railroad-related property or services to the taxpayer, and

''(B) any Class II or Class III railroad.

''(4) MINIMUM PRICE FOR TRANSFER.—No transfer shall be allowed under this subsection unless the transferor receives compensation for the credit transfer equal to at least 50 percent of the amount of credit transferred. The excess of the amount of credit transferred over the compensation received by the transferor for such transfer shall be included in the gross income of the transferee.''.

(b) LIMITATION ON CARRYBACK.—Section 39(d) of the Internal Revenue Code of 1986 (relating to transition rules) is amended by adding at the end the following new paragraph:

''(11) NO CARRYBACK OF RAILROAD TRACK MAINTENANCE CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the railroad track maintenance credit determined under section 45I may be carried to a taxable year beginning before January 1, 2004.''.

(c) CONFORMING AMENDMENTS.—

(1) Section 38(b) of the Internal Revenue Code of 1986 (relating to general business credit) is amended by striking ''plus'' at the end of paragraph (14), by striking the period at the end of paragraph (15) and inserting '', plus'', and by adding at the end the following new paragraph:

''(16) the railroad track maintenance credit determined under section 45I(a).''.

(2) Subsection (a) of section 1016 of such Code is amended by striking ''and'' at the end of paragraph (27), by striking the period at the end of paragraph (28) and inserting '', and'', and by adding at the end the following new paragraph:

''(29) in the case of railroad track with respect to which a credit was allowed under section 45G, to the extent provided in section 45I(e).''.

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986, as amended by section 5453 of this Act, is further amended by inserting after the item relating to section 45H the following new item:

''Sec. 45I. Railroad track maintenance credit.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

SA 2509. Mr. SMITH submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 91 (of the Committee Print for the proposed Federal Public Transportation Act of 2004), line 22 in Sec. 3012(a)'s proposed Sec. 5310(a)(1), insert a comma and the following phrase after the words ''transportation projects'': ''and operating costs associated with public transportation capital projects,''

On page 93, in Sec. 3012(a)'s proposed Sec. 5310(c)(1), replace the words ''IN GENERAL'' with ''CAPITAL PROJECTS'' at line 17, and add the following subparagraph after line 24:

''(C) OPERATING ASSISTANCE.—A grant made under this section for operating assistance may not exceed 50 percent of the net operating costs of the project, as determined by the Secretary.

SA 2510. Mr. GRAHAM of Florida (for himself and Mr. NELSON of Florida) submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 389, after line 15, insert the following:

SEC. ___. HIGH PRIORITY CORRIDORS.

Section 1105(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2032) is amended by adding at the end the following:

''(45) The Corridor consisting of I–95 from the border with Canada to the terminus of I–95 in the State of Florida.

''(46) The Corridor consisting of I–75 in the State of Florida.

''(47) The Corridor consisting of I–4 in the State of Florida.

''(48) United States Route 1 from Maine to its terminus in Florida.

''(49) Interstate Route 10 from Jacksonville, Florida, to Los Angeles, California.''.

SA 2511. Mr. DASCHLE submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 321, strike lines 15 through 22 and insert the following:

''(i) RESERVATION OF FUNDS.—In addition to any other funds made available for Indian reservation roads for each fiscal year, there is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) $15,000,000 for each of fiscal years 2004 through 2009 to carry out planning, design, engineering, for bridges located on Native American lands.

SA 2512. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 60, after line 25, add the following:

SEC. 1106. FUNDING FORMULA.

Notwithstanding any other provision of this Act, all transportation funding shall be determined using the formula under the Transportation Equity Act for the 21st Century (Public Law 105–178) as in effect before the date of enactment of this Act.

SA 2513. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle F of title V, insert the following:

SEC. ___. CREDIT FOR MAINTENANCE OF RAILROAD TRACK;

(a) CREDIT FOR MAINTENANCE OF RAILROAD TRACK.—

(1) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits) is amended by adding at the end the following new section:

''SEC. 45I. RAILROAD TRACK MAINTENANCE CREDIT.

''(a) GENERAL RULE.—For purposes of section 38, the railroad track maintenance credit determined under this section for the taxable year is 50 percent of the amount of qualified railroad track maintenance expenditures paid or incurred by an eligible taxpayer during the taxable year.

''(b) LIMITATION.—The credit allowed under subsection (a) shall not exceed the product of—

''(1) $20,000, and

''(2) the number of miles of railroad track owned or leased by the taxpayer as of the close of the taxable year.

''(c) QUALIFIED RAILROAD TRACK MAINTENANCE EXPENDITURES.—For purposes of this section, the term 'qualified railroad track maintenance expenditures' means expenditures (whether or not otherwise chargeable to capital account) for maintaining railroad track (including roadbed, bridges, and related track structures) owned or leased as of January 1, 2004, by the taxpayer of Class II or Class III railroads (as determined by the Surface Transportation Board).

''(d) CONTROLLED GROUPS.—For purposes of subsection (b), rules similar to the rules of paragraph (1) of section 41(f) shall apply for purposes of this subsection.

''(e) BASIS ADJUSTMENT.—For purposes of this subtitle, if a credit is allowed under this section with respect to any railroad track, the basis of such track shall be reduced by the amount of the credit so allowed.

''(f) APPLICATION OF SECTION.—This section shall apply to qualified railroad track maintenance expenditures paid or incurred during taxable years beginning after December 31, 2003, and before January 1, 2009.

''(g) ELIGIBLE TAXPAYER.—For purposes of this subsection, the term 'eligible taxpayer' means—

''(1) any person who transports property using the rail facilities of the taxpayer or who furnishes railroad-related property or services to the taxpayer, and

''(2) any Class II or Class III railroad.''.

(2) LIMITATION ON CARRYBACK.—Section 39(d) (relating to transition rules), as amended by section 5453, is amended by adding at the end the following new paragraph:

''(14) NO CARRYBACK OF RAILROAD TRACK MAINTENANCE CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the railroad track maintenance credit determined under section 45G may be carried to a taxable year beginning before January 1, 2004.''.

(3) CONFORMING AMENDMENTS.—

(A) Section 38(b) (relating to general business credit), as amended by section 5253 of this Act, is amended by striking ''plus'' at the end of paragraph (18), by striking the period at the end of paragraph (19) and inserting '', plus'', and by adding at the end the following new paragraph:

''(20) the railroad track maintenance credit determined under section 45I(a).''.

(B) Subsection (a) of section 1016 is amended by striking ''and'' at the end of paragraph (27), by striking the period at the end of paragraph (28) and inserting '', and'', and by adding at the end the following new paragraph:

''(29) in the case of railroad track with respect to which a credit was allowed under section 45I, to the extent provided in section 45I(e).''.

(4) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 45H the following new item:

''Sec. 45I. Railroad track maintenance credit.''.

(5) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

(b) RAILROAD REVITALIZATION AND SECURITY INVESTMENT CREDIT.—

(1) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits) is amended by adding at the end the following new section:

''SEC. 45J. RAILROAD REVITALIZATION AND SECURITY INVESTMENT CREDIT.

''(a) GENERAL RULE.—For purposes of section 38, the railroad revitalization and security investment credit determined under this section for the taxable year is the amount of qualified project expenditures paid or incurred by an eligible taxpayer during the taxable year.

''(b) QUALIFIED PROJECT EXPENDITURES.—For purposes of this section, the term 'qualified project expenditures' means expenditures (whether or not otherwise chargeable to capital account) with respect to rail lines which are included in a State rail plan (within the meaning of section 22101 of title 49, United States Code) for—

''(A) planning and environmental review,

''(B) rail line rehabilitation,

''(C) upgrades and development of rail lines,

''(D) projects for safety and security with respect to rail lines,

''(E) passenger equipment acquisition with respect to rail lines,

''(F) rail station improvement, and

''(G) intermodal facilities development.

An expenditure shall not be a qualified project expenditure unless there is a written agreement between a State and the owner of the infrastructure improved by the expenditures regarding the use and ownership of such infrastructure, including compensation for such use and assurances regarding the capacity of such infrastructure.

''(c) LIMITATIONS.—

''(1) IN GENERAL.—The credit allowed under subsection (a) shall not exceed 50 percent of the amount allocated to such project under this subsection.

''(2) NATIONAL LIMITATION.—There is a railroad revitalization and security investment credit limitation of $167,000,000 for each calendar year.

''(3) ALLOCATION OF LIMITATION.—The limitation under paragraph (2) shall be allocated by the Secretary to each State with a State rail plan (within the meaning of section 22101 of title 49, United States Code) based on the following considerations:

''(A) the number of rail miles in active use in the State;

''(B) the number of rail cars loaded in the State;

''(C) the number of railroad and public road grade crossings in the State;

''(D) the number of intercity passenger rail miles; and

''(E) the number of intercity passenger embarkations.

''(d) ELIGIBLE TAXPAYER.—For purposes of this section, the term 'eligible taxpayer' means a taxpayer who is an employer for purposes of the Railroad Retirement Act of 1974 and who is a carrier for purposes of the Railway Labor Act (unless such person is a commuter rail passenger transportation (as defined in section 24102 of title 49, United States Code) operator of a State or local authority (as defined in section 5302 of such title) or an Alaska railroad or it contractor).

''(e) CONTROLLED GROUPS.—For purposes of subsection (b), rules similar to the rules of paragraph (1) of section 41(f) shall apply for purposes of this subsection.

''(f) BASIS ADJUSTMENT.—For purposes of this subtitle, if a credit is allowed under this section with respect to any railroad track, the basis of such track shall be reduced by the amount of the credit so allowed.

''(g) APPLICATION OF SECTION.—This section shall apply to qualified railroad track maintenance expenditures paid or incurred during taxable years beginning after December 31, 2003, and before January 1, 2009.

''(h) CREDIT TRANSFERABILITY.—

''(1) IN GENERAL.—Any credit allowable under this section may be transferred (but not more than once) as provided by the Secretary, and the determination as to whether the credit is allowable shall be made without regard to the tax-exempt status of the transferor.

''(2) MINIMUM PRICE FOR TRANSFER.—No transfer shall be allowed under this subsection unless the transferor receives compensation for the credit transfer equal to at least 50 percent of the amount of credit transferred. The excess of the amount of credit transferred over the compensation received by the transferor for such transfer shall be included in the gross income of the transferee.''.

(2) LIMITATION ON CARRYBACK.—Section 39(d) (relating to transition rules), as amended by subsection (a), is amended by adding at the end the following new paragraph:

''(16) NO CARRYBACK OF SECTION 45J CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the credit determined under section 45J(a) may be carried back to a taxable year beginning on or before the date of the enactment of section 45J.''.

(3) CONFORMING AMENDMENTS.—

(A) Section 38(b) (relating to general business credit), as amended by subsection (a), is amended by striking ''plus'' at the end of paragraph (19), by striking the period at the end of paragraph (20) and inserting '', plus'', and by adding at the end the following new paragraph:

''(21) the railroad revitalization and security investment credit determined under section 45J(a).''.

(B) Subsection (a) of section 1016 is amended by striking ''and'' at the end of paragraph (28), by striking the period at the end of paragraph (29) and inserting '', and'', and by adding at the end the following new paragraph:

''(30) in the case of qualified projects with respect to which a credit was allowed under section 45J, to the extent provided in section 45J(f).''.

(4) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by subsection (a), is amended by inserting after the item relating to section 45I the following new item:

''Sec. 45J. Railroad revitalization and security investment credit.''.

(5) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

SEC. ____. CONSISTENT AMORTIZATION OF PERIODS FOR INTANGIBLES.

(a) START-UP EXPENDITURES.—

(1) ALLOWANCE OF DEDUCTION.—Paragraph (1) of section 195(b) (relating to start-up expenditures) is amended to read as follows:

''(1) ALLOWANCE OF DEDUCTION.—If a taxpayer elects the application of this subsection with respect to any start-up expenditures—

''(A) the taxpayer shall be allowed a deduction for the taxable year in which the active trade or business begins in an amount equal to the lesser of—

''(i) the amount of start-up expenditures with respect to the active trade or business, or

''(ii) $5,000, reduced (but not below zero) by the amount by which such start-up expenditures exceed $50,000, and

''(B) the remainder of such start-up expenditures shall be allowed as a deduction ratably over the 180-month period beginning with the month in which the active trade or business begins.''.

(2) CONFORMING AMENDMENT.—Subsection (b) of section 195 is amended by striking ''AMORTIZE'' and inserting ''DEDUCT'' in the heading.

(b) ORGANIZATIONAL EXPENDITURES.—Subsection (a) of section 248 (relating to organizational expenditures) is amended to read as follows:

''(a) ELECTION TO DEDUCT.—If a corporation elects the application of this subsection (in accordance with regulations prescribed by the Secretary) with respect to any organizational expenditures—

''(1) the corporation shall be allowed a deduction for the taxable year in which the corporation begins business in an amount equal to the lesser of—

''(A) the amount of organizational expenditures with respect to the taxpayer, or

''(B) $5,000, reduced (but not below zero) by the amount by which such organizational expenditures exceed $50,000, and

''(2) the remainder of such organizational expenditures shall be allowed as a deduction ratably over the 180-month period beginning with the month in which the corporation begins business.''.

(c) TREATMENT OF ORGANIZATIONAL AND SYNDICATION FEES OR PARTNERSHIPS.—

(1) IN GENERAL.—Section 709(b) (relating to amortization of organization fees) is amended by redesignating paragraph (2) as paragraph (3) and by amending paragraph (1) to read as follows:

''(1) ALLOWANCE OF DEDUCTION.—If a taxpayer elects the application of this subsection (in accordance with regulations prescribed by the Secretary) with respect to any organizational expenses—

''(A) the taxpayer shall be allowed a deduction for the taxable year in which the partnership begins business in an amount equal to the lesser of—

''(i) the amount of organizational expenses with respect to the partnership, or

''(ii) $5,000, reduced (but not below zero) by the amount by which such organizational expenses exceed $50,000, and

''(B) the remainder of such organizational expenses shall be allowed as a deduction ratably over the 180-month period beginning with the month in which the partnership begins business.

''(2) DISPOSITIONS BEFORE CLOSE OF AMORTIZATION PERIOD.—In any case in which a partnership is liquidated before the end of the period to which paragraph (1)(B) applies, any deferred expenses attributable to the partnership which were not allowed as a deduction by reason of this section may be deducted to the extent allowable under section 165.''.

(2) CONFORMING AMENDMENT.—Subsection (b) of section 709 is amended by striking ''AMORTIZATION'' and inserting ''DEDUCTION'' in the heading.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after the date of the enactment of this Act.

SA 2514. Mr. GRASSLEY (for himself and Mr. BAUCUS) submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 1027, strike lines 14 through 18, and insert the following:

(h) HIGHWAY TRUST FUND EXPENDITURES FOR HIGHWAY USE TAX EVASION PROJECTS.—Section 9503(c), as amended by this Act, is amended to add at the end the following new paragraph:

''(5) HIGHWAY USE TAX EVASION PROJECTS.—From amounts available in the Highway Trust Fund, there is authorized to be expended—

''(A) for each fiscal year after 2003 to the Internal Revenue Service—

''(i) $30,000,000 for enforcement of fuel tax compliance, including the per-certification of tax-exempt users,

''(ii) $10,000,000 for Xstars, and

''(iii) $10,000,000 for xfirs, and

''(B) for each fiscal year after 2003 to the Federal Highway Administration, $50,000,000 to be allocated $1,000,000 to each State to combat fuel tax evasion on the State level.''.

SA 2515. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, please insert the following:

SEC. . SENSE OF THE SENATE CONCERNING THE NEED FOR THE MAXIMUM POSSIBLE AMOUNT OF SURFACE TRANSPORTATION INVESTMENT OVER THE NEXT SIX YEARS.

(a) FINDINGS—The Senate finds that—

(1) The U.S. Department of Transportation estimates that simply to maintain the current physical conditions and congestion levels of the nation's highway and transit network an annual federal surface transportation investment of $53.6 billion is necessary, and that improving the system would require $75 billion in annual federal investment in highways and transit;

(2) the Senate Environment and Public Works Committee, the Senate Banking, Housing, and Urban Affairs Committee, the Senate Finance Committee, and the Senate Commerce Committee have authorized a substitute amendment that provides $318 billion

over six years to help address these considerable surface transportation infrastructure needs; and

(3) the United States Department of Transportation estimates that each $1 billion in surface transportation investment supports more than 47,000 jobs.

(b) SENSE OF THE SENATE.—It is the Sense of the Senate that the Senate should insist that the conference report on S. 1072 provide for a six-year federal investment in highway, transit, and rail infrastructure totaling at least $318 billion.

SA 2516. Mr. MILLER submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 120, line 18, after ''elements'' insert '', including integrated, interoperable emergency communications,''.

SA 2517. Mr. MILLER submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 404, line 7, before ''communication'' insert ''integrated, interoperable emergency''.

SA 2518. Mr. MILLER submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 260, after line 9, insert the following:

''(7) if the project or program involves the purchase of integrated, interoperable emergency communications equipment.''.

SA 2519. Mr. MILLER submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 423, line 14, before ''reliability'' insert ''mobile communications,''.

SA 2520. Mr. MILLER submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 423, line 14, before ''reliability'' insert ''mobile communications,''.

SA 2521. Mr. MILLER submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 489, after line 23, insert the following:

SEC. 2105. WIDEBAND MULTI-BAND MOBILE PILOT PROJECTS.

(a) IN GENERAL.—The Secretary shall make grants for wideband multi-media mobile pilot projects to demonstrate emergency communications systems that provide wideband, two-way information transfer capabilities utilizing the public safety spectrum made available by the Federal Communications Commission in the 700 MHz radio frequency band and that are compliant with the public safety wideband data standard TIA–902 as recommended as the wideband data interoperability standard by the Public Safety National Coordinating Committee to the Federal Communications Commission.

(b) LOCATIONS.—Not later than 90 days after the date of enactment of this Act, the Secretary shall establish locations for pilot projects under this section. In determining pilot project locations, the Secretary shall certify that pilot project locations awarded grants have spectrum available for public safety purposes and are in the 700 MHz band pursuant to the Federal Communications Commission's rules.

(c) LIMIT ON TIME.—Grants under this section shall be awarded not later than 12 months after the date of enactment of this Act.

SA 2522. Mr. KOHL submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 55, strike line 25 and all that follows through page 57, line 23, and insert the following:

''(c) SPECIAL RULES.—

''(1) MINIMUM COMBINED ALLOCATION.—For each fiscal year, before making the allocations under subsection (a)(1), the Secretary shall allocate among the States amounts sufficient to ensure that no State receives a combined total of amounts allocated under subsection (a)(1), apportionments for the programs specified in subsection (a)(2), and amounts allocated under this subsection, that is less than 110 percent of the sum of—

''(A) the total apportionments of the State for the fiscal year for the programs specified in subsection (a)(2); exceeds

''(B) the sum of—

''(i) the percentage of the average, for the period of fiscal years 1998 through 2003, of the annual apportionments of the State for all programs specified in subsection (b)(2), as specified in paragraph (2); and

''(ii) an amount which is equivalent to—

''(I) the amount equal to the number of gallons of gasohol sold within the State during fiscal years 1996 through 2001 multiplied by the excess of the tax rate applicable for a gallon of gasoline over the tax rate applicable for a gallon of gasohol for such years; plus

''(II) an amount equal to the number of gallons of gasohol sold within the State during fiscal years 1996 through 2001 multiplied by the amount of the tax rate applicable to a gallon of gasohol which is not deposited into the Highway Trust Fund with respect to each such year.

''(2) PERCENTAGES.—The percentages referred to in paragraph (1)(B)(i) are—

''(A) for fiscal year 2004, 120 percent;

''(B) for fiscal year 2005, 130 percent;

''(C) for fiscal year 2006, 134 percent;

''(D) for fiscal year 2007, 137 percent;

''(E) for fiscal year 2008, 145 percent; and

''(F) for fiscal year 2009, 250 percent.''.

''(3) NO NEGATIVE ADJUSTMENT.—Notwithstanding subsection (d), no negative adjustment shall be made under subsection (a)(1) to the apportionment of any State.

''(4) MINIMUM SHARE OF TAX PAYMENTS.—Notwithstanding subsection (d), for each fiscal year, the Secretary shall allocate among the States amounts sufficient to ensure that no State receives a percentage of apportionments for the fiscal year for the programs specified in subsection (a)(2) that is less than 90.5 percent of the percentage share of the State of estimated tax payments attributable to highway users in the State paid into the Highway Trust Fund (other than the Mass Transit Account) in the most recent fiscal year for which data are available.

''(d) LIMITATION ON ADJUSTMENTS.—

''(1) IN GENERAL.—Except as provided in paragraphs (2) and (3) of subsection (c), no State shall receive, for any fiscal year, additional amounts under subsection (a)(1) if—

''(A) the total apportionments of the State for the fiscal year for the programs specified in subsection (a)(2); exceeds

''(B) the sum of—

''(i) the percentage of the average, for the period of fiscal years 1998 through 2003, of the annual apportionments of the State for all programs specified in subsection (b)(2), as specified in paragraph (2); and

''(ii) an amount which is equivalent to—

''(I) the amount equal to the number of gallons of gasohol sold within the State during fiscal years 1996 through 2001 multiplied by the excess of the tax rate applicable for a gallon of gasoline over the tax rate applicable for a gallon of gasohol for such years; plus

''(II) an amount equal to the number of gallons of gasohol sold within the State during fiscal years 1996 through 2001 multiplied by the amount of the tax rate applicable to a gallon of gasohol which is not deposited into the Highway Trust Fund with respect to each such year.

''(2) PERCENTAGES.—The percentages referred to in paragraph (1)(B)(i) are—

''(A) for fiscal year 2004, 120 percent;

''(B) for fiscal year 2005, 130 percent;

''(C) for fiscal year 2006, 134 percent;

''(D) for fiscal year 2007, 137 percent;

''(E) for fiscal year 2008, 145 percent; and

''(F) for fiscal year 2009, 250 percent.''.

SA 2523. Mr. LEAHY submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 1310, line 4, insert the following:

VERMONT WILDLIFE AND TRANSPORTATION DEMONSTRATION PROJECT.—Under the Highways Safety Improvement Program, there is $5,000,000 available to the State of Vermont to research, design and construct connectivity infrastructure to facilitate wildlife movement and improve transportation safety at significant wildlife habitat areas.

SA 2524. Mr. LEAHY submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr.

INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 1310, line 4, insert the following:

WILDLIFE CONNECTORS RESEARCH PROGRAM.—Under the Highway Research and Technology Program, $15 million is authorized for the Department to work with states to conduct research and data collection to improve the design and placement of connectivity infrastructure to facilitate wildlife movement and improve transportation safety at significant wildlife habitat areas.

SA 2525. Mr. LEAHY submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 288, between lines 2 and 3, insert the following:

SEC. 1622. AIR QUALITY PLANNING INITIATIVE.

Section 104 of title 23, United States Code (as amended by section 1607(b)), is amended by adding at the end the following:

''(o) AIR QUALITY PLANNING INITIATIVE.—

''(1) IN GENERAL.—The Secretary, in cooperation with the Administrator of the Environmental Protection Agency, shall establish an air quality planning initiative to support State and local governments, or groups of such governments organized to protect air quality in a specific region, in—

''(A) developing the technical capacity to perform transportation air quality conformity analysis, including carbon monoxide and particulate matter hot spot analysis;

''(B) providing training in areas such as modeling, monitoring, and data collection and synthesis to support air quality planning and analysis;

''(C) developing materials and systems to convey air quality information to decision-makers and the public;

''(D) enhancing mobile source monitoring and emission inventorying capabilities; and

''(E) carrying out other activities necessary to assist State, regional, and local governments in achieving the national ambient air quality standards.

''(2) USE OF FUNDS.—

''(A) IN GENERAL.—Funds authorized to be appropriated to carry out this subsection may be used for activities and purposes consistent with paragraph (1), such as—

''(i) research;

''(ii) program and computer systems development;

''(iii) information collection and dissemination;

''(iv) technical assistance; and

''(v) training.

''(B) COOPERATION.—To carry out this subsection, the Secretary may, with the concurrence of the Administrator of the Environmental Protection Agency—

''(i) use funds under this section independently; or

''(ii) make grants to enter into contracts or cooperative agreements with—

''(I) Federal, State, and local agencies;

''(II) federally-recognized Indian tribal governments and tribal consortia;

''(III) associations of State or local governments; and

''(IV) nonprofit organizations, research institutions, or institutions of higher education.

''(3) FUNDING.—

''(A) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection $20,000,000 for the period of fiscal years 2004 through 2009, to remain available until expended.

''(B) FEDERAL SHARE.—The Federal share of the cost of a project or activity carried out using funds made available under subparagraph (A) shall not exceed 100 percent.''.

SA 2526. Mr. JOHNSON submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 619, strike line 1 and all that follows through page 621, line 8, and insert the following:

''(1) AUTHORIZATION.—The Secretary may award grants to a State for capital public transportation projects that are planned, designed, and carried out to meet the needs of elderly individuals and individuals with disabilities, and for operating costs of equipment and facilities for use in such projects, with priority given to the needs of these individuals to access necessary health care.

''(2) ACQUISITION OF PUBLIC TRANSPORTATION SERVICES.—A capital public transportation project under this section may include acquiring public transportation services as an eligible capital expense.

''(3) ADMINISTRATIVE COSTS.—A State may use not more than 15 percent of the amounts received under this section to administer, plan, and provide technical assistance for a project funded under this section.

''(b) ALLOTMENTS AMONG STATES.—

''(1) IN GENERAL.—From amounts made available or appropriated in each fiscal year under subsections (a)(1)(C)(iv) and (b)(2)(D) of section 5338 for grants under this section, the Secretary shall allot amounts to each State under a formula based on the number of elderly individuals and individuals with disabilities in each State.

''(2) TRANSFER OF FUNDS.—Any funds allotted to a State under paragraph (1) may be transferred by the State to the apportionments made under sections 5311(c) and 5336 if such funds are only used for eligible projects selected under this section.

''(3) REALLOCATION OF FUNDS.—A State receiving a grant under this section may reallocate such grant funds to—

''(A) a private nonprofit organization;

''(B) a public transportation agency or authority; or

''(C) a governmental authority that—

''(i) has been approved by the State to coordinate services for elderly individuals and individuals with disabilities;

''(ii) certifies that nonprofit organizations are not readily available in the area that can provide the services described under this subsection; or

''(iii) will provide services to persons with disabilities that exceed those services required by the Americans with Disabilities Act.

''(c) FEDERAL SHARE.—

''(1) MAXIMUM.—

''(A) IN GENERAL.—A grant for a capital project under this section may not exceed 80 percent of the net capital costs of the project, as determined by the Secretary.

''(B) OPERATING COSTS.—Grant funds for operating costs under this section may not exceed 50 percent of the net operating costs of the project, as determined by the Secretary.

''(C) EXCEPTION.—A State described in section 120(d) of title 23 shall receive an increased Federal share under subparagraph (A) in accordance with the formula under that section.

SA 2527. Mr. HOLLINGS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning with line 18 on page 1006, strike through lines 20 on page 1009 and insert the following:

SUBTITLE F—RAIL TRANSPORTATION

PART 1—RAILROAD TRACK MODERNIZATION

SEC. 4601. SHORT MILE.

This part may be cited as the ''Railroad Track Modernization Act of 2004''.

SEC. 4602. CAPITAL GRANTS FOR RAILROAD TRACK.

(a) AUTHORITY.—Chapter 223 of title 49, United States Code, is amended to read as follows:

''CHAPTER 223—CAPITAL GRANTS FOR RAILROAD TRACK

''Sec. 22301. Capital grants for railroad track.

''§ 22301. Capital grants for railroad track

''(a) ESTABLISHMENT OF PROGRAM.—''(1) ESTABLISHMENT.—The Secretary of Transportation shall establish a program of capital grants for the rehabilitation, preservation, or improvement of railroads. Such grants shall be for rail transportation and ensuring that track can be operated safely and efficiently, including grants for rehabilitating, preserving, or improving track. Grants may be provided under this chapter to a State or a group of States for, or in connection with, 1 or more rail capital projects that—

''(A) in accordance with section 634(a)(5) of this title, are listed in a State rail plan approved for such State under chapter 225 of this title; and

''(B) as determined by the Secretary, would primarily benefit intercity passenger rail infrastructure or services or freight rail transportation infrastructure or services and provide significant public benefits.

''(2) REGULATIONS.—

''(A) IN GENERAL.—The Secretary shall prescribe regulations to carry out the program under this section.

''(B) CRITERIA.—In developing the regulations, the Secretary shall establish criteria that—

''(i) condition the award of a grant on reasonable assurances that the facilities to be rehabilitated and improved will be economically and efficiently utilized;

''(ii) ensure that the award of a grant is justified by present and probable future demand for rail services; and

''(iii) ensure that projects are part of a State rail plan.

''(C) GRANT ALLOCATIONS.—Of the total amount made available for the program, 50 percent shall be awarded on a discretionary basis for passenger rail projects, and the remaining 50 percent shall be apportioned to States to fund freight rail projects in accordance with a formula prescribed by the Secretary to weigh equally for each State—

''(i) the number of rail miles in active use in the State;

''(ii) the number of rail cars loaded in the State;

''(iii) the number of rail cars unloaded in the State; and

''(iv) the number of railroad and public road grade crossings in the State.

''(b) FEDERAL SHARE.—The Federal share for carrying out a project under this section shall be 80 percent of the project cost. The non-Federal share may be provided by any non-Federal source in cash, equipment, or supplies. Other in-kind contributions may be approved by the Secretary on a case by case basis consistent with this chapter.

''(c) AUTHORIZATION OF APPROPRIATIONS.—Notwithstanding section 4635, there are authorized to be appropriated to the Secretary of Transportation $2,000,000,000 for each of the fiscal years 2005, 2006, 2007, 2008, 2009, 2010 to carry out this section.

''§ 22302. State rail plans

''(a) IN GENERAL.—Each State may prepare and maintain a State rail plan in accordance with the provisions of this chapter.

''(b) REQUIREMENTS.—For the preparation and periodic revision of a State rail plan, a State shall

''(1) establish or designate a State rail transportation authority to prepare, maintain, coordinate, and administer the plan;

''(2) establish or designate a State rail plan approval authority to approve the plan;

''(3) submit the State's approved plan to the Secretary of Transportation for review; and

''(4) revise and resubmit a State-approved plan no less frequently than once every 5 years for re-approval by the Secretary.

''§ 22303. Purposes

''(a) PURPOSES.—The purposes of a State rail plan are as follows:

''(1) To set forth State policy involving freight and passenger rail transportation, including commuter rail operations, in the State.

''(2) To establish the period covered by the State rail plan.

''(3) To present priorities and strategies to enhance rail service in the State that benefits the public.

''(4) To serve as the basis for Federal and State rail investments within the State.

''(b) COORDINATION.—A State rail plan shall be coordinated with other State transportation planning goals and programs and set forth rail transportation's role within the State transportation system. A State shall provide adequate and reasonable notice and opportunity for comment and other input to the public, rail carriers, commuter and transit authorities operating in, or affected by rail operations within the State, units of local government, and other interested parties in the preparation and review of its State rail plan.

''§ 22304. Content

''(a) IN GENERAL.—Each State rail plan shall contain the following:

''(1) An inventory of the existing overall rail transportation system and rail services and facilities within the State and an analysis of the role of rail transportation within the State's surface transportation system.

''(2) A comprehensive review of all rail lines within the State, including proposed high speed rail corridors and significant rail line segments not currently in service.

''(3) A general analysis of rail's transportation, economic, and environmental impacts in the State, including congestion mitigation, trade and economic development, air quality, land-use, energy-use, and community impacts.

''(4) A long-range rail investment program for current and future freight and passenger infrastructure in the State that meets the requirements of subsection (b).

''(5) A statement of public financing issues for rail projects in the State.

''(6) An identification of rail infrastructure issues within the State that reflects consultation with all relevant stake holders.

''(7) A review of major passenger and freight intermodal rail connections and facilities within the State, including seaports.

''(8) A statement that the State is in compliance with the requirements of section 22102.

''(b) LONG-RANGE SERVICE AND INVESTMENT PROGRAM.—

''(1) PROGRAM CONTENT.—A long-range rail investment program included in a State rail plan under subsection (a)(5) shall include the following matters:

''(A) Two lists for rail capital projects, 1 for freight rail capital projects and 1 for intercity passenger rail capital projects.

''(B) A detailed funding plan for the projects.

''(2) PROJECT LIST CONTENT.—The list of freight and intercity passenger rail capital projects shall contain—

''(A) a description of the anticipated public and private benefits of each such project; and

''(B) a statement of the correlation between—

''(i) public funding contributions for the projects; and

''(ii) the public benefits.

''(3) CONSIDERATIONS FOR PROJECT LIST.—In preparing the list of freight and intercity passenger rail capital projects, a State rail transportation authority shall take into consideration the following matters:

''(A) Contributions made by non-Federal and non-State sources through user fees, matching funds, or other private capital involvement.

''(B) Rail capacity and congestion effects.

''(C) Effects to highway, aviation, and maritime capacity, congestion, or safety.

''(D) Regional balance.

''(E) Environmental impact. .

''(F) Economic and employment impacts.

''(G) Projected ridership and other service measures for passenger rail projects.

''(c) Waiver.—The Secretary may waive any requirement of subsection (a) upon application under circumstances that the Secretary determines appropriate.

''22306. Approval

''(a) CRITERIA.—The Secretary may approve a State rail plan for the purposes of this chapter if

''(1) the plan meets all of the requirements applicable to State plans under this chapter;

''(2) for each ready-to-commence project listed on the ranked list of freight and intercity passenger rail capital projects under the plan—

''(A) the project meets all safety and environmental requirements including those prescribed under the National Environmental Policy Act of 1969 (42 U.S.C. 4331 et seq.) that are applicable to the project under law; and

''(B) the State has entered into an agreement with any owner of rail infrastructure or right of way directly affected by the project that provides for the State to proceed with the project; and

''(3) the content of the plan is coordinated with State transportation plans developed pursuant to the requirements of section 135 of title 23.

§ Definitions

In this chapter:

''(1) PRIVATE BENEFIT.—-The term 'private benefit'—

''(A) means a benefit accrued to a person or private entity, other than the National Railroad Passenger Corporation, that directly improves the economic and competitive condition of that person or entity through improved assets, cost reductions, service improvements, or any other means as defined by the Secretary; and

''(B) shall be determined on a project-by-project basis, based upon an agreement between the parties.

''(2) PUBLIC BENEFIT.—The term 'public benefit'—

''(A) means a benefit accrued to the public in the form of enhanced mobility of people or goods, environmental protection or enhancement, congestion mitigation, enhanced trade and economic development, improved air quality or land use, more efficient energy use, enhanced public safety or security, reduction of public expenditures due to improved transportation efficiency or infrastructure preservation, and any other positive community effects as defined by the Secretary; and

''(B) shall be determined on a project-by-project basis, based upon an agreement between the parties.''.

SEC. 4603. STANDARDS AND CONDITIONS.

(a) OPERATORS DEEMED RAIL CARRIERS AND EMPLOYERS FOR CERTAIN PURPOSES.—A person that conducts rail operations over rail infrastructure constructed or improved with funding provided in whole or in part in a grant made under this title—

(1) shall be considered an employer for purposes of the Railroad Retirement Act of 1974 (45 U.S.C. 231 et seq.); and

(2) shall be considered a carrier for purposes of the Railway Labor Act (43 U.S.C. 151 et seq.).

SEC. 4604. GRANT PROGRAM FUNDING.

(a) IN GENERAL.—Section 250(c)(4) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 900(c)(4)) is amended by adding at the end the following:

''(D) RAIL INFRASTRUCTURE CATEGORY.—The term 'rail infrastructure category' means discretionary appropriations to the Secretary of Transportation for the provision of grants to States for railroad infrastructure investment activities subject to the obligation limitations on contract authority provided under division B of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 or for which appropriations are provided in accordance with authorizations contained in that division.''.

(b) BUDGET AUTHORITY; OUTLAYS.—For purposes of section 251(c) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)):

(1) BUDGET AUTHORITY.—The budget authority for the rail infrastructure category shall be—

(A) $300,000,000 for fiscal year 2005;

(B) $600,000,000 for fiscal year 2006;

(C) $900,000,000 for fiscal year 2007;

(D) $1,200,000,000 for fiscal year 2008;

(E) $1,500,000,000 for fiscal year 2009; and

(F) $1,500,000,000 for fiscal year 2010.

(2) OUTLAYS.—The level of outlays for the rail infrastructure category is—

(A) $60,000,000 for fiscal year 2005;

(B) $180,000,000 for fiscal year 2006;

(C) $360,000,000 for fiscal year 2007;

(D) $480,000,000 for fiscal year 2008;

(E) $900,000,000 for fiscal year 2009; and

(F) $1,140,000,000 for fiscal year 2010.

(c) APPLICABLE PERCENT.—From funds appropriated to carry out the grant programs authorized by sections 651 and 652, the Secretary of Transportation shall reserve—

(1) 50 percent for the intercity passenger rail development grant program under section 651; and

(2) 50 percent for the freight infrastructure development grant program under section 652.

SA 2528. Mr. HOLLINGS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which

was ordered to lie on the table; as follows:

Beginning with line 18 on page 1006, strike through lines 20 on page 1009 and insert the following:

Subtitle F—Rail Transportation

PART 1—RAILROAD TRACK MODERNIZATION

SEC. 4601. SHORT TITLE.

This part may be cited as the ''Railroad Track Modernization Act of 2004''.

SEC. 4602. CAPITAL GRANTS FOR RAILROAD TRACK.

(a) AUTHORITY.—Chapter 223 of title 49, United States Code, is amended to read as follows:

''CHAPTER 223—CAPITAL GRANTS FOR RAILROAD TRACK

''Sec.
''22301. Capital grants for railroad track.

''§ 22301. Capital grants for railroad track

''(a) ESTABLISHMENT OF PROGRAM.—

''(1) ESTABLISHMENT.—The Secretary of Transportation shall establish a program of capital grants for the rehabilitation, preservation, or improvement of railroads. Such grants shall be for rail transportation and ensuring that track can be operated safely and efficiently, including grants for rehabilitating, preserving, or improving track. Grants may be provided under this chapter to a State or a group of States for, or in connection with, 1 or more rail capital projects that—

''(A) in accordance with section 634(a)(5) of this title, are listed in a State rail plan approved for such State under chapter 225 of this title; and

''(B) as determined by the Secretary, would primarily benefit intercity passenger rail infrastructure or services or freight rail transportation infrastructure or services and provide significant public benefits.

''(2) REGULATIONS.—

''(A) IN GENERAL.—The Secretary shall prescribe regulations to carry out the program under this section.

''(B) CRITERIA.—In developing the regulations, the Secretary shall establish criteria that—

''(i) condition the award of a grant on reasonable assurances that the facilities to be rehabilitated and improved will be economically and efficiently utilized;

''(ii) ensure that the award of a grant is justified by present and probable future demand for rail services; and

''(iii) ensure that projects are part of a State rail plan.

''(C) GRANT ALLOCATIONS.—Of the total amount made available for the program, 50 percent shall be awarded on a discretionary basis for passenger rail projects, and the remaining 50 percent shall be apportioned to States to fund freight rail projects in accordance with a formula prescribed by the Secretary to weigh equally for each State—

''(i) the number of rail miles in active use in the State;

''(ii) the number of rail cars loaded in the State;

''(iii) the number of rail cars unloaded in the State; and

''(iv) the number of railroad and public road grade crossings in the State.

''(b) FEDERAL SHARE.—The Federal share for carrying out a project under this section shall be 80 percent of the project cost. The non-Federal share may be provided by any non-Federal source in cash, equipment, or supplies. Other in-kind contributions may be approved by the Secretary on a case by case basis consistent with this chapter.

''(c) AUTHORIZATION OF APPROPRIATIONS.—Notwithstanding section 4635, there are authorized to be appropriated to the Secretary of Transportation $2,000,000,000 for each of the fiscal years 2005, 2006, 2007, 2008, 2009, 2010 to carry out this section.

''§ 22302. State rail plans

''(a) IN GENERAL.—Each State may prepare and maintain a State rail plan in accordance with the provisions of this chapter.

''(b) REQUIREMENTS.—For the preparation and periodic revision of a State rail plan, a State shall—

''(1) establish or designate a State rail transportation authority to prepare, maintain, coordinate, and administer the plan;

''(2) establish or designate a State rail plan approval authority to approve the plan;

''(3) submit the State's approved plan to the Secretary of Transportation for review; and

''(4) revise and resubmit a State-approved plan no less frequently than once every 5 years for reapproval by the Secretary.

''§ 22303. Purposes

''(a) PURPOSES.—The purposes of a State rail plan are as follows:

''(1) To set forth State policy involving freight and passenger rail transportation, including commuter rail operations, in the State.

''(2) To establish the period covered by the State rail plan.

''(3) To present priorities and strategies to enhance rail service in the State that benefits the public.

''(4) To serve as the basis for Federal and State rail investments within the State.

''(b) COORDINATION.—A State rail plan shall be coordinated with other State transportation planning goals and programs and set forth rail transportation's role within the State transportation system. A State shall provide adequate and reasonable notice and opportunity for comment and other input to the public, rail carriers, commuter and transit authorities operating in, or affected by rail operations within the State, units of local government, and other interested parties in the preparation and review of its State rail plan.

''§ 22304. Content

''(a) IN GENERAL.—Each State rail plan shall contain the following:

''(1) An inventory of the existing overall rail transportation system and rail services and facilities within the State and an analysis of the role of rail transportation within the State's surface transportation system.

''(2) A comprehensive review of all rail lines within the State, including proposed high speed rail corridors and significant rail line segments not currently in service.

''(3) A general analysis of rail's transportation, economic, and environmental impacts in the State, including congestion mitigation, trade and economic development, air quality, land-use, energy-use, and community impacts.

''(4) A long-range rail investment program for current and future freight and passenger infrastructure in the State that meets the requirements of subsection (b).

''(5) A statement of public financing issues for rail projects in the State.

''(6) An identification of rail infrastructure issues within the State that reflects consultation with all relevant stake holders.

''(7) A review of major passenger and freight intermodal rail connections and facilities within the State, including seaports.

''(8) A statement that the State is in compliance with the requirements of section 22102.

''(b) LONG-RANGE SERVICE AND INVESTMENT PROGRAM.—

''(1) PROGRAM CONTENT.—A long-range rail investment program included in a State rail plan under subsection (a)(5) shall include the following matters:

''(A) Two lists for rail capital projects, 1 for freight rail capital projects and 1 for intercity passenger rail capital projects.

''(B) A detailed funding plan for the projects.

''(2) PROJECT LIST CONTENT.—The list of freight and intercity passenger rail capital projects shall contain—

''(A) a description of the anticipated public and private benefits of each such project; and

''(B) a statement of the correlation between—

''(i) public funding contributions for the projects; and

''(ii) the public benefits.

''(3) CONSIDERATIONS FOR PROJECT LIST.—In preparing the list of freight and intercity passenger rail capital projects, a State rail transportation authority shall take into consideration the following matters:

''(A) Contributions made by non-Federal and non-State sources through user fees, matching funds, or other private capital involvement.

''(B) Rail capacity and congestion effects.

''(C) Effects to highway, aviation, and maritime capacity, congestion, or safety.

''(D) Regional balance.

''(E) Environmental impact.

''(F) Economic and employment impacts.

''(G) Projected ridership and other service measures for passenger rail projects.

''(c) WAIVER.—The Secretary may waive any requirement of subsection (a) upon application under circumstances that the Secretary determines appropriate.

''§ 22306. Approval

''(a) CRITERIA.—The Secretary may approve a State rail plan for the purposes of this chapter if—

''(1) the plan meets all of the requirements applicable to State plans under this chapter;

''(2) for each ready-to-commence project listed on the ranked list of freight and intercity passenger rail capital projects under the plan

''(A) the project meets all safety and environmental requirements including those prescribed under the National Environmental Policy Act of 1969 (42 U.S.C. 4331 et seq.) that are applicable to the project under law; and

''(B) the State has entered into an agreement with any owner of rail infrastructure or right of way directly affected by the project that provides for the State to proceed with the project; and

''(3) the content of the plan is coordinated with State transportation plans developed pursuant to the requirements of section 135 of title 23.

''§ Definitions

''In this chapter:

''(1) PRIVATE BENEFIT.—The term 'private benefit'—

''(A) means a benefit accrued to a person or private entity, other than the National Railroad Passenger Corporation, that directly improves the economic and competitive condition of that person or entity through improved assets, cost reductions, service improvements, or any other means as defined by the Secretary; and

''(B) shall be determined on a project-by-project basis, based upon an agreement between the parties.

''(2) PUBLIC BENEFIT.—The term 'public benefit'—

''(A) means a benefit accrued to the public in the form of enhanced mobility of people or goods, environmental protection or enhancement, congestion mitigation, enhanced trade and economic development, improved air quality or land use, more efficient energy use, enhanced public safety or security, reduction of public expenditures due to improved transportation efficiency or infrastructure preservation, and any other positive community effects as defined by the Secretary; and

''(B) shall be determined on a project-by-project basis, based upon an agreement between the parties.''.

SEC. 4603. STANDARDS AND CONDITIONS.

(a) OPERATORS DEEMED RAIL CARRIERS AND EMPLOYERS FOR CERTAIN PURPOSES.—A person that conducts rail operations over rail infrastructure constructed or improved with funding provided in whole or in part in a grant made under this title—

(1) shall be considered an employer for purposes of the Railroad Retirement Act of 1974 (45 U.S.C. 231 et seq.); and

(2) shall be considered a carrier for purposes of the Railway Labor Act (43 U.S.C. 151 et seq.).

SA 2529. Mr. HOLLINGS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning with line 18 on page 1006, strike through lines 20 on page 1009 and insert the following:

SUBTITLE F—RAIL TRANSPORTATION

PART 1—RAILROAD TRACK MODERNIZATION

SEC. 4601. SHORT TITLE.

This part may be cited as the ''Railroad Track Modernization Act of 2004''.

SEC. 4602. CAPITAL GRANTS FOR RAILROAD TRACK.

(a) AUTHORITY.—Chapter 223 of title 49, United States Code, is amended to read as follows:

''CHAPTER 223—CAPITAL GRANTS FOR RAILROAD TRACK

''Sec.

''22301. Capital grants for railroad track.

''§ 22301. Capital grants for railroad track

''(a) ESTABLISHMENT OF PROGRAM.—

''(1) ESTABLISHMENT.—The Secretary of Transportation shall establish a program of capital grants for the rehabilitation, preservation, or improvement of railroads. Such grants shall be for rail transportation and ensuring that track can be operated safely and efficiently, including grants for rehabilitating, preserving, or improving track. Grants may be provided under this chapter to a State or a group of States for, or in connection with, 1 or more rail capital projects that—

''(A) in accordance with section 634(a)(5) of this title, are listed in a State rail plan approved for such State under chapter 225 of this title; and

''(B) as determined by the Secretary, would primarily benefit intercity passenger rail infrastructure or services or freight rail transportation infrastructure or services and provide significant public benefits.

''(2) REGULATIONS.—

''(A) IN GENERAL.—The Secretary shall prescribe regulations to carry out the program under this section.

''(B) CRITERIA.—In developing the regulations, the Secretary shall establish criteria that—

''(i) condition the award of a grant on reasonable assurances that the facilities to be rehabilitated and improved will be economically and efficiently utilized;

''(ii) ensure that the award of a grant is justified by present and probable future demand for rail services; and

''(iii) ensure that projects are part of a State rail plan.

''(C) GRANT ALLOCATIONS.—Of the total amount made available for the program, 50 percent shall be awarded on a discretionary basis for passenger rail projects, and the remaining 50 percent shall be apportioned to States to fund freight rail projects in accordance with a formula prescribed by the Secretary to weigh equally for each State—

''(i) the number of rail miles in active use in the State;

''(ii) the number of rail cars loaded in the State;

''(iii) the number of rail cars unloaded in the State; and

''(iv) the number of railroad and public road grade crossings in the State.

''(b) FEDERAL SHARE.—The Federal share for carrying out a project under this section shall be 80 percent of the project cost. The non-Federal share may be provided by any non-Federal source in cash, equipment, or supplies. Other in-kind contributions may be approved by the Secretary on a case by case basis consistent with this chapter.

''(c) AUTHORIZATION OF APPROPRIATIONS.—Notwithstanding section 4635, there are authorized to be appropriated to the Secretary of Transportation $2,000,000,000 for each of the fiscal years 2005, 2006, 2007, 2008, 2009, 2010 to carry out this section.

''§ 22302. State rail plans

''(a) IN GENERAL.—Each State may prepare and maintain a State rail plan in accordance with the provisions of this chapter.

''(b) REQUIREMENTS.—For the preparation and periodic revision of a State rail plan, a State shall—

''(1) establish or designate a State rail transportation authority to prepare, maintain, coordinate, and administer the plan;

''(2) establish or designate a State rail plan approval authority to approve the plan;

''(3) submit the State's approved plan to the Secretary of Transportation for review; and

''(4) revise and resubmit a State-approved plan no less frequently than once every 5 years for reapproval by the Secretary.

''§ 22303. Purposes

''(a) PURPOSES.—The purposes of a State rail plan are as follows:

''(1) To set forth State policy involving freight and passenger rail transportation, including commuter rail operations, in the State.

''(2) To establish the period covered by the State rail plan.

''(3) To present priorities and strategies to enhance rail service in the State that benefits the public.

''(4) To serve as the basis for Federal and State rail investments within the State.

''(b) COORDINATION.—A State rail plan shall be coordinated with other State transportation planning goals and programs and set forth rail transportation's role within the State transportation system. A State shall provide adequate and reasonable notice and opportunity for comment and other input to the public, rail carriers, commuter and transit authorities operating in, or affected by rail operations within the State, units of local government, and other interested parties in the preparation and review of its State rail plan.

''§ 22304. Content

''(a) IN GENERAL.—Each State rail plan shall contain the following:

''(1) An inventory of the existing overall rail transportation system and rail services and facilities within the State and an analysis of the role of rail transportation within the State's surface transportation system.

''(2) A comprehensive review of all rail lines within the State, including proposed high speed rail corridors and significant rail line segments not currently in service.

''(3) A general analysis of rail's transportation, economic, and environmental impacts in the State, including congestion mitigation, trade and economic development, air quality, land-use, energy-use, and community impacts.

''(4) A long-range rail investment program for current and future freight and passenger infrastructure in the State that meets the requirements of subsection (b).

''(5) A statement of public financing issues for rail projects in the State.

''(6) An identification of rail infrastructure issues within the State that reflects consultation with all relevant stake holders.

''(7) A review of major passenger and freight intermodal rail connections and facilities within the State, including seaports.

''(8) A statement that the State is in compliance with the requirements of section 22102.

''(b) LONG-RANGE SERVICE AND INVESTMENT PROGRAM.—

''(1) PROGRAM CONTENT.—A long-range rail investment program included in a State rail plan under subsection (a)(5) shall include the following matters:

''(A) Two lists for rail capital projects, 1 for freight rail capital projects and 1 for intercity passenger rail capital projects.

''(B) A detailed funding plan for the projects.

''(2) PROJECT LIST CONTENT.—The list of freight and intercity passenger rail capital projects shall contain—

''(A) a description of the anticipated public and private benefits of each such project; and

''(B) a statement of the correlation between—

''(1) public funding contributions for the projects; and

''(ii) the public benefits.

''(3) CONSIDERATIONS FOR PROJECT LIST.—In preparing the list of freight and intercity passenger rail capital projects, a State rail transportation authority shall take into consideration the following matters:

''(A) Contributions made by non-Federal and non-State sources through user fees, matching funds, or other private capital involvement.

''(B) Rail capacity and congestion effects.

''(C) Effects to highway, aviation, and maritime capacity, congestion, or safety.

''(D) Regional balance.

''(E) Environmental impact.

''(F) Economic and employment impacts.

''(G) Projected ridership and other service measures for passenger rail projects.

''(c) WAIVER.—The Secretary may waive any requirement of subsection (a) upon application under circumstances that the Secretary determines appropriate.

''§ 22306. Approval

''(a) CRITERIA.—The Secretary may approve a State rail plan for the purposes of this chapter if—

''(1) the plan meets all of the requirements applicable to State plans under this chapter;

''(2) for each ready-to-commence project listed on the ranked list of freight and intercity passenger rail capital projects under the plan—

''(A) the project meets all safety and environmental requirements including those prescribed under the National Environmental Policy Act of 1969 (42 U.S.C. 4331 et seq.) that are applicable to the project under law; and

''(B) the State has entered into an agreement with any owner of rail infrastructure or right of way directly affected by the project that provides for the State to proceed with the project; and

''(3) the content of the plan is coordinated with State transportation plans developed pursuant to the requirements of section 135 of title 23.

''§ Definitions

In this chapter:

''(1) PRIVATE BENEFIT.—The term 'private benefit'—

''(A) means a benefit accrued to a person or private entity, other than the National Railroad Passenger Corporation, that directly improves the economic and competitive condition of that person or entity through improved assets, cost reductions, service improvements, or any other means as defined by the Secretary; and

''(B) shall be determined on a project-by-project basis, based upon an agreement between the parties.

''(2) PUBLIC BENEFIT.—The term 'public benefit'—

''(A) means a benefit accrued to the public in the form of enhanced mobility of people or goods, environmental protection or enhancement, congestion mitigation, enhanced trade and economic development, improved air quality or land use, more efficient energy use, enhanced public safety or security, reduction of public expenditures due to improved transportation efficiency or infrastructure preservation, and any other positive community effects as defined by the Secretary; and

''(B) shall be determined on a project-by-project basis, based upon an agreement between the parties.''.

SEC. 4603. STANDARDS AND CONDITIONS.

(a) OPERATORS DEEMED RAIL CARRIERS AND EMPLOYERS FOR CERTAIN PURPOSES.—A person that conducts rail operations over rail infrastructure constructed or improved with funding provided in whole or in part in a grant made under this title—

(1) shall be considered an employer for purposes of the Railroad Retirement Act of 1974 (45 U.S.C. 231 et seq.); and

(2) shall be considered a carrier for purposes of the Railway Labor Act (43 U.S.C. 151 et seq.).

SEC. 4604. GRANT PROGRAM FUNDING.

(a) IN GENERAL.—Section 250(c)(4) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 900(c)(4)) is amended by adding at the end the following:

''(D) RAIL INFRASTRUCTURE CATEGORY.—The term 'rail infrastructure category' means discretionary appropriations to the Secretary of Transportation for the provision of grants to States for railroad infrastructure investment activities subject to the obligation limitations on contract authority provided under division B of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 or for which appropriations are provided in accordance with authorizations contained in that division.''.

(b) BUDGET AUTHORITY; OUTLAYS.—For purposes of section 251(c) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)):

(1) BUDGET AUTHORITY.—The budget authority for the rail infrastructure category shall be—

(A) $300,000,000 for fiscal year 2005;
(B) $600,000,000 for fiscal year 2006;
(C) $900,000,000 for fiscal year 2007;
(D) $1,200,000,000 for fiscal year 2008;
(E) $1,500,000,000 for fiscal year 2009; and
(F) $1,500,000,000 for fiscal year 2010.

(2) OUTLAYS.—The level of outlays for the rail infrastructure category is—

(A) $60,000,000 for fiscal year 2005;
(B) $180,000,000 for fiscal year 2006;
(C) $360,000,000 for fiscal year 2007;
(D) $480,000,000 for fiscal year 2008;
(E) $900,000,000 for fiscal year 2009; and
(F) $1,140,000,000 for fiscal year 2010.

(c) APPLICABLE PERCENT.—From funds appropriated to carry out the grant programs authorized by sections 651 and 652, the Secretary of Transportation shall reserve—

(1) 50 percent for the intercity passenger rail development grant program under section 651; and

(2) 50 percent for the freight infrastructure development grant program under section 652.

SEC. 4605. EXTENSION OF CUSTOMS USER FEES.

Section 13031(j)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)) is amended by striking ''March 31, 2004,'' and inserting ''March 31, 2014,''.

SA 2530. Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 601 and add the following after section 662:

SUBTITLE D—AMTRAK AUTHORIZATIONS

SEC. 681. NATIONAL RAILROAD PASSENGER TRANSPORTATION SYSTEM DEFINED.

(a) IN GENERAL.—Section 24102 is amended—

(1) by striking paragraph (2);

(2) by redesignating paragraphs (3), (4), and (5) as paragraphs (2), (3), and (4), respectively; and

(3) by inserting after paragraph (4) as so redesignated the following:

''(5) 'national rail passenger transportation system' means—

''(A) the segment of the Northeast Corridor between Boston, Massachusetts and Washington, D.C.;

''(B) rail corridors that have been designated by the Secretary of Transportation as high-speed corridors, but only after they have been improved to permit operation of high-speed service;

''(C) long-distance routes of more than 750 miles between endpoints operated by Amtrak as of the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004; and

''(D) short-distance corridors or routes operated by Amtrak.''.

(b) AMTRAK ROUTES WITH STATE FUNDING.—

(1) IN GENERAL.—Chapter 247 is amended by inserting after section 24701 the following:

''§ 24702. Transportation requested by States, authorities, and other persons

''(a) CONTRACTS FOR TRANSPORTATION.—Amtrak and a State, a regional or local authority, or another person may enter into a contract for Amtrak to operate an intercity rail service or route not included in the national rail passenger transportation system upon such terms as the parties thereto may agree.

''(b) DISCONTINUANCE.—Upon termination of a contract entered into under this section, or the cessation of financial support under such a contract by either party, Amtrak may discontinue such service or route, notwithstanding any other provision of law.''.

(2) CONFORMING AMENDMENT.—The chapter analysis for chapter 247 is amended by inserting after the item relating to section 24701 the following:

''24702. Transportation requested by States, authorities, and other persons''.

(c) AMTRAK TO CONTINUE TO PROVIDE NON-HIGH-SPEED SERVICES.—Nothing in this subtitle is intended to preclude Amtrak from restoring, improving, or developing non-high-speed intercity passenger rail service.

SEC. 682. REPAYMENT OF LOAN TO NATIONAL RAILROAD PASSENGER CORPORATION.

(a) IN GENERAL.—The Secretary of Transportation may not collect any payments of principal or interest for the direct loan made to the National Railroad Passenger Corporation under section 502 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 822). There are authorized to be appropriated to the Secretary for fiscal year 2005 $100,000,000 for the purpose of repaying that loan to the Secretary of the Treasury. The Secretary of Transportation shall waive any conditions imposed under the loan.

(b) CERTAIN CONDITIONS WAIVED.—Section 151 of the Transportation, Treasury, and Independent Agencies Appropriations Act, 2004, is repealed.

(c) FEDERAL RAILROAD ADMINISTRATION.—

(1) IN GENERAL.—Section 11123 is amended—

(A) by striking ''failure of existing commuter rail passenger transportation operations caused by a cessation of service by the National Railroad Passenger Corporation,'' in subsection (a);

(B) by inserting ''or'' after the semicolon in subsection (a)(3);

(C) by striking ''permits; or'' in subsection (a)(4) and inserting ''permits.'';

(D) by striking paragraph (5) of subsection (a);

(E) by striking ''(A) Except as provided in subparagraph (B), when'' in subsection (b)(3) and inserting ''When'';

(F) by striking subparagraph (B) of sub section (b)(3);

(G) by striking paragraph (4) of subsection (c); and

(H) by striking subsections (e) and (f).

(2) Section 24301(c) is amended by striking ''11123,''.

SEC. 683. RESTRUCTURING OF LONG-TERM DEBT AND CAPITAL LEASES.

(a) IN GENERAL.—The Secretary of the Treasury shall work with the Secretary of Transportation and Amtrak to restructure Amtrak's indebtedness as of the date of enactment of this Act.

(b) NEW DEBT PROHIBITION.—Except as approved by the Secretary of Transportation, Amtrak may not enter into any obligation secured by assets of the Corporation after the date of enactment of this Act. This section does not prohibit unsecured lines of credit used by Amtrak or any subsidiary for working capital purposes.

(c) DEBT REDEMPTION.—The Secretary of Transportation, in consultation with the Secretary of the Treasury, shall enter into negotiations with the holders of Amtrak debt, including leases, that is outstanding on the date of enactment of this Act for the purpose of redeeming or restructuring that debt. The Secretary, in consultation with the Secretary of the Treasury, shall secure agreements for repayment on such terms as the Secretary deems favorable to the interests of the Government. Payments for such redemption may be made after October 1, 2005, in either a single payment or a series of payments, but in no case shall the repayment period extend beyond September 30, 2010.

(d) CRITERIA.—In redeeming or restructuring Amtrak's indebtedness, the Secretaries and Amtrak—

(1) shall ensure that the restructuring imposes the least practicable burden on taxpayers; and

(2) take into consideration repayment costs, the term of any loan or loans, and market conditions.

(e) AUTHORIZATION.—There are authorized to be appropriated to the Secretary such sums as may be necessary for fiscal years 2005 through 2010 to restructure or redeem Amtrak's secured debt.

(f) AMTRAK PRINCIPAL AND INTEREST PAYMENTS.—

(1) PRINCIPAL ON DEBT SERVICE.—Unless the Secretary of Transportation and the Secretary of the Treasury restructure in its entirety or redeem the debt, there are authorized to be appropriated to the Secretary of

Transportation for the use of Amtrak for retirement of principal on loans for capital equipment, or capital leases, not more than the following amounts:

(A) For fiscal year 2005, $109,500,000.
(B) For fiscal year 2006, $114,700,000.
(C) For fiscal year 2007, $202,900,000.
(D) For fiscal year 2008, $164,300,000.
(E) For fiscal year 2009, $155,800,000.
(F) For fiscal year 2010, $203,500,000.

(2) INTEREST ON DEBT.—Unless the Secretary of Transportation and the Secretary of the Treasury restructure or redeem the debt, there are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak for the payment of interest on loans for capital equipment, or capital leases, the following amounts:

(A) For fiscal year 2005, $151,300,000.
(B) For fiscal year 2006, $146,300,000.
(C) For fiscal year 2007, $137,500,000.
(D) For fiscal year 2008, $125,300,000.
(E) For fiscal year 2009, $117,100,000.
(F) For fiscal year 2010, $107,800,000.

(3) REDUCTIONS IN AUTHORIZATION LEVELS.—Whenever action taken by the Secretary of the Treasury under subsection (c) results in reductions in amounts of principle and interest that Amtrak must service on existing debt, Amtrak shall submit to the Senate Committee on Commerce, Science and Transportation, the House of Representatives Committee on Transportation and Infrastructure, the Senate Committee on Appropriations, and House of Representatives Committee on Appropriations revised requests for amounts authorized by paragraphs (1) and (2) that reflect such reductions.

SEC. 684. GENERAL AMTRAK AUTHORIZATIONS.

(a) REPEAL OF SELF-SUFFICIENCY REQUIREMENTS.—

(1) TITLE 49 AMENDMENTS.—Chapter 241 is amended—

(A) by striking the last sentence of section 24101(d); and

(B) by striking the last sentence of section 24104(a).

(2) AMTRAK REFORM AND ACCOUNTABILITY ACT AMENDMENTS.—Title II of the Amtrak Reform and Accountability Act of 1997 (49 U.S.C. 24101 nt) is amended by striking sections 204 and 205.

(3) COMMON STOCK REDEMPTION DATE.—Section 415 of the Amtrak Reform and Accountability Act of 1997 (49 U.S.C. 24304 nt) is amended by striking subsection (b).

(b) LEASE ARRANGEMENTS.—Amtrak may obtain services from the Administrator of General Services, and the Administrator may provide services to Amtrak, under section 201(b) and 211(b) of the Federal Property and Administrative Service Act of 1949 (40 U.S.C. 481(b) and 491(b)) for each of fiscal years 2005 through 2009.

(c) FINANCIAL POWERS.—Section 415(d) of the Amtrak Reform and Accountability Act of 1997 by adding at the end the following:

''(3) This section does not affect the applicability of section 3729 of title 31, United States Code, to claims made against Amtrak.''.

(d) AMTRAK REPORTS.—Section 24315 is amended—

(1) by striking ''February 15'' in subsection (a) and inserting ''January 31st'';

(2) by striking subparagraph (B) of subsection (a)(1) and inserting the following:

''(B) the route profitability survey data, excluding interest and depreciation costs, or any other route cost allocation or profitability analysis that Amtrak develops;'';

(3) by striking subparagraph (D) of subsection (a)(1) and inserting the following:

''(D) the total revenue-to-total cost ratio;'';

(4) by striking subparagraphs (C), (F), and (G) of subsection (a)(1), and redesignating subparagraphs (D), (E), and (H) as subparagraphs (C), (D), and (E), respectively; and

(5) by striking ''February 15'' in subsection (b) and inserting ''January 31st''.

SEC. 685. EXCESS RAILROAD RETIREMENT.

Beginning in fiscal year 2005, the Secretary of the Treasury each year shall pay to the Railroad Retirement Account an amount equal to the amount Amtrak must pay under section 3221 of the Internal Revenue Code of 1986 in fiscal years that is more than the amount needed for benefits for individuals who retire from Amtrak and for their beneficiaries. There are authorized to be appropriated such sums as may be necessary in each fiscal year beginning after fiscal year 2005 through 2010 for these payments.

SEC. 686. AUTHORIZATIONS FOR ENVIRONMENTAL COMPLIANCE AND STATION IMPROVEMENTS.

(a) ENVIRONMENTAL COMPLIANCE.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak in order to comply with environmental regulations the following amounts:

(A) For fiscal year 2005, $18,800,000.
(B) For fiscal year 2006, $21,700,000.
(C) For fiscal year 2007, $22,300,000.
(D) For fiscal year 2008, $15,100,000.
(E) For fiscal year 2009, $15,900,000.
(F) For fiscal year 2010, $16,000,000.

(b) CAPITAL IMPROVEMENTS TO STATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak for capital improvements to stations, including an initial assessment of the full set of accessibility needs across the national rail passenger transportation system and improved accessibility for the elderly and people with disabilities and in Amtrak facilities and stations, the following amounts:

(A) For fiscal year 2005, $17,100,000.
(B) For fiscal year 2006, $19,800,000.
(C) For fiscal year 2007, $19,800,000.
(D) For fiscal year 2008, $19,000,000.
(E) For fiscal year 2009, $19,000,000.
(F) For fiscal year 2010, $19,000,000.

(2) STUDY OF COMPLIANCE REQUIREMENTS AT EXISTING INTERCITY RAIL STATIONS.—Amtrak shall evaluate the improvements necessary to make all existing stations it serves readily accessible to and usable by individuals with disabilities, as required by section 242(e)(2) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12162(e)(2)). The evaluation shall include the estimated cost of the improvements necessary, the identification of the responsible person (as defined in section 241(5) of that Act (42 U.S.C. 12161(5))), and the earliest practicable date when such improvements can be made. Amtrak shall submit the survey to the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Transportation and Infrastructure, and the National Council on Disability by September 30, 2005, along with recommendations for funding the necessary improvements.

SEC. 687. TUNNEL LIFE SAFETY.

(a) LIFE SAFETY NEEDS.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak for fiscal year 2005:

(1) $677,000,000 for the 6 New York tunnels built in 1910 to provide ventilation, electrical, and fire safety technology upgrades, emergency communication and lighting systems, and emergency access and egress for passengers.

(2) $57,000,000 for the Baltimore & Potomac tunnel built in 1872 to provide adequate drainage, ventilation, communication, lighting, and passenger egress upgrades.

(3) $40,000,000 for the Washington, D.C., Union Station tunnels built in 1904 under the Supreme Court and House and Senate Office Buildings to improve ventilation, communication, lighting, and passenger egress upgrades.

(b) INFRASTRUCTURE UPGRADES.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak $3,000,000 for fiscal year 2005 for the preliminary design of options for a new tunnel on a different alignment to augment the capacity of the existing Baltimore tunnels.

(c) FINANCIAL CONTRIBUTION FROM OTHER TUNNEL USERS.—The Secretary shall, taking into account the need for the timely completion of all life safety portions of the tunnel projects described in subsection (a)—

(1) consider the extent to which rail carriers other than Amtrak use the tunnels;

(2) consider the feasibility of seeking a financial contribution from those other rail carriers toward the costs of the projects; and

(3) obtain financial contributions or commitments from such other rail carriers if feasible.

(d) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to this section shall remain available until expended.

SEC. 688. AUTHORIZATION FOR CAPITAL AND OPERATING EXPENSES.

(a) OPERATING EXPENSES.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak for operating costs the following amounts:

(1) For fiscal year 2005, $581,400,000.
(2) For fiscal year 2006, $566,700,000.
(3) For fiscal year 2007, $557,700,000.
(4) For fiscal year 2008, $528,500,000.
(5) For fiscal year 2009, $522,000,000.
(6) For fiscal year 2010, $522,000,000.

(b) CAPITAL BACKLOG AND UPGRADES.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak for capital expenses, the following amounts:

(1) For fiscal year 2005, $741,500,000.
(2) For fiscal year 2006, $835,200,000.
(3) For fiscal year 2007, $760,800,000.
(4) For fiscal year 2008, $733,600,000.
(5) For fiscal year 2009, $774,300,000.
(6) For fiscal year 2010, $874,300,000.

(c) REPLACEMENT EQUIPMENT.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak for the purchase of replacement passenger rail equipment the following amounts:

(1) For fiscal year 2006, $250,000,000.
(2) For fiscal year 2007, $250,000,000.
(3) For fiscal year 2008, $350,000,000.
(4) For fiscal year 2009, $350,000,000.
(5) For fiscal year 2010, $350,000,000.

SEC. 689. GRANTS NOT CONSIDERED TO REPLACE FEDERAL OPERATING OR CAPITAL SUPPORT.

Grants or assistance provided directly to a State or group of States by the Secretary under this title for rail infrastructure investments shall not be considered to reduce or replace the authorizations or the need for annual Federal appropriations for the National Railroad Passenger Corporation.

SEC. 690. ESTABLISHMENT OF GRANT PROCESS.

(a) GRANT REQUESTS.—Amtrak shall submit grant requests to the Secretary of Transportation for funds authorized to be appropriated to the Secretary for the use of Amtrak under sections 686, 687, and 688.

(b) PROCEDURES FOR GRANT REQUESTS.—The Secretary shall establish substantive and procedural requirements, including schedules, for grant requests under this section not later than 30 days after the date of enactment of this Act and shall transmit copies to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure.

(c) REVIEW AND APPROVAL.—

(1) 30–DAY PROCESS.—The Secretary shall complete the review of a grant request and approve or disapprove the request within 30 days after the date on which Amtrak submits the grant request.

(2) INCOMPLETE OR DEFICIENT REQUESTS.—If the Secretary disapproves the request or determines that the request is incomplete or deficient, the Secretary shall immediately notify Amtrak of the reason for disapproval or the incomplete items or deficiencies. Within 15 days after receiving notification from the Secretary under the preceding sentence, Amtrak shall submit a modified request for the Secretary's review.

(3) REVISED REQUESTS.—Within 15 days after receiving a modified request from Amtrak, the Secretary shall either approve the modified request, or, if the Secretary finds that the request is still incomplete or deficient, the Secretary shall identify in writing to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure the remaining deficiencies and recommend a process for resolving the outstanding portions of the request.

SEC. 691. STATE-SUPPORTED ROUTES.

The Board of Directors of Amtrak, in consultation with the Secretary of Transportation and the chief executive officer of each State and the District of Columbia, shall develop a formula for funding the operating costs of trains operating on routes not in excess of 750 miles in length that—

(1) is equitable and fair; and

(2) ensures, within 5 years after the date of enactment of this Act, equal treatment of all States (and the District of Columbia) and groups of States (including the District of Columbia).

SEC. 692. RE-ESTABLISHMENT OF NORTHEAST CORRIDOR SAFETY COMMITTEE.

(a) RE-ESTABLISHMENT OF NORTHEAST CORRIDOR SAFETY COMMITTEE.—The Secretary of Transportation shall re-establish the Northeast Corridor Safety Committee authorized by section 24905(b) of title 49, United States Code.

(b) TERMINATION DATE.—Section 24905(b)(4) is amended by striking ''January 1, 1999,'' and inserting ''January 1, 2009,''.

SEC. 693. AMTRAK BOARD OF DIRECTORS.

Section 24302 is amended to read as follows:

"§ 24302. Board of directors

''(a) COMPOSITION AND TERMS.—

''(1) The board of directors of Amtrak is composed of the following 9 directors, each of whom must be a citizen of the United States:

''(A) The President of Amtrak.

''(B) The Secretary of Transportation.

''(C) 7 individuals appointed by the President of the United States, by and with the advice and consent of the Senate, with experience and qualifications in or directly related to rail transportation, including representatives of freight and passenger rail transportation, travel, hospitality, cruise line, and passenger air transportation businesses, consumers of passenger rail transportation, and State government.

''(2) In selecting individuals described in paragraph (1) for nominations for appointments to the Board, the President shall consult with the Speaker of the House of Representatives, the Minority Leader of the House of Representatives, the Majority Leader of the Senate, and the Minority Leader of the Senate and should ensure adequate and balanced representation of the major geographic regions of the United States.

''(3) Each member shall be appointed for a term of 5 years and until the individual's successor is appointed and qualified. Not more than 4 individuals appointed under paragraph (1)(C) may be members of the same political party.

''(4) The board shall elect a chairman and a vice chairman from among its membership. The vice chairman shall serve as chairman in the absence of the chairman.

''(5) The Secretary may be represented at board meetings by the Secretary's designee.

''(b) PAY AND EXPENSES.—Each director not employed by the United States Government is entitled to $300 a day when performing board duties and powers. Each director is entitled to reimbursement for necessary travel, reasonable secretarial and professional staff support, and subsistence expenses incurred in attending board meetings.

''(c) VACANCIES.—A vacancy on the board is filled in the same way as the original selection, except that an individual appointed by the President of the United States under subsection (a)(1)(C) of this section to fill a vacancy occurring before the end of the term for which the predecessor of that individual was appointed is appointed for the remainder of that term. A vacancy required to be filled by appointment under subsection (a)(1)(C) must be filled not later than 120 days after the vacancy occurs.

''(d) BYLAWS.—The board may adopt and amend bylaws governing the operation of Amtrak. The bylaws shall be consistent with this part and the articles of incorporation.''.

SEC. 694. ESTABLISHMENT OF FINANCIAL ACCOUNTING SYSTEM FOR AMTRAK OPERATIONS BY INDEPENDENT AUDITOR.

(a) IN GENERAL.—The Inspector General of the Department of Transportation shall employ an independent financial consultant with experience in railroad accounting—

(1) to assess Amtrak's financial accounting and reporting system and practices;

(2) to design and assist Amtrak in implementing a modern financial accounting and reporting system, on the basis of the assessment, that will produce accurate and timely financial information in sufficient detail—

(A) to enable Amtrak to assign revenues and expenses appropriately to each of its lines of business and to each major activity within each line of business activity, including train operations, equipment maintenance, ticketing, and reservations;

(B) to aggregate expenses and revenues related to infrastructure and distinguish them from expenses and revenues related to rail operations; and

(C) to provide ticketing and reservation information on a real-time basis.

(b) VERIFICATION OF SYSTEM; REPORT.—The Inspector General of the Department of Transportation shall review the accounting system designed and implemented under subsection (a) to ensure that it accomplishes the purposes for which it is intended. The Inspector General shall report his findings and conclusions, together with any recommendations, to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation $2,500,000 for fiscal year 2005 to carry out subsection (a), such sums to remain available until expended.

SEC. 695. DEVELOPMENT OF 5–YEAR FINANCIAL PLAN.

(a) DEVELOPMENT OF 5–YEAR FINANCIAL PLAN.—The Amtrak board of directors shall submit an annual budget for Amtrak, and a 5–year financial plan for the fiscal year to which that budget relates and the subsequent 4 years, prepared in accordance with this section, to the Secretary of Transportation and the Inspector General of the Department of Transportation no later than—

(1) the first day of each fiscal year beginning after the date of enactment of this Act; or

(2) the date that is 60 days after the date of enactment of an appropriation Act for the fiscal year, if later.

(b) CONTENTS OF 5–YEAR FINANCIAL PLAN.—The 5-year financial plan for Amtrak shall include, at a minimum—

(1) all projected revenues and expenditures for Amtrak, including governmental funding sources,

(2) projected ridership levels for all Amtrak passenger operations;

(3) revenue and expenditure forecasts for nonpassenger operations;

(4) capital funding requirements and expenditures necessary to maintain passenger service which will accommodate predicted ridership levels and predicted sources of capital funding;

(5) operational funding needs, if any, to maintain current and projected levels of passenger service, including state-supported routes and predicted funding sources;

(6) projected capital and operating requirements, ridership, and revenue for any new passenger service operations or service expansions;

(7) an assessment of the continuing financial stability of Amtrak, as indicated by factors such as: the ability of the federal government to adequately meet capital and operating requirements, Amtrak's access to long-term and short-term capital markets, Amtrak's ability to efficiently manage its workforce, and Amtrak's ability to effectively provide passenger train service.

(8) lump sum expenditures of $10,000,000 or more and sources of funding.

(9) estimates of long-term and short-term debt and associated principle and interest payments (both current and anticipated);

(10) annual cash flow forecasts; and

(11) a statement describing methods of estimation and significant assumptions.

(C) STANDARDS TO PROMOTE FINANCIAL STABILITY.—In meeting the requirements of subsection (b) with respect to a 5-year financial plan, Amtrak shall—

(1) apply sound budgetary practices, including reducing costs and other expenditures, improving productivity, increasing revenues, or combinations of such practices; and

(2) use the categories specified in the financial accounting and reporting system developed under section 652 when preparing its 5-year financial plan.

(d) ASSESSMENT BY DOT INSPECTOR GENERAL.—

(1) IN GENERAL.—The Inspector General of the Department of Transportation shall assess the 5-year financial plans prepared by Amtrak under this section to determine whether they meet the requirements of subsection (b), and may suggest revisions to any components thereof that do not meet those requirements.

(2) ASSESSMENT TO BE FURNISHED TO THE CONGRESS.—The Inspector General shall furnish to the House of Representatives Committee on Appropriations, the Senate Committee on Appropriations, the House of Representatives Committee on Transportation and Infrastructure, and the Senate Committee on Commerce, Science, and Transportation—

(A) an assessment of the annual budget within 90 days after receiving it from Amtrak; and

(B) an assessment of the remaining 4 years of the 5-year financial plan within 180 days after receiving it from Amtrak.

SEC. 696. INDEPENDENT AUDITOR TO ESTABLISH METHODOLOGIES FOR AMTRAK ROUTE AND SERVICE PLANNING DECISIONS.

(a) REVIEW.—The Secretary of Transportation shall, in consultation with the Federal Railroad Administration, execute a contract to obtain the services of an independent auditor or consultant to research

and define Amtrak's past and current methodologies for determining intercity passenger rail routes and services.

(b) RECOMMENDATIONS.—The independent auditor or consultant shall recommend objective methodologies for determining such routes and services, including the establishment of new routes, the elimination of existing routes, and the contraction or expansion of services or frequencies over such routes.

(c) SUBMITTAL TO CONGRESS.—The Secretary shall submit recommendations received under subsection (b) to Amtrak, the House of Representatives Committee on Transportation and Infrastructure, and the Senate Committee on Commerce, Science, and Transportation.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be made available to the Secretary of Transportation, out of any amounts authorized by this title to be appropriated for the benefit of Amtrak and not otherwise obligated or expended, such sums as may be necessary to carry out this section.

SEC. 697. METRICS AND STANDARDS.

The Administrator of the Federal Railroad Administration shall, in consultation with Amtrak and host railroads, develop new or improve existing metrics and minimum standards for measuring the service quality of intercity train operations, including on-time performance, on-board services, stations, facilities, equipment, and other services.

SEC. 698. ON-TIME PERFORMANCE.

Section 24308 is amended by adding at the end the following:

''(f) ON-TIME PERFORMANCE AND OTHER STANDARDS.—If the on-time performance of any intercity passenger train averages less than 80 percent for any consecutive 6-month period, or the service quality of intercity train operations for which minimum standards are established under section 697 of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 Act fails to meet those standards, Amtrak may petition the Surface Transportation Board to investigate whether, and to what extent, delays or failure to achieve minimum standards are due to causes that could reasonably be addressed by a rail carrier over the tracks of which the intercity passenger train operates, or by a regional authority providing commuter service, if any. In carrying out such an investigation, the Surface Transportation Board shall obtain information from all parties involved and make recommendations regarding reasonable measures to improve the service, quality, and on-time performance of the train.''.

SEC. 699. RAIL COOPERATIVE RESEARCH PROGRAM.

(a) REQUIREMENT FOR PROGRAM.—

(1) ESTABLISHMENT AND CONTENT.—Chapter 249 is amended by adding at the end the following:

''§ 24910. Rail cooperative research program

''(a) IN GENERAL.—The Secretary shall establish and carry out a rail cooperative research program. The program shall—

''(1) address, among other matters, intercity rail passenger services, including existing rail passenger technologies and speeds, incrementally enhanced rail systems and infrastructure, and new high-speed wheel-on-rail systems and rail security;

''(2) consider research on the interconnectedness of commuter rail, passenger rail, and other rail networks; and

''(3) give consideration to regional concerns regarding rail passenger transportation, including meeting research needs common to designated high speed corridors, long-distance rail services, and regional intercity rail corridors, projects, and entities.

''(b) CONTENT.—The program to be carried out under this section shall include research designed—

''(1) to identify the unique aspects and attributes of rail passenger service;

''(2) to develop more accurate models for evaluating the impact of rail passenger service, including the effects on highway and airport and airway congestion, environmental quality, and energy consumption;

''(3) to develop a better understanding of modal choice as it affects rail passenger transportation, including development of better models to predict utilization;

''(4) to recommend priorities for technology demonstration and development;

''(5) to meet additional priorities as determined by the advisory board established under subsection (c), including any recommendations made by the National Research Council;

''(6) to explore improvements in management, financing, and institutional structures;

''(7) to address rail capacity constraints that affect passenger rail service through a wide variety of options, ranging from operating improvements to dedicated new infrastructure, taking into account the impact of such options on operations;

''(8) to improve maintenance, operations, customer service, or other aspects of intercity rail passenger service;

''(9) to recommend objective methodologies for determining intercity passenger rail routes and services, including the establishment of new routes, the elimination of existing routes, and the contraction or expansion of services or frequencies over such routes;

''(10) to review the impact of equipment and operational safety standards on the further development of high speed passenger rail operations connected to or integrated with non-high speed freight or passenger rail operations; and

''(11) to recommend any legislative or regulatory changes necessary to foster further development and implementation of high speed passenger rail operations while ensuring the safety of such operations that are connected to or integrated with non-high speed freight or passenger rail operations.

''(c) ADVISORY BOARD.—

''(1) ESTABLISHMENT.—In consultation with the heads of appropriate Federal departments and agencies, the Secretary shall establish an advisory board to recommend research, technology, and technology transfer activities related to rail passenger and freight transportation.

''(2) MEMBERSHIP.—The advisory board shall include—

''(A) representatives of State transportation agencies;

''(B) transportation and environmental economists, scientists, and engineers; and

''(C) representatives of Amtrak, the Alaska Railroad, transit operating agencies, intercity rail passenger agencies, railway labor organizations, and environmental organizations.

''(d) NATIONAL ACADEMY OF SCIENCES.—The Secretary may make grants to, and enter into cooperative agreements with, the National Academy of Sciences to carry out such activities relating to the research, technology, and technology transfer activities described in subsection (b) as the Secretary deems appropriate.''.

(2) CLERICAL AMENDMENT.—The chapter analysis for chapter 249 is amended by adding at the end the following:

''24910. Rail cooperative research program''.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation $5,000,000 for each of fiscal years 2005 through 2010 to carry out the rail cooperative research program under section 24910 of title 49, United States Code.

Strike section 4601 and add the following after section 4662:

PART 4—AMTRAK AUTHORIZATIONS

SEC. 4681. NATIONAL RAILROAD PASSENGER TRANSPORTATION SYSTEM DEFINED.

(a) IN GENERAL.—Section 24102 is amended—

(1) by striking paragraph (2);

(2) by redesignating paragraphs (3), (4), and (5) as paragraphs (2), (3), and (4), respectively; and

(3) by inserting after paragraph (4) as so redesignated the following:

''(5) 'national rail passenger transportation system' means—

''(A) the segment of the Northeast Corridor between Boston, Massachusetts and Washington, D.C.;

''(B) rail corridors that have been designated by the Secretary of Transportation as high-speed corridors, but only after they have been improved to permit operation of high-speed service;

''(C) long-distance routes of more than 750 miles between endpoints operated by Amtrak as of the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004; and

''(D) short-distance corridors or routes operated by Amtrak.''.

(b) AMTRAK ROUTES WITH STATE FUNDING.—

(1) IN GENERAL.—Chapter 247 is amended by 1 inserting after section 24701 the following:

''24702. Transportation requested by States, authorities, and other persons

''(a) CONTRACTS FOR, TRANSPORTATION.—Amtrak and a State, a regional or local authority, or another person may enter into a contract for Amtrak to operate an intercity rail service or route not included in the national rail passenger transportation system upon such terms as the parties thereto may agree.

''(b) DISCONTINUANCE.—Upon termination of a contract entered into under this section, or the cessation of financial support under such a contract by either party, Amtrak may discontinue such service or route, notwithstanding any other provision of law.''.

(2) CONFORMING AMENDMENT.—The chapter analysis for chapter 247 is amended by inserting after the item relating to section 24701 the following:

''24702. Transportation requested by States, authorities, and other persons''.

(c) AMTRAK TO CONTINUE TO PROVIDE NON-HIGH-SPEED SERVICES.—Nothing in this subtitle is intended to preclude Amtrak from restoring, improving, or developing non-high-speed intercity passenger rail service.

SEC. 4682. REPAYMENT OF LOAN TO NATIONAL RAILROAD PASSENGER CORPORATION.

(a) IN GENERAL.—The Secretary of Transportation may not collect any payments of principal or interest for the direct loan made to the National Railroad Passenger Corporation under section 502 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 822). There are authorized to be appropriated to the Secretary for fiscal year 2005 $100,000,000 for the purpose of repaying that loan to the Secretary of the Treasury. The Secretary of Transportation shall waive any conditions imposed under the loan.

(b) CERTAIN CONDITIONS WAIVED.—Section 151 of the Transportation, Treasury, and Independent Agencies Appropriations Act, 2004, is repealed.

(c) FEDERAL RAILROAD ADMINISTRATION.—

(1) IN GENERAL—Section 11123 is amended—

(A) by striking ''failure of existing commuter rail passenger transportation operations caused by a cessation of service by the

National Railroad Passenger Corporation,'' in subsection (a);

(B) by inserting ''or'' after the semicolon in subsection (a)(3);

(C) by striking ''permits; or'' in subsection (a)(4) and inserting ''permits.'';

(D) by striking paragraph (5) of subsection (a);

(E) by striking ''(A) Except as provided in subparagraph (B), when'' in subsection (b)(3) and inserting ''When'';

(F) by striking subparagraph (B) of subsection (b)(3);

(G) by striking paragraph (4) of subsection (c); and

(H) by striking subsections (e) and (f).

(2) Section 24301(c) is amended by striking ''11123,''.

SEC. 4683. RESTRUCTURING OF LONG–TERM DEBT AND CAPITAL LEASES.

(a) IN GENERAL.—The Secretary of the Treasury shall work with the Secretary of Transportation and Amtrak to restructure Amtrak's indebtedness as of the date of enactment of this Act.

(b) NEW DEBT PROHIBITION.—Except as approved by the Secretary of Transportation, Amtrak may not enter into any obligation secured by assets of the Corporation after the date of enactment of this Act. This section does not prohibit unsecured lines of credit used by Amtrak or any subsidiary for working capital purposes.

(c) DEBT REDEMPTION.—The Secretary of Transportation, in consultation with the Secretary of the Treasury, shall enter into negotiations with the holders of Amtrak debt, including leases, that is outstanding on the date of enactment of this Act for the purpose of redeeming or restructuring that debt. The Secretary, in consultation with the Secretary of the Treasury, shall secure agreements for repayment on such terms as the Secretary deems favorable to the interests of the Government. Payments for such redemption may be made after October 1, 2005, in either a single payment or a series of payments, but in no case shall the repayment period extend beyond September 30, 2010.

(d) CRITERIA.—In redeeming or restructuring Amtrak's indebtedness, the Secretaries and Amtrak—

(1) shall ensure that the restructuring imposes the least practicable burden on taxpayers; and

(2) take into consideration repayment costs, the term of any loan or loans, and market conditions.

(e) AUTHORIZATION.—There are authorized to be appropriated to the Secretary such sums as may be necessary for fiscal years 2005 through 2010 to restructure or redeem Amtrak's secured debt.

(f) AMTRAK PRINCIPAL AND INTEREST PAYMENTS.—

(1) PRINCIPAL ON DEBT SERVICE.—Unless the Secretary of Transportation and the Secretary of the Treasury restructure in its entirety or redeem the debt, there are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak for retirement of principal on loans for capital equipment, or capital leases, not more than the following amounts:

(A) For fiscal year 2005, $109,500,000.
(B) For fiscal year 2006, $114,700,000.
(C) For fiscal year 2007, $202,900,000.
(D) For fiscal year 2008, $164,300,000.
(E) For fiscal year 2009, $155,800,000.
(F) For fiscal year 2010, $203,500,000.

(2) INTEREST ON DEBT.—Unless the Secretary of Transportation and the Secretary of the Treasury restructure or redeem the debt, there are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak for the payment of interest on loans for capital equipment, or capital leases, the following amounts:

(A) For fiscal year 2005, $151,300,000.
(B) For fiscal year 2006, $146,300,000.
(C) For fiscal year 2007, $137,500,000.
(D) For fiscal year 2008, $125,300,000.
(E) For fiscal year 2009, $117,100,000.
(F) For fiscal year 2010, $107,800,000.

(3) REDUCTIONS IN AUTHORIZATION ON LEVELS.—Whenever action taken by the Secretary of the Treasury under subsection (c) results in reductions in amounts of principle and interest that Amtrak must service on existing debt, Amtrak shall submit to the Senate Committee on Commerce, Science and Transportation, the House of Representatives Committee on Transportation and Infrastructure, the Senate Committee on Appropriations, and House of Representatives Committee on Appropriations revised requests for amounts authorized by paragraphs (1) and (2) that reflect the such reductions.

SEC. 4684. GENERAL AMTRAK AUTHORIZATIONS.

(a) REPEAL OF SELF-SUFFICIENCY REQUIREMENTS.

(1) TITLE 49 AMENDMENTS.—Chapter 241 is amended—

(A) by striking the last sentence of section 24101(d); and

(B) by striking the last sentence of section 24104(a).

(2) AMTRAK REFORM AND ACCOUNTABILITY ACT AMENDMENTS.—Title II of the Amtrak Reform and Accountability Act of 1997 (49 U.S.C. 24101 nt) is amended by striking sections 204 and 205.

(3) COMMON STOCK REDEMPTION DATE.—Section 415 of the Amtrak Reform and Accountability Act of 1997 (49 U.S.C. 24304 nt) is amended by striking subsection (b).

(b) LEASE ARRANGEMENTS.—Amtrak may obtain services from the Administrator of General Services, and the Administrator may provide services to Amtrak, under section 201(b) and 211(b) of the Federal Property and Administrative Service Act of 1949 (40 U.S.C. 481(b) and 491(b)) for each of fiscal years 2005 through 2009.

(c) FINANCIAL POWERS.—Section 415(d) of the Amtrak Reform and Accountability Act of 1997 by adding at the end the following:

''(3) This section does not affect the applicability of section 3729 of title 31, United States Code, to claims made against Amtrak.''.

(d) AMTRAK REPORTS.—Section 24315 is amended—

(1) by striking ''February 15'' in subsection (a) and inserting ''January 31st'';

(2) by striking subparagraph (B) of subsection (a)(1) and inserting the following:

''(B) the route profitability survey data, excluding interest and depreciation costs, or any other route cost allocation or profitability analysis that Amtrak develops;'';

(3) by striking subparagraph (D) of subsection (a)(1) and inserting the following:

''(D) the total revenue-to-total cost ratio;'';

(4) by striking subparagraphs (C), (F), and (G) of subsection (a)(1), and redesignating subparagraphs (D), (E), and (H) as subparagraphs (C), (D), and (E), respectively; and

(5) by striking ''February 15'' in subsection (b) and inserting ''January 31st''.

SEC. 4685. EXCESS RAILROAD RETIREMENT.

Beginning in fiscal year 2005, the Secretary of the Treasury each year shall pay to the Railroad Retirement Account an amount equal to the amount Amtrak must pay under section 3221 of the Internal Revenue Code of 1986 in fiscal years that is more than the amount needed for benefits for individuals who retire from Amtrak and for their beneficiaries. There are authorized to be appropriated such sums as may be necessary in each fiscal year beginning after fiscal year 2005 through 2010 for these payments.

SEC. 4686. AUTHORIZATIONS FOR ENVIRONMENTAL COMPLIANCE AND STATION IMPROVEMENTS.

(a) ENVIRONMENTAL COMPLIANCE.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak in order to comply with environmental regulations the following amounts:

(A) For fiscal year 2005, $18,800,000.
(B) For fiscal year 2006, $21,700,000.
(C) For fiscal year 2007, $22,300,000.
(D) For fiscal year 2008, $15,100,000.
(E) For fiscal year 2009, $15,900,000.
(F) For fiscal year 2010, $16,000,000.

(b) CAPITAL IMPROVEMENTS TO STATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak for capital improvements to stations, including an initial assessment of the full set of accessibility needs across the national rail passenger transportation system and improved accessibility for the elderly and people with disabilities and in Amtrak facilities and stations, the following amounts:

(A) For fiscal year 2005, $17,100,000.
(B) For fiscal year 2006, $19,800,000.
(C) For fiscal year 2007, $19,800,000.
(D) For fiscal year 2008, $19,000,000.
(E) For fiscal year 2009, $19,000,000.
(F) For fiscal year 2010, $19,000,000.

(2) STUDY OF COMPLIANCE REQUIREMENTS AT EXISTING INTERCITY RAIL STATIONS.—Amtrak shall evaluate the improvements necessary to make all existing stations it serves readily accessible to and usable by individuals with disabilities, as required by section 242(e)(2) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12162(e)(2)). The evaluation shall include the estimated cost of the improvements necessary, the identification of the responsible person (as defined in section 241(5) of that Act (42 U.S.C. 12161(5))), and the earliest practicable date when such improvements can be made. Amtrak shall submit the survey to the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Transportation and Infrastructure, and the National Council on Disability by September 30, 2005, along with recommendations for funding the necessary improvements.

SEC. 4687. TUNNEL LIFE SAFETY.

(a) LIFE SAFETY NEEDS.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak for fiscal year 2005:

(1) $677,000,000 for the 6 New York tunnels built in 1910 to provide ventilation, electrical, and fire safety technology upgrades, emergency communication and lighting systems, and emergency access and egress for passengers.

(2) $57,000,000 for the Baltimore & Potomac tunnel built in 1872 to provide adequate drainage, ventilation, communication, lighting, and passenger egress upgrades.

(3) $40,000,000 for the Washington, D.C., Union Station tunnels built in 1904 under the Supreme Court and House and Senate Office Buildings to improve ventilation, communication, lighting, and passenger egress upgrades.

(b) INFRASTRUCTURE UPGRADES.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak $3,000,000 for fiscal year 2005 for the preliminary design of options for a new tunnel on a different alignment to augment the capacity of the existing Baltimore tunnels.

(d) FINANCIAL CONTRIBUTION FROM OTHER TUNNEL USERS.—The Secretary shall, taking into account the need for the timely completion of all life safety portions of the tunnel projects described in subsection (a)—

(1) consider the extent to which rail carriers other than Amtrak use the tunnels;

(2) consider the feasibility of seeking a financial contribution from those other rail carriers toward the costs of the projects; and

(3) obtain financial contributions or commitments from such other rail carriers if feasible.

(e) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to this section shall remain available until expended.

SEC. 4688. AUTHORIZATION FOR CAPITAL AND OPERATING EXPENSES.

(a) OPERATING EXPENSES.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak for operating costs the following amounts:

(1) For fiscal year 2005, $581,400,000.
(2) For fiscal year 2006, $566,700,000.
(3) For fiscal year 2007, $557,700,000.
(4) For fiscal year 2008; $528,500,000.
(5) For fiscal year 2009, $522,000,000.
(6) For fiscal year 2010, $522,000,000.

(b) CAPITAL BACKLOG AND UPGRADES.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak for capital expenses, the following amounts:

(1) For fiscal year 2005, $741,500,000.
(2) For fiscal year 2006, $835,200,000.
(3) For fiscal year 2007, $760,800,000.
(4) For fiscal year 2008, $733,600,000.
(5) For fiscal year 2009, $774,300,000.
(6) For fiscal year 2010, $874,300,000.

(c) REPLACEMENT EQUIPMENT.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak for the purchase of replacement passenger rail equipment the following amounts:

(1) For fiscal year 2006, $250,000,000.
(2) For fiscal year 2007, $250,000,000.
(3) For fiscal year 2008, $350,000,000.
(4) For fiscal year 2009, $350,000,000.
(5) For fiscal year 2010, $350,000,000.

SEC. 4689. GRANTS NOT CONSIDERED TO REPLACE FEDERAL OPERATING OR CAPITAL SUPPORT.

Grants or assistance provided directly to a State or group of States by the Secretary under this title for rail infrastructure investments shall not be considered to reduce or replace the authorizations or the need for annual Federal appropriations for the National Railroad Passenger Corporation.

SEC. 4690. ESTABLISHMENT OF GRANT PROCESS.

(a) GRANT REQUESTS.—Amtrak shall submit grant requests to the Secretary of Transportation for funds authorized to be appropriated to the Secretary for the use of Amtrak under sections 686, 687, and 688.

(b) PROCEDURES FOR GRANT REQUESTS.—The Secretary shall establish substantive and procedural requirements, including schedules, for grant requests under this section not later than 30 days after the date of enactment of this Act and shall transmit copies to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure.

(c) REVIEW AND APPROVAL.—

(1) 30-DAY PROCESS.—The Secretary shall complete the review of a grant request and approve or disapprove the request within 30 days after the date on which Amtrak submits the grant request.

(2) INCOMPLETE OR DEFICIENT REQUESTS.—If the Secretary disapproves the request or determines that the request is incomplete or deficient, the Secretary shall immediately notify Amtrak of the reason for disapproval or the incomplete items or deficiencies. Within 15 days after receiving notification from the Secretary under the preceding sentence, Amtrak shall submit a modified request for the Secretary's review.

(3) REVISED REQUESTS.—Within 15 days after receiving a modified request from Amtrak, the Secretary shall either approve the modified request, or, if the Secretary finds that the request is still incomplete or deficient, the Secretary shall identify in writing to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure the remaining deficiencies and recommend a process for resolving the outstanding portions of the request.

SEC. 4691. STATE-SUPPORTED ROUTES.

The Board of Directors of Amtrak, in consultation with the Secretary of Transportation and the chief executive officer of each State and the District of Columbia, shall develop a formula for funding the operating costs of trains operating on routes not in excess of 750 miles in length that—

(1) is equitable and fair; and

(2) ensures, within 5 years after the date of enactment of this Act, equal treatment of all States (and the District of Columbia) and groups of States (including the District of Columbia).

SEC. 4692. RE-ESTABLISHMENT OF NORTHEAST CORRIDOR SAFETY COMMITTEE.

(a) RE-ESTABLISHMENT OF NORTHEAST CORRIDOR SAFETY COMMITTEE.—The Secretary of Transportation shall re-establish the Northeast Corridor Safety Committee authorized by section 24905(b) of title 49, United States Code.

(b) TERMINATION DATE.—Section 24905(b)(4) is amended by striking ''January 1, 1999,'' and inserting ''January 1, 2009,''.

SEC. 4693. AMTRAK BOARD OF DIRECTORS.

Section 24302 is amended to read as follows:

"§ 24302. Board of directors

''(a) COMPOSITION AND TERMS.—

''(1) The board of directors of Amtrak is composed of the following 9 directors, each of whom must be a citizen of the United States:

''(A) The President of Amtrak.

''(B) The Secretary of Transportation.

''(C) 7 individuals appointed by the President of the United States, by and with the advice and consent of the Senate, with experience and qualifications in or directly related to rail transportation, including representatives of freight and passenger rail transportation, travel, hospitality, cruise line, and passenger air transportation businesses, consumers of passenger rail transportation, and State government.

''(2) In selecting individuals described in paragraph (1) for nominations for appointments to the Board, the President shall consult with the Speaker of the House of Representatives, the Minority Leader of the House of Representatives, the Majority Leader of the Senate, and the Minority Leader of the Senate and should ensure adequate and balanced representation of the major geographic regions of the United States.

''(3) Each member shall be appointed for a term of 5 years and until the individual's successor is appointed and qualified. Not more than 4 individuals appointed under paragraph (1)(C) may be members of the same political party.

''(4) The board shall elect a chairman and a vice chairman from among its membership. The vice chairman shall serve as chairman in the absence of the chairman.

''(5) The Secretary may be represented at board meetings by the Secretary's designee.

''(b) PAY AND EXPENSES.—Each director not employed by the United States Government is entitled to $300 a day when performing board duties and powers. Each director is entitled to reimbursement for necessary travel, reasonable secretarial and professional staff support, and subsistence expenses incurred in attending board meetings.

''(c) VACANCIES.—A vacancy on the board is filled in the same way as the original selection, except that an individual appointed by the President of the United States under subsection (a)(1)(C) of this section to fill a vacancy occurring before the end of the term for which the predecessor of that individual was appointed is appointed for the remainder of that term. A vacancy required to be filled by appointment under subsection (a)(1)(C) must be filled not later than 120 days after the vacancy occurs.

''(d) BYLAWS.—The board may adopt and amend bylaws governing the operation of Amtrak. The bylaws shall be consistent with this part and the articles of incorporation.''.

SEC. 4694. ESTABLISHMENT OF FINANCIAL ACCOUNTING SYSTEM FOR AMTRAK OPERATIONS BY INDEPENDENT AUDITOR.

(a) IN GENERAL.—The Inspector General of the Department of Transportation shall employ an independent financial consultant with experience in railroad accounting—

(1) to assess Amtrak's financial accounting and reporting system and practices;

(2) to design and assist Amtrak in implementing a modern financial accounting and reporting system, on the basis of the assessment, that will produce accurate and timely financial information in sufficient detail—

(A) to enable Amtrak to assign revenues and expenses appropriately to each of its lines of business and to each major activity within each line of business activity, including train operations, equipment maintenance, ticketing, and reservations;

(B) to aggregate expenses and revenues related to infrastructure and distinguish them from expenses and revenues related to rail operations; and

(C) to provide ticketing and reservation information on a real-time basis.

(b) VERIFICATION OF SYSTEM; REPORT.—The Inspector General of the Department of Transportation shall review the accounting system designed and implemented under subsection (a) to ensure that it accomplishes the purposes for which it is intended. The Inspector General shall report his findings and conclusions, together with any recommendations, to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation $2,500,000 for fiscal year 2005 to carry out subsection (a), such sums to remain available until expended.

SEC. 4695. DEVELOPMENT OF 5-YEAR FINANCIAL PLAN.

(a) DEVELOPMENT OF 5-YEAR, FINANCIAL PLAN.—The Amtrak board of directors shall submit an annual budget for Amtrak, and a 5-year financial plan for the fiscal year to which that budget relates and the subsequent 4 years, prepared in accordance with this section, to the Secretary of Transportation and the Inspector General of the Department of Transportation no later than—

(1) the first day of each fiscal year beginning after the date of enactment of this Act; or

(2) the date that is 60 days after the date of enactment of an appropriation Act for the fiscal year, if later.

(b) CONTENTS OF 5-YEAR FINANCIAL PLAN.—The 5-year financial plan for Amtrak shall include, at a minimum—

(1) all projected revenues and expenditures for Amtrak, including governmental funding sources;

(2) projected ridership levels for all Amtrak passenger operations;

(3) revenue and expenditure forecasts for nonpassenger operations;

(4) capital funding requirements and expenditures necessary to maintain passenger service which will accommodate predicted ridership levels and predicted sources of capital funding;

(5) operational funding needs, if any, to maintain current and projected levels of passenger service, including state-supported routes and predicted funding sources;

(6) projected capital and operating requirements, ridership, and revenue for any new passenger service operations or service expansions;

(7) an assessment of the continuing financial stability of Amtrak, as indicated by factors such as: the ability of the federal government to adequately meet capital and operating requirements, Amtrak's access to long-term and short-term capital markets, Amtrak's ability to efficiently manage its workforce, and Amtrak's ability to effectively provide passenger train service;

(8) lump sum expenditures of $10,000,000 or more and sources of funding;

(9) estimates of long-term and short-term debt and associated principle and interest payments (both current and anticipated);

(10) annual cash flow forecasts; and

(11) a statement describing methods of estimation and significant assumptions.

(c) STANDARDS TO PROMOTE FINANCIAL STABILITY.—In meeting the requirements of subsection (b) with respect to a 5-year financial plan, Amtrak shall—

(1) apply sound budgetary practices, including reducing costs and other expenditures, improving productivity, increasing revenues, or combinations of such practices; and

(2) use the categories specified in the financial accounting and reporting system developed under section 4652 when preparing its 5-year financial plan.

(d) ASSESSMENT BY DOT INSPECTOR GENERAL.—

(1) IN GENERAL.—The Inspector General of the Department of Transportation shall assess the 5-year financial plans prepared by Amtrak under this section to determine whether they meet the requirements of subsection (b), and may suggest revisions to any components thereof that do not meet those requirements.

(2) ASSESSMENT TO BE FURNISHED TO THE CONGRESS.—The Inspector General shall furnish to the House of Representatives Committee on Appropriations, the Senate Committee on Appropriations, the House of Representatives Committee on Transportation and Infrastructure, and the Senate Committee on Commerce, Science, and Transportation—

(A) an assessment of the annual budget within 90 days after receiving it from Amtrak; and

(B) an assessment of the remaining 4 years of the 5–year financial plan within 180 days after receiving it from Amtrak.

SEC. 4696. INDEPENDENT AUDITOR TO ESTABLISH METHODOLOGIES FOR AMTRAK ROUTE AND SERVICE PLANNING DECISIONS.

(a) REVIEW.—The Secretary of Transportation shall, in consultation with the Federal Railroad Administration, execute a contract to obtain the services of an independent auditor or consultant to research and define Amtrak's past and current methodologies for determining intercity passenger rail routes and services.

(b) RECOMMENDATIONS.—The independent auditor or consultant shall recommend objective methodologies for determining such routes and services, including the establishment of new routes, the elimination of existing routes, and the contraction or expansion of services or frequencies over such routes.

(c) SUBMITTAL TO CONGRESS.—The Secretary shall submit recommendations received under subsection (b) to Amtrak, the House of Representatives Committee on Transportation and Infrastructure, and the Senate Committee on Commerce, Science, and Transportation.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be made available to the Secretary of Transportation, out of any amounts authorized by this title to be appropriated for the benefit of Amtrak and not otherwise obligated or expended, such sums as may be necessary to carry out this section.

SEC. 4697. METRICS AND STANDARDS.

The Administrator of the Federal Railroad Administration shall, in consultation with Amtrak and host railroads, develop new or improve existing metrics and minimum standards for measuring the service quality of intercity train operations, including on-time performance, onboard services, stations, facilities, equipment, and other services.

SEC. 4698. ON-TIME PERFORMANCE.

Section 24308 is amended by adding at the end the following:

''(f) ON-TIME PERFORMANCE AND OTHER STANDARDS.—If the on-time performance of any intercity passenger train averages less than 80 percent for any consecutive 6-month period, or the service quality of intercity train operations for which minimum standards are established under section 4697 of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 Act fails to meet those standards, Amtrak may petition the Surface Transportation Board to investigate whether, and to what extent, delays or failure to achieve minimum standards are due to causes that could reasonably be addressed by a rail carrier over the tracks of which the intercity passenger train operates, or by a regional authority providing commuter service, if any. In carrying out such an investigation, the Surface Transportation Board shall obtain information from all parties involved and make recommendations regarding reasonable measures to improve the service, quality, and on-time performance of the train.''.

SEC. 4699. RAIL COOPERATIVE RESEARCH PROGRAM.

(a) REQUIREMENT FOR PROGRAM.—

(1) ESTABLISHMENT AND CONTENT.—Chapter 249 is amended by adding at the end the following:

''24910. Rail cooperative research program

''(a) IN GENERAL.—The Secretary shall establish and carry out a rail cooperative research program. The program shall—

''(1) address, among other matters, intercity rail passenger services, including existing rail passenger technologies and speeds, incrementally enhanced rail systems and infrastructure, and new high-speed wheel-on-rail systems and rail security;

''(2) consider research on the interconnectedness of commuter rail, passenger rail, and other rail networks; and

''(3) give consideration to regional concerns regarding rail passenger transportation, including meeting research needs common to designated high speed corridors, long-distance rail services, and regional intercity rail corridors, projects, and entities.

''(b) CONTENT.—The program to be carried out finder this section shall include research designed—

''(1) to identify the unique aspects and attributes of rail passenger service;

''(2) to develop more accurate models for evaluating the impact of rail passenger service, including the effects on highway and airport and airway congestion, environmental quality, and energy consumption;

''(3) to develop a better understanding of modal choice as it affects rail passenger transportation, including development of better models to predict utilization;

''(4) to recommend priorities for technology demonstration and development;

''(5) to meet additional priorities as determined by the advisory board established under subsection (c), including any recommendations made by the National Research Council;

''(6) to explore improvements in management, financing, and institutional structures;

''(7) to address rail capacity constraints that affect passenger rail service through a wide variety of options, ranging from operating improvements to dedicated new infrastructure, taking into account the impact of such options on operations;

''(8) to improve maintenance, operations, customer service, or other aspects of intercity rail passenger service;

''(9) to recommend objective methodologies for determining intercity passenger rail routes and services, including the establishment of new routes, the elimination of existing routes, and the contraction or expansion of services or frequencies over such routes;

''(10) to review the impact of equipment and operational safety standards on the further development of high speed passenger rail operations connected to or integrated with non-high speed freight or passenger rail operations; and

''(11) to recommend any legislative or regulatory changes necessary to foster further development and implementation of high speed passenger rail operations while ensuring the safety of such operations that are connected to or integrated with non-high speed freight or passenger rail operations.

''(c) ADVISORY BOARD.—

''(1) ESTABLISHMENT.—In consultation with the heads of appropriate Federal departments and agencies, the Secretary shall establish an advisory board to recommend research, technology, and technology transfer activities related to rail passenger and freight transportation.

''(2) MEMBERSHIP.—The advisory board shall include—

''(A) representatives of State transportation agencies;

''(B) transportation and environmental economists, scientists, and engineers; and

''(C) representatives of Amtrak, the Alaska Railroad, transit operating agencies, intercity rail passenger agencies, railway labor organizations, and environmental organizations.

''(d) NATIONAL ACADEMY OF SCIENCES.—The Secretary may make grants to, and enter into cooperative agreements with, the National Academy of Sciences to carry out such activities relating to the research, technology, and technology transfer activities described in subsection (b) as the Secretary deems appropriate.''.

(2) CLERICAL AMENDMENT.—The chapter analysis for chapter 249 is amended by adding at the end the following:

''24910. Rail cooperative research program''.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation $5,000,000 for each of fiscal years 2005 through 2010 to carry out the rail cooperative research program under section 24910 of title 49, United States Code.

SA 2531. Mr. CRAPO (for himself, Mr. THOMAS, and Mr. ENZI) submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 51, between lines 20 and 21, insert the following:

(d) FLEXIBILITY IN MEETING SET ASIDE REQUIREMENTS.—Section 104(b) of title 23,

United States Code (as amended by section 1401(b)(2)), is amended by adding at the end the following:

''(6) FLEXIBILITY IN MEETING SET ASIDE REQUIREMENTS.—

''(A) IN GENERAL.—Subject to subparagraph (B), any provision of this title that establishes a requirement on or after the date of enactment of this paragraph that a portion of funds apportioned to a State under paragraph (1), (3), or (4) be reserved or obligated for a particular purpose, on an annual basis, shall be considered satisfied if the State sets aside or obligates, as applicable, over the 6-year period of fiscal years 2004 through 2009, the sum of the individual annual requirements over the 6-year period.

''(B) REQUIREMENT.—The flexibility provided by subparagraph (A) does not permit a State to have set aside or obligated, as of the end of a fiscal year, with respect to a requirement, an amount less than—

''(i) the sum of the individual annual requirements for each of fiscal years 2004 through the fiscal year; less

''(ii) the sum obtained by adding the individual requirement for fiscal year 2004 and an amount equal to 50 percent of the requirement for fiscal year 2005.''.

SA 2532. Mr. SHELBY submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows;

At the appropriate place, insert:

''SEC. . THE DELTA REGIONAL AUTHORITY.

(1) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1814(a), is amended by adding at the end the following:

''178. Delta Region transportation development program

''(a) IN GENERAL.—The Secretary shall carry out a program to—

''(1) support and encourage multistate transportation planning and corridor development;

''(2) provide for transportation project development;

''(3) facilitate transportation decisionmaking; and

''(4) support transportation construction.

''(b) ELIGIBLE RECIPIENTS.—A State transportation department or metropolitan planning organization may receive and administer funds provided under the program.

''(c) ELIGIBLE ACTIVITIES.—The Secretary shall make allocations under the program for multistate highway and transit planning, development, and construction projects.

''(d) OTHER PROVISIONS REGARDING ELIGIBILITY.—All activities funded under this program shall be consistent with the continuing, cooperative, and comprehensive planning processes required by section 134 and 135.

''(e) SELECTION CRITERIA.—The Secretary shall select projects to be carried out under the program based on—

''(1) whether the project is located—

''(A) in an area that is part of the Delta Regional Authority; and

''(B) on the Federal-aid system;

''(2) endorsement of the project by the State department of transportation; and

''(3) evidence of the ability to complete the project.

''(f) PROGRAM PRIORITIES.—In administering the program, the Secretary shall—

''(1) encourage State and local officials to work together to develop plans for multimodal and multijurisdictional transportation decisionmaking; and

''(2) give priority to projects that emphasize multimodal planning, including planning for operational improvements that—

''(A) increase the mobility of people and goods;

''(B) improve the safety of the transportation system with respect to catastrophic—

''(i) natural disasters; or

''(ii) disasters caused by human activity; and

''(C) contribute to the economic vitality of the area in which the project is being carried out.

''(g) FEDERAL SHARE.—Amounts provided by the Delta Regional Authority to carry out a project under this section shall be applied to the non-Federal share required by section 120.

''(h) AVAILABILITY OF FUNDS.—Amounts made available to carry out this section shall remain available until expended.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter I of title 23, United States Code (as amended by section 1841(b)), is amended by adding at the end the following:

''178. Delta Region transportation development program.''.''

On page 678, after line 5, insert:

(16) DELTA REGION TRANSPORTATION DEVELOPMENT PROGRAM.—For planning and construction activities authorized under the Delta Regional Authority, $400,000,000 for each of fiscal years 2004 through 2009.

SA 2533. Mr. SHELBY submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

SEC. . Section 201(b) of the Appalachian Regional Development Act of 1965 is amended by striking ''and'' before (4) and inserting after ''section'' the following:

'', and an estimate of the cost to construct highways and access roads for the Appalachian development highway system every 24 months.''

SA 2534. Mr. SHELBY submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 930, line 6 insert the following:

''(3) COST TO COMPLETE STUDY.—The Appalachian Regional Commission shall prepare an estimate of the cost to construct highways and access roads for the Appalachian development highway system every 24 months.''

SA 2535. Ms. CANTWELL submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 255, strike line 18 and insert the following:

(c) PAY-AS-YOU-DRIVE-AND-YOU-SAVE (PAYDAYS) GRANT PROGRAM.—Section 129 of title 23, United States Code (as amended by subsection (b)), is amended by adding at the end the following:

''(f) PAY-AS-YOU-DRIVE-AND-YOU-SAVE (PAYDAYS) GRANT PROGRAM.—

''(1) ESTABLISHMENT.—The Secretary shall establish a Pay-As-You-Drive-And-You-Save (PAYDAYS) grant program to fund pilot and related activities that convert fixed driving costs and general taxes that support transportation to vehicle use charges.

''(2) SPECIAL REQUIREMENTS.—

''(A) IN GENERAL.—Beginning not later than 60 days after the date of enactment of this subsection and continuing each October 1 (or first subsequent business day) of each of fiscal years 2004 through 2009, a $10,000,000 grant in the form of a single payment shall be made by the Secretary to 1 designated university or other institutional partner (referred to in this subsection as the 'designated partner').

''(B) GRANT PURPOSE.—A grant under subparagraph (A) shall be available for soliciting and underwriting applications from governmental, university, and other institutional entities, and public-private partnerships to—

''(i) design, test, implement, and evaluate innovative mileage and parking pricing strategies; and

''(ii) forge partnerships between private sector entities and consumers to offer innovative mileage and variable parking pricing products.

''(C) SUBGRANTS, LOANS, AND REVENUE AND LOSS GUARANTEES.—In consultation with the Secretary, the designated partner shall, using at least 92.5 percent of the funding made available for the grant, provide subgrants, loans, and revenue and loss guarantees to, and enter into contracts with, the governmental, university, and other institutional entities, and public-private partnerships to meet the objectives of this section.

''(D) LIMITATION ON USE.—Not more than 7.5 percent of the grant funds provided for the program shall be available to be spent directly by the designated partner to—

''(i) solicit applications;

''(ii) oversee grant activities; and

''(iii) conduct research and outreach.

''(E) FEDERAL SHARE.—

''(i) IN GENERAL.—The Federal share of the costs of activities carried out with a grant to the designated partner under this section shall be 100 percent.

''(ii) MATCHING FUNDS.—The designated partner shall require a subgrantee to provide matching funds.

''(F) MINIMUM FUNDING GUARANTEES.—Funds provided under this section shall be excluded when calculating minimum funding guarantees under section 105.

''(3) REPORTING.—

''(A) IN GENERAL.—The designated partner, in cooperation with the Secretary and subgrant recipients, shall—

''(i) publish performance goals for the PAYDAYS grant program and for each project; and

''(ii) monitor and, at least every 2 years after the enactment of this subsection, submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that assesses the effects of projects on the achievement of those goals.

''(B) PERFORMANCE GOALS.—Performance goals shall include—

''(i) traffic volumes and congestion;

''(ii) air quality;

''(iii) safety;

''(iv) use of alternative transportation modes; and

''(v) equity.

''(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection $10,000,000 in contract authority

funding for each of fiscal years 2004 through 2009, not subject to obligation limitations.''.

(d) CONFORMING AMENDMENTS.—

SA 2536. Ms. CANTWELL submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 255, strike line 18 and insert the following:

(c) PAY-AS-YOU-DRIVE-AND-YOU-SAVE (PAYDAYS) GRANT PROGRAM.—Section 129 of title 23, United States Code (as amended by subsection (b)), is amended by adding at the end the following:

''(f) PAY-AS-YOU-DRIVE-AND-YOU-SAVE (PAYDAYS) GRANT PROGRAM.—

''(1) ESTABLISHMENT.—The Secretary shall establish a Pay-As-You-Drive-And-You-Save (PAYDAYS) grant program to fund pilot and related activities that convert fixed driving costs and general taxes that support transportation to vehicle use charges.

''(2) SPECIAL REQUIREMENTS.—

''(A) IN GENERAL.—Beginning not later than 60 days after the date of enactment of this subsection and continuing each October 1 (or first subsequent business day) of each of fiscal years 2004 through 2009, a $10,000,000 grant in the form of a single payment shall be made by the Secretary to 1 designated university or other institutional partner (referred to in this subsection as the 'designated partner').

''(B) GRANT PURPOSE.—A grant under subparagraph (A) shall be available for soliciting and underwriting applications from governmental, university, and other institutional entities, and public-private partnerships to—

''(i) design, test, implement, and evaluate innovative mileage and parking pricing strategies; and

''(ii) forge partnerships between private sector entities and consumers to offer innovative mileage and variable parking pricing products.

''(C) SUBGRANTS, LOANS, AND REVENUE AND LOSS GUARANTEES.—In consultation with the Secretary, the designated partner shall, using at least 92.5 percent of the funding made available for the grant, provide subgrants, loans, and revenue and loss guarantees to, and enter into contracts with, the governmental, university, and other institutional entities, and public-private partnerships to meet the objectives of this section.

''(D) LIMITATION ON USE.—Not more than 7.5 percent of the grant funds provided for the program shall be available to be spent directly by the designated partner to—

''(i) solicit applications;

''(ii) oversee grant activities; and

''(iii) conduct research and outreach.

''(E) FEDERAL SHARE.—

''(i) IN GENERAL.—The Federal share of the costs of activities carried out with a grant to the designated partner under this section shall be 100 percent.

''(ii) MATCHING FUNDS.—The designated partner shall require a subgrantee to provide matching funds.

''(F) MINIMUM FUNDING GUARANTEES.—Funds provided under this section shall be excluded when calculating minimum funding guarantees under section 105.

''(3) REPORTING.—

''(A) IN GENERAL.—The designated partner, in cooperation with the Secretary and subgrant recipients, shall—

''(i) publish performance goals for the PAYDAYS grant program and for each project; and

''(ii) monitor and, at least every 2 years after the enactment of this subsection, submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that assesses the effects of projects on the achievement of those goals.

''(B) PERFORMANCE GOALS.—Performance goals shall include—

''(i) traffic volumes and congestion;

''(ii) air quality;

''(iii) safety;

''(iv) use of alternative transportation modes; and

''(v) equity.

''(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection $10,000,000 in contract authority funding for each of fiscal years 2004 through 2009, not subject to obligation limitations.''.

(d) CONFORMING AMENDMENTS.—

SA 2537. Ms. CANTWELL submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 255, strike line 18 and insert the following:

(c) PAY-AS-YOU-DRIVE-AND-YOU-SAVE (PAYDAYS) GRANT PROGRAM.—Section 129 of title 23, United States Code (as amended by subsection (b)), is amended by adding at the end the following:

''(f) PAY-AS-YOU-DRIVE-AND-YOU-SAVE (PAYDAYS) GRANT PROGRAM.—

''(1) ESTABLISHMENT.—The Secretary shall establish a Pay-As-You-Drive-And-You-Save (PAYDAYS) grant program to fund pilot and related activities that convert fixed driving costs and general taxes that support transportation to vehicle use charges.

''(2) SPECIAL REQUIREMENTS.—

''(A) IN GENERAL.—Beginning not later than 60 days after the date of enactment of this subsection and continuing each October 1 (or first subsequent business day) of each of fiscal years 2004 through 2009, a $10,000,000 grant in the form of a single payment shall be made by the Secretary to 1 designated university or other institutional partner (referred to in this subsection as the 'designated partner').

''(B) GRANT PURPOSE.—A grant under subparagraph (A) shall be available for soliciting and underwriting applications from governmental, university, and other institutional entities, and public-private partnerships to—

''(i) design, test, implement, and evaluate innovative mileage and parking pricing strategies; and

''(ii) forge partnerships between private sector entities and consumers to offer innovative mileage and variable parking pricing products.

''(C) SUBGRANTS, LOANS, AND REVENUE AND LOSS GUARANTEES.—In consultation with the Secretary, the designated partner shall, using at least 92.5 percent of the funding made available for the grant, provide subgrants, loans, and revenue and loss guarantees to, and enter into contracts with, the governmental, university, and other institutional entities, and public-private partnerships to meet the objectives of this section.

''(D) LIMITATION ON USE.—Not more than 7.5 percent of the grant funds provided for the program shall be available to be spent directly by the designated partner to—

''(i) solicit applications;

''(ii) oversee grant activities; and

''(iii) conduct research and outreach.

''(E) FEDERAL SHARE.—

''(i) IN GENERAL.—The Federal share of the costs of activities carried out with a grant to the designated partner under this section shall be 100 percent.

''(ii) MATCHING FUNDS.—The designated partner shall require a subgrantee to provide matching funds.

''(F) MINIMUM FUNDING GUARANTEES.—Funds provided under this section shall be excluded when calculating minimum funding guarantees under section 105.

''(3) REPORTING.—

''(A) IN GENERAL.—The designated partner, in cooperation with the Secretary and subgrant recipients, shall—

''(i) publish performance goals for the PAYDAYS grant program and for each project; and

''(ii) monitor and, at least every 2 years after the enactment of this subsection, submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that assesses the effects of projects on the achievement of those goals.

''(B) PERFORMANCE GOALS.—Performance goals shall include—

''(i) traffic volumes and congestion;

''(ii) air quality;

''(iii) safety;

''(iv) use of alternative transportation modes; and

''(v) equity.

''(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection $10,000,000 in contract authority funding for each of fiscal years 2004 through 2009, not subject to obligation limitations.''.

(d) CONFORMING AMENDMENTS.—

SA 2538. Ms. CANTWELL submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 638, before line 16, insert the following:

(c) NATIONAL TECHNICAL ASSISTANCE CENTER FOR SENIOR TRANSPORTATION.—Section 5314 is amended by adding at the end the following:

''(c) NATIONAL TECHNICAL ASSISTANCE CENTER FOR SENIOR TRANSPORTATION.—

''(1) ESTABLISHMENT.—The Secretary, in consultation with the Federal Transit Administration, shall award a grant of $2,500,000 to a national not-for-profit organization for the establishment and maintenance of a national technical assistance center.

''(2) ELIGIBILITY.—An organization shall be eligible to receive the grant under paragraph (1) if the organization—

''(A) focuses significantly on serving the needs of the elderly;

''(B) has demonstrated knowledge and expertise in senior transportation policy and planning issues;

''(C) has affiliates in a majority of the States;

''(D) has the capacity to convene local groups to consult on operation and development of senior transportation programs; and

''(E) has established close working relationships with the Federal Transit Administration and the Administration on Aging.

''(3) USE OF FUNDS.—The national technical assistance center established under this section shall—

''(A) gather best practices from throughout the country and provide such practices to local communities that are implementing senior transportation programs;

''(B) work with teams from local communities to identify how they are successfully meeting the transportation needs of senior and any gaps in services in order to create a plan for an integrated senior transportation program;

''(C) provide resources on ways to pay for senior transportation services;

''(D) create a web site to publicize and circulate information on senior transportation programs;

''(E) establish a clearinghouse for print, video, and audio resources on senior mobility; and

''(F) administer the demonstration grant program established under paragraph (4).

''(4) GRANTS AUTHORIZED.—

''(A) IN GENERAL.—The national technical assistance center established under this section, in consultation with the Federal Transit Administration, shall award senior transportation demonstration grants to—

''(i) local transportation organizations;

''(ii) State agencies;

''(iii) units of local government; and

''(iv) nonprofit organizations.

''(B) USE OF FUNDS.—Grant funds received pursuant to subparagraph (A) may be used to create model programs to—

''(i) provide direct transportation services to senior citizens; and

''(ii) demonstrate effective mechanisms for establishing community-based plans for senior transportation.

''(5) ALLOCATIONS.—From the funds made available for each fiscal year under subsections (a)(5)(C)(iv) and (b)(2)(G)(iv) of section 5338—

''(A) $2,500,000 shall be allocated to carry out the provisions of paragraphs (1) through (3); and

''(B) $2,500,000 shall be allocated to carry out the provisions of paragraph (4).''.

SA 2539. Ms. CANTWELL submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 638, before line 16, insert the following:

(c) NATIONAL TECHNICAL ASSISTANCE CENTER FOR SENIOR TRANSPORTATION.—Section 5314 is amended by adding at the end the following:

''(c) NATIONAL TECHNICAL ASSISTANCE CENTER FOR SENIOR TRANSPORTATION.—

''(1) ESTABLISHMENT.—The Secretary, in consultation with the Federal Transit Administration, shall award a grant of $2,500,000 to a national not-for-profit organization for the establishment and maintenance of a national technical assistance center.

''(2) ELIGIBILITY.—An organization shall be eligible to receive the grant under paragraph (1) if the organization—

''(A) focuses significantly on serving the needs of the elderly;

''(B) has demonstrated knowledge and expertise in senior transportation policy and planning issues;

''(C) has affiliates in a majority of the States;

''(D) has the capacity to convene local groups to consult on operation and development of senior transportation programs; and

''(E) has established close working relationships with the Federal Transit Administration and the Administration on Aging.

''(3) USE OF FUNDS.—The national technical assistance center established under this section shall—

''(A) gather best practices from throughout the country and provide such practices to local communities that are implementing senior transportation programs;

''(B) work with teams from local communities to identify how they are successfully meeting the transportation needs of senior and any gaps in services in order to create a plan for an integrated senior transportation program;

''(C) provide resources on ways to pay for senior transportation services;

''(D) create a web site to publicize and circulate information on senior transportation programs;

''(E) establish a clearinghouse for print, video, and audio resources on senior mobility; and

''(F) administer the demonstration grant program established under paragraph (4).

''(4) GRANTS AUTHORIZED.—

''(A) IN GENERAL.—The national technical assistance center established under this section, in consultation with the Federal Transit Administration, shall award senior transportation demonstration grants to—

''(i) local transportation organizations;

''(ii) State agencies;

''(iii) units of local government; and

''(iv) nonprofit organizations.

''(B) USE OF FUNDS.—Grant funds received pursuant to subparagraph (A) may be used to create model programs to—

''(i) provide direct transportation services to senior citizens; and

''(ii) demonstrate effective mechanisms for establishing community-based plans for senior transportation.

''(5) ALLOCATIONS.—From the funds made available for each fiscal year under subsections (a)(5)(C)(iv) and (b)(2)(G)(iv) of section 5338—

''(A) $2,500,000 shall be allocated to carry out the provisions of paragraphs (1) through (3); and

''(B) $2,500,000 shall be allocated to carry out the provisions of paragraph (4).''.

SA 2540. Ms. CANTWELL submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 638, before line 16, insert the following:

(c) NATIONAL TECHNICAL ASSISTANCE CENTER FOR SENIOR TRANSPORTATION.—Section 5314 is amended by adding at the end the following:

''(c) NATIONAL TECHNICAL ASSISTANCE CENTER FOR SENIOR TRANSPORTATION.—

''(1) ESTABLISHMENT.—The Secretary, in consultation with the Federal Transit Administration, shall award a grant of $2,500,000 to a national not-for-profit organization for the establishment and maintenance of a national technical assistance center.

''(2) ELIGIBILITY.—An organization shall be eligible to receive the grant under paragraph (1) if the organization—

''(A) focuses significantly on serving the needs of the elderly;

''(B) has demonstrated knowledge and expertise in senior transportation policy and planning issues;

''(C) has affiliates in a majority of the States;

''(D) has the capacity to convene local groups to consult on operation and development of senior transportation programs; and

''(E) has established close working relationships with the Federal Transit Administration and the Administration on Aging.

''(3) USE OF FUNDS.—The national technical assistance center established under this section shall—

''(A) gather best practices from throughout the country and provide such practices to local communities that are implementing senior transportation programs;

''(B) work with teams from local communities to identify how they are successfully meeting the transportation needs of senior and any gaps in services in order to create a plan for an integrated senior transportation program;

''(C) provide resources on ways to pay for senior transportation services;

''(D) create a web site to publicize and circulate information on senior transportation programs;

''(E) establish a clearinghouse for print, video, and audio resources on senior mobility; and

''(F) administer the demonstration grant program established under paragraph (4).

''(4) GRANTS AUTHORIZED.—

''(A) IN GENERAL.—The national technical assistance center established under this section, in consultation with the Federal Transit Administration, shall award senior transportation demonstration grants to—

''(i) local transportation organizations;

''(ii) State agencies;

''(iii) units of local government; and

''(iv) nonprofit organizations.

''(B) USE OF FUNDS.—Grant funds received pursuant to subparagraph (A) may be used to create model programs to—

''(i) provide direct transportation services to senior citizens; and

''(ii) demonstrate effective mechanisms for establishing community-based plans for senior transportation.

''(5) ALLOCATIONS.—From the funds made available for each fiscal year under subsections (a)(5)(C)(iv) and (b)(2)(G)(iv) of section 5338—

''(A) $2,500,000 shall be allocated to carry out the provisions of paragraphs (1) through (3); and

''(B) $2,500,000 shall be allocated to carry out the provisions of paragraph (4).''.

SA 2541. Mr. SMITH submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 619, strike line 1 and all that follows through page 621, line 8, and insert the following:

''(1) AUTHORIZATION.—The Secretary may award grants to a State for public transportation capital projects, and operating costs associated with public transportation capital projects, that are planned, designed, and carried out to meet the needs of elderly individuals and individuals with disabilities, with priority given to the needs of these individuals to access necessary health care.

''(2) ACQUISITION OF PUBLIC TRANSPORTATION SERVICES.—A capital public transportation

project under this section may include acquiring public transportation services as an eligible capital expense.

''(3) ADMINISTRATIVE COSTS.—A State may use not more than 15 percent of the amounts received under this section to administer, plan, and provide technical assistance for a project funded under this section.

''(b) ALLOTMENTS AMONG STATES.—

''(1) IN GENERAL.—From amounts made available or appropriated in each fiscal year under subsections (a)(1)(C)(iv) and (b)(2)(D) of section 5338 for grants under this section, the Secretary shall allot amounts to each State under a formula based on the number of elderly individuals and individuals with disabilities in each State.

''(2) TRANSFER OF FUNDS.—Any funds allotted to a State under paragraph (1) may be transferred by the State to the apportionments made under sections 5311(c) and 5336 if such funds are only used for eligible projects selected under this section.

''(3) REALLOCATION OF FUNDS.—A State receiving a grant under this section may reallocate such grant funds to—

''(A) a private nonprofit organization;

''(B) a public transportation agency or authority; or

''(C) a governmental authority that—

''(i) has been approved by the State to coordinate services for elderly individuals and individuals with disabilities;

''(ii) certifies that nonprofit organizations are not readily available in the area that can provide the services described under this subsection; or

''(iii) will provide services to persons with disabilities that exceed those services required by the Americans with Disabilities Act.

''(c) FEDERAL SHARE.—

''(1) MAXIMUM.—

''(A) CAPITAL PROJECTS.—A grant for a capital project under this section may not exceed 80 percent of the net capital costs of the project, as determined by the Secretary.

''(B) EXCEPTION.—A State described in section 120(d) of title 23 shall receive an increased Federal share in accordance with the formula under that section.

''(C) OPERATING COSTS.—Grant funds for operating costs under this section may not exceed 50 percent of the net operating costs of the project, as determined by the Secretary.''

SA 2542. Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Insert the following before equipment in Section 148(a)(2)(B)(xiv): ''integrated, interoperable emergency communications''.

SA 2543. Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Insert the following after elements in Section 148(a)(5)(C): '', including integrated, interoperable emergency communications,''.

SA 2544. Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Insert the following before communications in Section 501(2): ''integrated, interoperable emergency''.

SA 2545. Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Insert the following before communications in Section 501(2)(C): ''integrated, interoperable emergency''.

SA 2546. Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Strike enhanced and insert the following in Section 502(h)(2)(iii): ''integrated, interoperable emergency''.

SA 2547. Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Add new paragraph (7) to Section 149(b): ''If the project or program involves the purchase of integrated, interoperable emergency communications equipment.''

SA 2548. Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Insert the following before reliability in Section 503(a)(3)(B): '', mobile communications,''.

SA 2549. Mr. GRASSLEY (for himself and Mr. BAUCUS) submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 1027, strike lines 3 through 13, and insert the following:

(g) PROHIBITION ON USE OF HIGHWAY ACCOUNT FOR RAIL PROJECTS UNDER NEW PROGRAMS.—Section 9503(c) (relating to transfers from Highway Trust Fund for certain repayments and credits) is amended by adding at the end the following new paragraph:

''(6) PROHIBITION ON USE OF HIGHWAY ACCOUNT FOR CERTAIN RAIL PROJECTS.—With respect to rail projects under programs beginning after the date of the enactment of this paragraph, no amount shall be available from the Highway Account (as defined in subsection (e)(5)(B)).''.

SA 2550. Mr. THOMAS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

(a) Amendment to 23 U.S.C. 306.—Section 23 U.S.C. 306 is amended as follows:

SEC. 306.—MAPPING.

(a) In General.——

In carrying out the provisions of this title, the Secretary may, wherever practicable, authorize the use of photogrammetric methods in mapping, and the utilization of commercial enterprise for such services.

(b) Regulations.—

The Secretary shall issue regulations to require States to utilize, to the maximum extent practicable, private sector sources for surveying and mapping services for projects under this title. In carrying out this subsection, the Secretary shall recommend appropraite roles for States and private mapping and surveying activities, including—

(1) State participation in—

(i) Preparation of standards and specifications;

(ii) research in surveying and mapping instrumentation and procedures and technology transfer to the private sector; and

(iii) providing technical guidance, coordination, and administration of State surveying and mapping activities; and

(2) private sector participations in—

(i) performance of surveying and mapping activities, to include but not be limited to such activities as measuring, locating and preparing maps, charts, surveys, aerial photographs, satellite images, or other graphical or digital presentations depicting natural or manmade physical features, phenomena, and legal boundaries of the Earth.

(c) The Secretary shall implement a program to assure that States implement this section in such a manner as to assure that government agencies do not complete with its citizens and that such agencies not start or carry on any activity to provide a commercial surveying and mapping product or service if the product or service can be procured more economically from the commercial sources to supply the surveying and mapping products and services the government needs.

SA 2551. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title IV, add the following:

Subtitle G—Immigration Related Provisions

SEC. 4701. PROHIBITION OF ISSUANCE OF DRIVER'S LICENSES TO ILLEGAL ALIENS.

(a) WITHHOLDING OF FUNDS FOR NONCOMPLIANCE.—The Secretary of Transportation shall withhold 10 per cent of the amount required to be apportioned to any State under this Act on the first day of each fiscal year after the second fiscal year beginning after September 30, 2004, if such State permits by statute, regulation, or executive order the issuance of a State Driver's license or identification card to aliens who do not present valid documentation of lawful presence in the United States as determined by the Immigration and Nationality Act (8 U.S.C. 1101).

(b) EFFECT OF WITHHOLDING OF FUNDS.—Any funds recovered due to a reduction in State funding in accordance with subsection (a) shall be redistributed amongst the States that are in compliance with this section in accordance with the formulas set forth in this Act, calculated without taking into account the States that have violated this section.

(c) The Bureau of Immigration and Customs Enforcement of the Department of Homeland Security shall issue a list of documents or combinations of documents establishing legal presence in the United States by September 30, 2004. The Secretary shall utilize such list for the purpose of determinations of compliance with subsection (a).

SA 2552. Mr. WYDEN (for himself and Mr. TALENT) submitted an amendment intended to be proposed to amendment SA 2341 submitted by Mr. TALENT (for himself and Mr. WYDEN) and intended to be proposed to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Strike all after the first word and insert the following:

4602. ESTABLISHMENT OF BUILD AMERICA CORPORATION.

There is established a nonprofit corporation, to be known as the ''Build America Corporation''. The Build America Corporation is not an agency or establishment of the United States Government. The purpose of the Corporation is to support qualified projects described in section 4603(c)(2) through the issuance of Build America bonds. The Corporation shall be subject, to the extent consistent with this section, to the laws of the State of Delaware applicable to corporations not for profit.

SEC. 4603. FEDERAL BONDS FOR TRANSPORTATION INFRASTRUCTURE.

(a) USE OF BOND PROCEEDS.—The proceeds from the sale of—

(1) any bonds authorized, issued, or guaranteed by the Federal Government that are available to fund passenger rail projects pursuant to any Federal law (enacted before, on, or after the date of the enactment of this Act), and

(2) any Build America bonds issued by the Build America Corporation as authorized by section 4602,

may be used to fund a qualified project if the Secretary of Transportation determines that the qualified project is a cost-effective alternative for efficiently maximizing mobility of individuals and goods.

(b) COMPLIANCE OF BENEFICIARIES WITH CERTAIN STANDARDS.—A recipient of proceeds of a grant, loan, Federal tax-credit bonds, or any other form of financial assistance provided under this title shall comply with the standards described in section 24312 of title 49, United States Code, as in effect on June 25, 2003, with respect to any qualified project described in subsection (c)(1) in the same manner that the National Passenger Railroad Corporation is required to comply with such standards for construction work financed under an agreement entered into under section 24308(a) of such title.

(c) QUALIFIED PROJECT DEFINED.—In this section—

(1) IN GENERAL.—Except as provided in paragraph (2), the term ''qualified project'' means any transportation infrastructure project of any governmental unit or other person that is proposed by a State, including a highway project, a transit system project, a railroad project, an airport project, a port project, and an inland waterways project.

(2) BUILD AMERICA CORPORATION PROJECTS.—

(A) IN GENERAL.—With respect to any Build America bonds issued by the Build America Corporation as authorized by section 4602, the term ''qualified project'' means any—

(i) qualified highway project,

(ii) qualified public transportation project, and

(iii) congestion relief project,

proposed by 1 or more States and approved by the Build America Corporation, which meets the requirements under clauses (i), (ii), and (iii) of subparagraph (D).

(B) QUALIFIED HIGHWAY PROJECT.—The term ''qualified highway project'' means a project for highway facilities or other facilities which are eligible for assistance under title 23, United States Code.

(C) QUALIFIED PUBLIC TRANSPORTATION PROJECT.—The term ''qualified public transportation project'' means a project for public transportation facilities or other facilities which are eligible for assistance under chapter 53 of title 49, United States Code.

(D) CONGESTION RELIEF PROJECT.—The term ''congestion relief project'' means an intermodal freight transfer facility, freight rail facility, freight movement corridor, intercity passenger rail or facility, intercity bus vehicle or facility, border crossing facility, or other public or private facility approved as a congestion relief project by the Secretary of Transportation. In making such approvals, the Secretary of Transportation shall—

(i) consider the economic, environmental, mobility, and national security improvements to be realized through the project, and

(ii) give preference to projects with national or regional significance, including any projects sponsored by a coalition of States or a combination of States and private sector entities, in terms of generating economic benefits, supporting international commerce, or otherwise enhancing the national transportation system.

(D) ADDITIONAL REQUIREMENTS FOR QUALIFIED PROJECTS.—For purposes of subparagraph (A)—

(i) COSTS OF QUALIFIED PROJECTS.—The requirement of this clause is met if the costs of the qualified project funded by Build America bonds only relate to capital investments in depreciable assets and do not include any costs relating to operations, maintenance, or rolling stock.

(ii) APPLICABILITY OF FEDERAL LAW.—The requirement of this clause is met if the requirements of any Federal law, including titles 23, 40, and 49 of the United States Code, which would otherwise apply to projects to which the United States is a party or to funds made available under such law and projects assisted with those funds are applied to—

(I) funds made available under Build America bonds for similar qualified projects, and

(II) similar qualified projects assisted by the Build America Corporation through the use of such funds.

(iii) UTILIZATION OF UPDATED CONSTRUCTION TECHNOLOGY FOR QUALIFIED PROJECTS.—The requirement of this clause is met if the appropriate State agency relating to the qualified project has updated its accepted construction technologies to match a list prescribed by the Secretary of Transportation and in effect on the date of the approval of the project as a qualified project.

PART 2—RAILROAD TRACK MODERNIZATION

SEC. 4631. SHORT TITLE.

This part may be cited as the ''Railroad Track Modernization Act of 2004''.

SEC. 4632. CAPITAL GRANTS FOR RAILROAD TRACK.

(a) AUTHORITY.—Chapter 223 of title 49, United States Code, is amended to read as follows:

"CHAPTER 223—CAPITAL GRANTS FOR RAILROAD TRACK

''Sec.

''22301. Capital grants for railroad track.

"§ 22301. Capital grants for railroad track

''(a) ESTABLISHMENT OF PROGRAM.—

''(1) ESTABLISHMENT.—The Secretary of Transportation shall establish a program of capital grants for the rehabilitation, preservation, or improvement of railroad track (including roadbed, bridges, and related track structures) of class II and class III railroads. Such grants shall be for rehabilitating, preserving, or improving track used primarily for freight transportation to a standard ensuring that the track can be operated safely and efficiently, including grants for rehabilitating, preserving, or improving track to handle 286,000 pound rail cars. Grants may be provided under this chapter—

''(A) directly to the class II or class III railroad; or

''(B) with the concurrence of the class II or class III railroad, to a State or local government.

''(2) STATE COOPERATION.—Class II and class III railroad applicants for a grant under this chapter are encouraged to utilize the expertise and assistance of State transportation agencies in applying for and administering such grants. State transportation agencies are encouraged to provide such expertise and assistance to such railroads.

''(3) REGULATIONS.—

''(A) IN GENERAL.—The Secretary shall prescribe regulations to carry out the program under this section.

''(B) CRITERIA.—In developing the regulations, the Secretary shall establish criteria that—

''(i) condition the award of a grant to a railroad on reasonable assurances by the railroad that the facilities to be rehabilitated and improved will be economically and efficiently utilized;

''(ii) ensure that the award of a grant is justified by present and probable future demand for rail services by the railroad to which the grant is to be awarded;

''(iii) ensure that consideration is given to projects that are part of a State-sponsored rail plan; and

''(iv) ensure that all such grants are awarded on a competitive basis.

''(b) MAXIMUM FEDERAL SHARE.—The maximum Federal share for carrying out a project under this section shall be 80 percent of the project cost. The non-Federal share may be provided by any non-Federal source in cash, equipment, or supplies. Other in-kind contributions may be approved by the Secretary on a case by case basis consistent with this chapter.

''(c) PROJECT ELIGIBILITY.—For a project to be eligible for assistance under this section the track must have been operated or owned by a class II or class III railroad as of the date of the enactment of the Railroad Track Modernization Act of 2004.

''(d) USE OF FUNDS.—Grants provided under this section shall be used to implement track capital projects as soon as possible. In no event shall grant funds be contractually obligated for a project later than the end of the third Federal fiscal year following the year in which the grant was awarded. Any funds not so obligated by the end of such fiscal year shall be returned to the Secretary for reallocation.

''(e) ADDITIONAL PURPOSE.—In addition to making grants for projects as provided in subsection (a), the Secretary may also make

grants to supplement direct loans or loan guarantees made under title V of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 822(d)), for projects described in the last sentence of section 502(d) of such title. Grants made under this subsection may be used, in whole or in part, for paying credit risk premiums, lowering rates of interest, or providing for a holiday on principal payments.

''(f) EMPLOYEE PROTECTION.—The Secretary shall require as a condition of any grant made under this section that the recipient railroad provide a fair arrangement at least as protective of the interests of employees who are affected by the project to be funded with the grant as the terms imposed under section 11326(a), as in effect on the date of the enactment of the Railroad Track Modernization Act of 2001.

''(g) LABOR STANDARDS.—

''(1) PREVAILING WAGES.—The Secretary shall ensure that laborers and mechanics employed by contractors and subcontractors in construction work financed by a grant made under this section will be paid wages not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor under the Act of March 3, 1931 (known as the Davis-Bacon Act; 40 U.S.C. 276a et seq.). The Secretary shall make a grant under this section only after being assured that required labor standards will be maintained on the construction work.

''(2) WAGE RATES.—Wage rates in a collective bargaining agreement negotiated under the Railway Labor Act (45 U.S.C. 151 et seq.) are deemed for purposes of this subsection to comply with the Act of March 3, 1931 (known as the Davis-Bacon Act; 40 U.S.C. 276a et seq.).''.

(b) CONFORMING AMENDMENT.—The item relating to chapter 223 in the table of chapters of subtitle V of title 49, United States Code, is amended to read as follows:

''223. Capital grants for railroad track ..... 22301''.

SEC. 4633. REGULATIONS.

(a) REGULATIONS.—The Secretary of Transporation shall prescribe under subsection (a)(3) of section 22301 of title 49, United States Code (as added by section 4601), interim and final regulations for the administration of the grant program under such section as follows:

(1) INTERIM REGULATIONS.—The Secretary shall prescribe the interim regulations to implement the program not later than December 31, 2003.

(2) FINAL REGULATIONS.—The Secretary shall prescribe the final regulations not later than October 1, 2004.

(b) INAPPLICABILITY OF RULEMAKING PROCEDURE TO INTERIM REGULATIONS.—Subchapter II of chapter 5 of title 5, United States Code, shall not apply to the issuance of an interim regulation or to any amendment of such an interim regulation.

(c) CRITERIA.—The requirement for the establishment of criteria under subparagraph (B) of section 22301(a)(3) of title 49, United States Code, applies to the interim regulations as well as to the final regulations.

SEC. 4634. STUDY OF GRANT-FUNDED PROJECTS.

(a) REQUIREMENT FOR STUDY.—The Secretary of Transportation shall conduct a study of the projects carried out with grant assistance under section 22301 of title 49, United States Code (as added by section 4601), to determine the public interest benefits associated with the light density railroad networks in the States and their contribution to a multimodal transportation system.

(b) REPORT.—Not later than March 31, 2004, the Secretary shall submit to Congress a report on the results of the study under subsection (a). The report shall include any recommendations that the Secretary considers appropriate regarding the eligibility of light density rail networks for Federal infrastructure financing.

SEC. 4635. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary of Transportation $350,000,000 for each of fiscal years 2004, 2005, and 2006 for carrying out section 22301 of title 49, United States Code (as added by section 4601).

PART 3—OTHER RAIL TRANSPORTATION-RELATED PROVISIONS

SEC. 4661. CAPITAL GRANTS FOR RAIL LINE RELOCATION PROJECTS.

(a) ESTABLISHMENT OF PROGRAM.—

(1) PROGRAM REQUIREMENTS.—Chapter 201 of title 49, United States Code, is amended by adding at the end of subchapter II the following:

''§ 20154. Capital grants for rail line relocation projects

''(a) ESTABLISHMENT OF PROGRAM.—The Secretary of Transportation shall carry out a grant program to provide financial assistance for local rail line relocation projects.

''(b) ELIGIBILITY.—A State is eligible for a grant under this section for any project for the improvement of the route or structure of a rail line passing through a municipality of the State that—

''(1) is carried out for the purpose of mitigating the adverse effects of rail traffic on safety, motor vehicle traffic flow, or economic development in the municipality;

''(2) involves a lateral or vertical relocation of any portion of the rail line within the municipality to avoid a closing of a grade crossing or the construction of a road underpass or overpass; and

''(3) meets the costs-benefits requirement set forth in subsection (c).

''(c) COSTS-BENEFITS REQUIREMENT.—A grant may be awarded under this section for a project for the relocation of a rail line only if the benefits of the project for the period equal to the estimated economic life of the relocated rail line exceed the costs of the project for that period, as determined by the Secretary considering the following factors:

''(1) The effects of the rail line and the rail traffic on motor vehicle and pedestrian traffic, safety, and area commerce if the rail line were not so relocated.

''(2) The effects of the rail line, relocated as proposed, on motor vehicle and pedestrian traffic, safety, and area commerce.

''(3) The effects of the rail line, relocated as proposed, on the freight and passenger rail operations on the rail line.

''(d) CONSIDERATIONS FOR APPROVAL OF GRANT APPLICATIONS.—In addition to considering the relationship of benefits to costs in determining whether to award a grant to an eligible State under this section, the Secretary shall consider the following factors:

''(1) The capability of the State to fund the rail line relocation project without Federal grant funding.

''(2) The requirement and limitation relating to allocation of grant funds provided in subsection (e).

''(3) Equitable treatment of the various regions of the United States.

''(e) ALLOCATION REQUIREMENTS.—

''(1) GRANTS NOT GREATER THAN $20,000,000.—At least 50 percent of all grant funds awarded under this section out of funds appropriated for a fiscal year shall be provided as grant awards of not more than $20,000,000 each.

''(2) LIMITATION PER PROJECT.—Not more than 25 percent of the total amount available for carrying out this section for a fiscal year may be provided for any 1 project in that fiscal year.

''(f) FEDERAL SHARE.—The total amount of a grant awarded under this section for a rail line relocation project shall be 90 percent of the shared costs of the project, as determined under subsection (g)(4).

''(g) STATE SHARE.—

''(1) PERCENTAGE.—A State shall pay 10 percent of the shared costs of a project that is funded in part by a grant awarded under this section.

''(2) FORMS OF CONTRIBUTIONS.—The share required by paragraph (1) may be paid in cash or in kind.

''(3) IN-KIND CONTRIBUTIONS.—The in-kind contributions that are permitted to be counted under paragraph (2) for a project for a State are as follows:

''(A) A contribution of real property or tangible personal property (whether provided by the State or a person for the State).

''(B) A contribution of the services of employees of the State, calculated on the basis of costs incurred by the State for the pay and benefits of the employees, but excluding overhead and general administrative costs.

''(C) A payment of any costs that were incurred for the project before the filing of an application for a grant for the project under this section, and any in-kind contributions that were made for the project before the filing of the application, if and to the extent that the costs were incurred or in-kind contributions were made, as the case may be, to comply with a provision of a statute required to be satisfied in order to carry out the project.

''(4) COSTS NOT SHARED.—

''(A) IN GENERAL.—For the purposes of subsection (f) and this subsection, the shared costs of a project in a municipality do not include any cost that is defrayed with any funds or in-kind contribution that a source other than the municipality makes available for the use of the municipality without imposing at least 1 of the following conditions:

''(i) The condition that the municipality use the funds or contribution only for the project.

''(ii) The condition that the availability of the funds or contribution to the municipality is contingent on the execution of the project.

''(B) DETERMINATIONS OF THE SECRETARY.—The Secretary shall determine the amount of the costs, if any, that are not shared costs under this paragraph and the total amount of the shared costs. A determination of the Secretary shall be final.

''(h) MULTISTATE AGREEMENTS TO COMBINE AMOUNTS.—Two or more States (not including political subdivisions of States) may, pursuant to an agreement entered into by the States, combine any part of the amounts provided through grants for a project under this section if—

''(1) the project will benefit each of the States entering into the agreement; and

''(2) the agreement is not a violation of a law of any such State.

''(i) REGULATIONS.—The Secretary shall prescribe regulations for carrying out this section.

''(j) STATE DEFINED.—In this section, the term 'State' includes, except as otherwise specifically provided, a political subdivision of a State.

''(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for use in carrying out this section $350,000,000 for each of the fiscal years 2004 through 2008.''.

(2) CLERICAL AMENDMENT.—The chapter analysis for such chapter is amended by adding at the end the following:

''20154. Capital grants for rail line relocation projects.''.

(b) REGULATIONS.—

(1) INTERIM REGULATIONS.—Not later than October 1, 2003, the Secretary of Transportation shall issue temporary regulations to implement the grant program under section 20154 of title 49, United States Code, as added by subsection (a). Subchapter II of chapter 5 of title 5, United States Code, shall not apply to the issuance of a temporary regulation under this subsection or of any amendment of such a temporary regulation.

(2) FINAL REGULATIONS.—Not later than March 31, 2004, the Secretary shall issue final regulations implementing the program.

SA 2553. Mr. WYDEN (for himself and Mr. TALENT) submitted an amendment intended to be proposed to amendment SA 2340 submitted by Mr. TALENT (for himself, Mr. WYDEN, Mr. CORZINE, and Mr. COLEMAN) and intended to be proposed to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Strike all after the first word and insert the following:

Subtitle H—Build America Bonds

SEC. 5671. SHORT TITLE; ETC.

(a) SHORT TITLE.—This subtitle may be cited as the ''Build America Bonds Act of 2004''.

(b) REFERENCES TO INTERNAL REVENUE CODE OF 1986.—Except as otherwise expressly provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 5672. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds the following:

(1) Our Nation's highways, public transportation systems, and rail systems drive our economy, enabling all industries to achieve growth and productivity that makes America strong and prosperous.

(2) The establishment, maintenance, and improvement of the national transportation network is a national priority, for economic, environmental, energy, security, and other reasons.

(3) The ability to move people and goods is critical to maintaining State, metropolitan, rural, and local economies.

(4) The construction of infrastructure requires the skills of numerous occupations, including those in the contracting, engineering, planning and design, materials supply, manufacturing, distribution, and safety industries.

(5) Investing in transportation infrastructure creates long-term capital assets for the Nation that will help the United States address its enormous infrastructure needs and improve its economic productivity.

(6) Investment in transportation infrastructure creates jobs and spurs economic activity to put people back to work and stimulate the economy.

(7) Every billion dollars in transportation investment has the potential to create up to 47,500 jobs.

(8) Every dollar invested in the Nation's transportation infrastructure yields at least $5.70 in economic benefits because of reduced delays, improved safety, and reduced vehicle operating costs.

(9) The proposed increases to the Transportation Equity Act for the 21st Century (TEA–21) will not be sufficient to compensate for the Nation's transportation infrastructure deficit.

(b) PURPOSE.—The purpose of this subtitle is to provide financing for long-term infrastructure capital investments that are not currently being met by existing transportation and infrastructure investment programs, including mega-projects, projects of national significance and high priority projects, multi-State transportation corridors, intermodal transportation facilities, replacement and reconstruction of deficient and obsolete bridges, interstate highways, public transportation systems, and rail systems.

SEC. 5673. CREDIT TO HOLDERS OF BUILD AMERICA BONDS.

(a) IN GENERAL.—Part IV of subchapter A of chapter 1 (relating to credits against tax) is amended by adding at the end the following new subpart:

"Subpart H—Nonrefundable Credit for Holders of Build America Bonds

''Sec. 54. Credit to holders of Build America bonds.

"SEC. 54. CREDIT TO HOLDERS OF BUILD AMERICA BONDS.

''(a) ALLOWANCE OF CREDIT.—In the case of a taxpayer who holds a Build America bond on a credit allowance date of such bond which occurs during the taxable year, there shall be allowed as a credit against the tax imposed by this chapter for such taxable year an amount equal to the sum of the credits determined under subsection (b) with respect to credit allowance dates during such year on which the taxpayer holds such bond.

''(b) AMOUNT OF CREDIT.—

''(1) IN GENERAL.—The amount of the credit determined under this subsection with respect to any credit allowance date for a Build America bond is 25 percent of the annual credit determined with respect to such bond.

''(2) ANNUAL CREDIT.—The annual credit determined with respect to any Build America bond is the product of—

''(A) the applicable credit rate, multiplied by

''(B) the outstanding face amount of the bond.

''(3) APPLICABLE CREDIT RATE.—For purposes of paragraph (2), the applicable credit rate with respect to an issue is the rate equal to an average market yield (as of the day before the date of sale of the issue) on outstanding long-term corporate debt obligations (determined in such manner as the Secretary prescribes).

''(4) CREDIT ALLOWANCE DATE.—For purposes of this section, the term 'credit allowance date' means—

''(A) March 15,

''(B) June 15,

''(C) September 15, and

''(D) December 15.

Such term includes the last day on which the bond is outstanding.

''(5) SPECIAL RULE FOR ISSUANCE AND REDEMPTION.—In the case of a bond which is issued during the 3-month period ending on a credit allowance date, the amount of the credit determined under this subsection with respect to such credit allowance date shall be a ratable portion of the credit otherwise determined based on the portion of the 3-month period during which the bond is outstanding. A similar rule shall apply when the bond is redeemed.

''(c) LIMITATION BASED ON AMOUNT OF TAX.—

''(1) IN GENERAL.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess of—

''(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(B) the sum of the credits allowable under this part (other than this subpart and subpart C).

''(2) CARRYOVER OF UNUSED CREDIT.—If the credit allowable under subsection (a) exceeds the limitation imposed by paragraph (1) for such taxable year, such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such taxable year.

''(d) CREDIT INCLUDED IN GROSS INCOME.—Gross income includes the amount of the credit allowed to the taxpayer under this section (determined without regard to subsection (c)) and the amount so included shall be treated as interest income.

''(e) BUILD AMERICA BOND.—For purposes of this part, the term 'Build America bond' means any bond issued as part of an issue if—

''(1) the net spendable proceeds from the sale of such issue are to be used—

''(A) for expenditures incurred after the date of the enactment of this section for any qualified project, or

''(B) for deposit in the Build America Trust Account for repayment of Build America bonds at maturity,

''(2) the bond is issued by the Transportation Finance Corporation, is in registered form, and meets the Build America bond limitation requirements under subsection (g),

''(3) the Transportation Finance Corporation certifies that it meets the State contribution requirement of subsection (k) with respect to such project, as in effect on the date of issuance,

''(4) the Transportation Finance Corporation certifies that the State in which an approved qualified project is located meets the requirement described in subsection (l),

''(5) except for bonds issued in accordance with subsection (g)(6), the term of each bond which is part of such issue does not exceed 30 years,

''(6) the payment of principal with respect to such bond is the obligation of the Transportation Finance Corporation, and

''(7) with respect to bonds described in paragraph (1)(A), the issue meets the requirements of subsection (h) (relating to arbitrage).

''(f) QUALIFIED PROJECT.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified project' means any—

''(A) qualified highway project,

''(B) qualified public transportation project, and

''(C) congestion relief project,

proposed by 1 or more States and approved by the Transportation Finance Corporation.

''(2) QUALIFIED HIGHWAY PROJECT.—The term 'qualified highway project' means a project for highway facilities or other facilities which are eligible for assistance under title 23, United States Code.

''(3) QUALIFIED PUBLIC TRANSPORTATION PROJECT.—The term 'qualified public transportation project' means a project for public transportation facilities or other facilities which are eligible for assistance under chapter 53 of title 49, United States Code.

''(4) CONGESTION RELIEF PROJECT.—The term 'congestion relief project' means an intermodal freight transfer facility, freight rail facility, freight movement corridor, intercity passenger rail or facility, intercity bus vehicle or facility, border crossing facility, or other public or private facility approved as a congestion relief project by the Secretary of Transportation. In making such approvals, the Secretary of Transportation shall—

''(A) consider the economic, environmental, mobility, and national security improvements to be realized through the project, and

''(B) give preference to projects with national or regional significance, including any

projects sponsored by a coalition of States or a combination of States and private sector entities, in terms of generating economic benefits, supporting international commerce, or otherwise enhancing the national transportation system.

''(g) LIMITATION ON AMOUNT OF BONDS DESIGNATED; ALLOCATION OF BOND PROCEEDS.—

''(1) NATIONAL LIMITATION.—There is a Build America bond limitation for each calendar year. Such limitation is—

''(A) with respect to bonds described in subsection (e)(1)(A),

''(i) $11,000,000,000 for 2004,

''(ii) $16,000,000,000 for 2005,

''(iii) $16,000,000,000 for 2006,

''(iv) $6,000,000,000 for 2007,

''(v) $3,500,000,000 for 2008,

''(vi) $3,500,000,000 for 2009, and

''(vii) except as provided in paragraph (5), zero thereafter, plus

''(B) with respect to bonds described in subsection (e)(1)(B), such amount each calendar year as determined necessary by the Transportation Finance Corporation to provide funds in the Build America Trust Account for the repayment of Build America bonds at maturity.

''(2) CONGESTION RELIEF PROJECTS.—From Build America bonds issued under the annual limitation in paragraph (1)(A), $1,000,000,000 of net spendable proceeds shall be reserved for each of the calendar years 2004, 2005, 2006, 2007, 2008, and 2009 for allocation to congestion relief projects.

''(3) ALLOCATION OF BONDS FOR HIGHWAY AND PUBLIC TRANSPORTATION PURPOSES.—Except with respect to qualified projects described in subsection (j)(3), and subject to paragraphs (2) and (4)—

''(A) QUALIFIED HIGHWAY PROJECTS.—From Build America bonds issued under the annual limitation in paragraph (1)(A), the Transportation Finance Corporation shall allocate 80 percent of the net spendable proceeds to the States for qualified highway projects in the following manner:

''(i) 50 percent of such allocation shall be in accordance with the formulas for apportioning funds under sections 104(b) and 144 of title 23, United States Code.

''(ii) 50 percent of such allocation shall be for projects, including projects of national significance and high priority projects, designated by law.

''(B) QUALIFIED PUBLIC TRANSPORTATION PROJECTS.—From Build America bonds issued under the annual limitation in paragraph (1)(A), the Transportation Finance Corporation shall allocate 20 percent of the net spendable proceeds to the States for qualified public transportation projects in the following manner:

''(i) 50 percent of such allocation shall be in accordance with the distribution of public transportation formula grants under sections 5307, 5308, 5310, 5311, and 5327 of title 49, United States Code.

''(ii) 50 percent of such allocation shall be for projects, including projects of national significance and high priority projects, designated by law.

''(4) MINIMUM ALLOCATIONS TO STATES.—In making allocations for each calendar year under paragraph (3), the Transportation Finance Corporation shall ensure that the amount allocated for qualified projects located in each State for such calendar year is not less than 1 percent of the total amount allocated for such year.

''(5) CARRYOVER OF UNUSED ISSUANCE LIMITATION.—If for any calendar year the limitation amount imposed by paragraph (1) exceeds the amount of Build America bonds issued during such year, such excess shall be carried forward to one or more succeeding calendar years as an addition to the limitation imposed by paragraph (1) and until used by issuance of Build America bonds.

''(6) ISSUANCE OF SMALL DENOMINATION BONDS.—From the Build America bond limitation for each year, the Transportation Finance Corporation shall issue a limited quantity of Build America bonds in small denominations suitable for purchase as gifts by individual investors wishing to show their support for investing in America's infrastructure.

''(h) SPECIAL RULES RELATING TO ARBITRAGE.—

''(1) IN GENERAL.—Subject to paragraph (2), an issue shall be treated as meeting the requirements of this subsection if as of the date of issuance, the Transportation Finance Corporation reasonably expects—

''(A) to spend at least 85 percent of the net spendable proceeds from the sale of the issue for 1 or more qualified projects within the 5-year period beginning on such date,

''(B) to incur a binding commitment with a third party to spend at least 10 percent of the net spendable proceeds from the sale of the issue, or to commence construction, with respect to such projects within the 12-month period beginning on such date, and

''(C) to proceed with due diligence to complete such projects and to spend the net spendable proceeds from the sale of the issue.

''(2) SPENT PROCEEDS.—Net spendable proceeds are considered spent by the Transportation Finance Corporation when a sponsor of a qualified project obtains a reimbursement from the Transportation Finance Corporation for eligible project costs.

''(3) RULES REGARDING CONTINUING COMPLIANCE AFTER 5-YEAR DETERMINATION.—If at least 85 percent of the net spendable proceeds from the sale of the issue is not expended for 1 or more qualified projects within the 5-year period beginning on the date of issuance, but the requirements of paragraph (1) are otherwise met, an issue shall be treated as continuing to meet the requirements of this subsection if the Transportation Finance Corporation uses all unspent net spendable proceeds from the sale of the issue to redeem bonds of the issue within 90 days after the end of such 5-year period.

''(4) REALLOCATION.—In the event the recipient of an allocation under subsection (g) fails to demonstrate to the satisfaction of the Transportation Finance Corporation that its actions will allow the Transportation Finance Corporation to meet the requirements under this subsection, the Transportation Finance Corporation may redistribute the allocation meant for such recipient to other recipients.

''(i) RECAPTURE OF PORTION OF CREDIT WHERE CESSATION OF COMPLIANCE.—

''(1) IN GENERAL.—If any bond which when issued purported to be a Build America bond ceases to be such a qualified bond, the Transportation Finance Corporation shall pay to the United States (at the time required by the Secretary) an amount equal to the sum of—

''(A) the aggregate of the credits allowable under this section with respect to such bond (determined without regard to subsection (c)) for taxable years ending during the calendar year in which such cessation occurs and the 2 preceding calendar years, and

''(B) interest at the underpayment rate under section 6621 on the amount determined under subparagraph (A) for each calendar year for the period beginning on the first day of such calendar year.

''(2) FAILURE TO PAY.—If the Transportation Finance Corporation fails to timely pay the amount required by paragraph (1) with respect to such bond, the tax imposed by this chapter on each holder of any such bond which is part of such issue shall be increased (for the taxable year of the holder in which such cessation occurs) by the aggregate decrease in the credits allowed under this section to such holder for taxable years beginning in such 3 calendar years which would have resulted solely from denying any credit under this section with respect to such issue for such taxable years.

''(3) SPECIAL RULES.—

''(A) TAX BENEFIT RULE.—The tax for the taxable year shall be increased under paragraph (2) only with respect to credits allowed by reason of this section which were used to reduce tax liability. In the case of credits not so used to reduce tax liability, the carryforwards and carrybacks under section 39 shall be appropriately adjusted.

''(B) NO CREDITS AGAINST TAX.—Any increase in tax under paragraph (2) shall not be treated as a tax imposed by this chapter for purposes of determining—

''(i) the amount of any credit allowable under this part, or

''(ii) the amount of the tax imposed by section 55.

''(j) BUILD AMERICA TRUST ACCOUNT.—

''(1) IN GENERAL.—The following amounts shall be held in a Build America Trust Account by the Transportation Finance Corporation:

''(A) The proceeds from the sale of all bonds issued under this section.

''(B) The amount of any matching contributions with respect to such bonds.

''(C) The investment earnings on proceeds from the sale of such bonds.

''(D) Any earnings on any amounts described in subparagraph (A), (B), or (C).

''(2) USE OF FUNDS.—Amounts in the Build America Trust Account may be used only to pay costs of qualified projects, redeem Build America bonds, and fund the operations of the Transportation Finance Corporation, except that amounts withdrawn from the Build America Trust Account to pay costs of qualified projects may not exceed the aggregate proceeds from the sale of Build America bonds described in subsection (e)(1)(A).

''(3) USE OF REMAINING FUNDS IN BUILD AMERICA TRUST ACCOUNT.—Upon the redemption of all Build America bonds issued under this section, any remaining amounts in the Build America Trust Account shall be available to the Transportation Finance Corporation to pay the costs of any qualified project.

''(4) COSTS OF QUALIFIED PROJECTS.—For purposes of this section, the costs of qualified projects which may be funded by amounts in the Build America Trust Account may only relate to capital investments in depreciable assets and may not include any costs relating to operations, maintenance, or rolling stock.

''(5) APPLICABILITY OF FEDERAL LAW.—The requirements of any Federal law, including titles 23, 40, and 49 of the United States Code, which would otherwise apply to projects to which the United States is a party or to funds made available under such law and projects assisted with those funds shall apply to—

''(A) funds made available under the Build America Trust Account for similar qualified projects, including contributions required under subsection (k), and

''(B) similar qualified projects assisted by the Transportation Finance Corporation through the use of such funds.

''(6) INVESTMENT.—It shall be the duty of the Transportation Finance Corporation to invest in investment grade obligations such portion of the Build America Trust Account as is not, in the judgment of the Board of Directors of the Transportation Finance Corporation, required to meet current withdrawals. Such investments may be made in State and local transportation bonds.

''(k) STATE CONTRIBUTION REQUIREMENTS.—

''(1) IN GENERAL.—For purposes of subsection (e)(3), the State contribution requirement of this subsection is met with respect to any qualified project if the Transportation Finance Corporation has received from 1 or more States, not later than the date of issuance of the bond, written commitments for matching contributions of not less than 20 percent of the cost of the qualified project.

''(2) STATE MATCHING CONTRIBUTIONS MAY NOT INCLUDE FEDERAL FUNDS.—For purposes of this subsection, State matching contributions shall not be derived, directly or indirectly, from Federal funds, including any transfers from the Highway Trust Fund under section 9503.

''(l) UTILIZATION OF UPDATED CONSTRUCTION TECHNOLOGY FOR QUALIFIED PROJECTS.—For purposes of subsection (e)(4), the requirement of this subsection is met if the appropriate State agency relating to the qualified project has updated its accepted construction technologies to match a list prescribed by the Secretary of Transportation and in effect on the date of the approval of the project as a qualified project.

''(m) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) ADMINISTRATIVE COSTS.—The term 'administrative costs' shall only include costs of issuance of Build America bonds and operation costs of the Transportation Corporation.

''(2) BOND.—The term 'bond' includes any obligation.

''(3) NET SPENDABLE PROCEEDS.—The term 'net spendable proceeds' means the proceeds from the sale of any Build America bond issued under this section reduced by not more than 5 percent of such proceeds for administrative costs.

''(4) STATE.—The term 'State' shall have the meaning given such term by section 101 of title 23, United States Code.

''(5) TREATMENT OF CHANGES IN USE.—For purposes of subsection (e)(1)(A), the net spendable proceeds from the sale of an issue shall not be treated as used for a qualified project to the extent that the Transportation Finance Corporation takes any action within its control which causes such proceeds not to be used for a qualified project. The Secretary shall specify remedial actions which may be taken (including conditions to taking such remedial actions) to prevent an action described in the preceding sentence from causing a bond to fail to be a Build America bond.

''(6) PARTNERSHIP; S CORPORATION; AND OTHER PASS-THRU ENTITIES.—In the case of a partnership, trust, S corporation, or other pass-thru entity, rules similar to the rules of section 41(g) shall apply with respect to the credit allowable under subsection (a).

''(7) BONDS HELD BY REGULATED INVESTMENT COMPANIES.—If any Build America bond is held by a regulated investment company, the credit determined under subsection (a) shall be allowed to shareholders of such company under procedures prescribed by the Secretary.

''(8) CREDITS MAY BE STRIPPED.—Under regulations prescribed by the Secretary—

''(A) IN GENERAL.—There may be a separation (including at issuance) of the ownership of a Build America bond and the entitlement to the credit under this section with respect to such bond. In case of any such separation, the credit under this section shall be allowed to the person who on the credit allowance date holds the instrument evidencing the entitlement to the credit and not to the holder of the bond.

''(B) CERTAIN RULES TO APPLY.—In the case of a separation described in subparagraph (A), the rules of section 1286 shall apply to the Build America bond as if it were a stripped bond and to the credit under this section as if it were a stripped coupon.

''(9) CREDITS MAY BE TRANSFERRED.—Nothing in any law or rule of law shall be construed to limit the transferability of the credit or bond allowed by this section through sale and repurchase agreements.

''(10) REPORTING.—The Transportation Finance Corporation shall submit reports similar to the reports required under section 149(e).

''(11) PROHIBITION ON USE OF HIGHWAY TRUST FUND.—Notwithstanding any other provision of law, no funds derived from the Highway Trust Fund established under section 9503 shall be used to pay costs associated with the Build America bonds issued under this section.''.

(b) AMENDMENTS TO OTHER CODE SECTIONS.—

(1) REPORTING.—Subsection (d) of section 6049 (relating to returns regarding payments of interest) is amended by adding at the end the following new paragraph:

''(8) REPORTING OF CREDIT ON BUILD AMERICA BONDS.—

''(A) IN GENERAL.—For purposes of subsection (a), the term 'interest' includes amounts includible in gross income under section 54(d) and such amounts shall be treated as paid on the credit allowance date (as defined in section 54(b)(4)).

''(B) REPORTING TO CORPORATIONS, ETC.—Except as otherwise provided in regulations, in the case of any interest described in subparagraph (A), subsection (b)(4) shall be applied without regard to subparagraphs (A), (H), (I), (J), (K), and (L)(i) of such subsection.

''(C) REGULATORY AUTHORITY.—The Secretary may prescribe such regulations as are necessary or appropriate to carry out the purposes of this paragraph, including regulations which require more frequent or more detailed reporting.''.

(2) TREATMENT FOR ESTIMATED TAX PURPOSES.—

(A) INDIVIDUAL.—Section 6654 (relating to failure by individual to pay estimated income tax) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

''(m) SPECIAL RULE FOR HOLDERS OF BUILD AMERICA BONDS.—For purposes of this section, the credit allowed by section 54 to a taxpayer by reason of holding a Build America bond on a credit allowance date shall be treated as if it were a payment of estimated tax made by the taxpayer on such date.''.

(B) CORPORATE.—Subsection (g) of section 6655 (relating to failure by corporation to pay estimated income tax) is amended by adding at the end the following new paragraph:

''(5) SPECIAL RULE FOR HOLDERS OF BUILD AMERICA BONDS.—For purposes of this section, the credit allowed by section 54 to a taxpayer by reason of holding a Build America bond on a credit allowance date shall be treated as if it were a payment of estimated tax made by the taxpayer on such date.''.

(c) CLERICAL AMENDMENTS.—

(1) The table of subparts for part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

''Subpart H. Nonrefundable Credit for Holders of Build America Bonds.''.

(2) Section 6401(b)(1) is amended by striking ''and G'' and inserting ''G, and H''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after the day after the date of the enactment of this Act.

SEC. 5674. TRANSPORTATION FINANCE CORPORATION.

(a) ESTABLISHMENT AND STATUS.—There is established a body corporate to be known as the ''Transportation Finance Corporation'' (hereafter in this section referred to as the ''Corporation''). The Corporation is not a department, agency, or instrumentality of the United States Government, and shall not be subject to title 31, United States Code.

(b) PRINCIPAL OFFICE; APPLICATION OF LAWS.—The principal office and place of business of the Corporation shall be in the District of Columbia, and, to the extent consistent with this section, the District of Columbia Business Corporation Act (D.C. Code 29–301 et seq.) shall apply.

(c) FUNCTIONS OF CORPORATION.—The Corporation shall—

(1) issue Build America bonds for the financing of qualified projects as required under section 54 of the Internal Revenue Code of 1986,

(2) establish and operate the Build America Trust Account as required under section 54(j) of such Code,

(3) act as a centralized entity to provide financing for qualified projects,

(4) leverage resources and stimulate public and private investment in transportation infrastructure,

(5) encourage States to create additional opportunities for the financing of transportation infrastructure and to provide technical assistance to States, if needed,

(6) perform any other function the sole purpose of which is to carry out the financing of qualified projects through Build America bonds, and

(7) not later than February 15 of each year submit a report to Congress—

(A) describing the activities of the Corporation for the preceding year, and

(B) specifying whether the amounts deposited and expected to be deposited in the Build America Trust Account are sufficient to fully repay at maturity the principal of any outstanding Build America bonds issued pursuant to such section 54.

(d) POWERS OF CORPORATION.—The Corporation—

(1) may sue and be sued, complain and defend, in its corporate name, in any court of competent jurisdiction,

(2) may adopt, alter, and use a seal, which shall be judicially noticed,

(3) may prescribe, amend, and repeal such rules and regulations as may be necessary for carrying out the functions of the Corporation,

(4) may make and perform such contracts and other agreements with any individual, corporation, or other private or public entity however designated and wherever situated, as may be necessary for carrying out the functions of the Corporation,

(5) may determine and prescribe the manner in which its obligations shall be incurred and its expenses allowed and paid,

(6) may, as necessary for carrying out the functions of the Corporation, employ and fix the compensation of employees and officers,

(7) may lease, purchase, or otherwise acquire, own, hold, improve, use, or otherwise deal in and with such property (real, personal, or mixed) or any interest therein, wherever situated, as may be necessary for carrying out the functions of the Corporation,

(8) may accept gifts or donations of services or of property (real, personal, or mixed), tangible or intangible, in furtherance of the purposes of this Act, and

(9) shall have such other powers as may be necessary and incident to carrying out this Act.

(e) NONPROFIT ENTITY; RESTRICTION ON USE OF MONEYS; CONFLICT OF INTERESTS; AUDITS.—

(1) NONPROFIT ENTITY.—The Corporation shall be a nonprofit corporation and shall have no capital stock.

(2) RESTRICTION.—No part of the Corporation's revenue, earnings, or other income or property shall inure to the benefit of any of its directors, officers, or employees, and such revenue, earnings, or other income or property shall only be used for carrying out the purposes of this Act.

(3) CONFLICT OF INTERESTS.—No director, officer, or employee of the Corporation shall in any manner, directly or indirectly participate in the deliberation upon or the determination of any question affecting his or her personal interests or the interests of any corporation, partnership, or organization in which he or she is directly or indirectly interested.

(4) AUDITS.—

(A) AUDITS BY INDEPENDENT CERTIFIED PUBLIC ACCOUNTANTS.—

(i) IN GENERAL.—The Corporation's financial statements shall be audited annually in accordance with generally accepted auditing standards by independent certified public accountants that are certified by a regulatory authority of a State or other political subdivision of the United States. The audits shall be conducted at the place or places where the accounts of the Corporation are normally kept. All books, accounts, financial records, reports, files, and all other papers, things, or property belonging to or in use by the Corporation and necessary to facilitate the audit shall be made available to the person or persons conducting the audits, and full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians shall be afforded to such person or persons.

(ii) REPORTING REQUIREMENTS.—The report of each annual audit described in clause (i) shall be included in the annual report required by subsection (c)(8).

(B) RECORD KEEPING REQUIREMENTS.—The Corporation shall ensure that each recipient of assistance from the Corporation keeps—

(i) separate accounts with respect to such assistance,

(ii) such records as may be reasonably necessary to fully disclose—

(I) the amount and the disposition by such recipient of the proceeds of such assistance,

(II) the total cost of the project or undertaking in connection with which such assistance is given or used, and the extent to which such costs are for a qualified project, and

(III) the amount and nature of that portion of the cost of the project or undertaking supplied by other sources, and

(iii) such other records as will facilitate an effective audit.

(C) AUDIT AND EXAMINATION OF BOOKS.—The Corporation shall ensure that the Corporation, or any of the Corporation's duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of any recipient of assistance from the Corporation that are pertinent to such assistance.

(f) EXEMPTION FROM TAXES.—

(1) IN GENERAL.—The Corporation, including its franchise, capital, reserves, surplus, sinking funds, mortgages or other security holdings, and income, shall be exempt from all taxation now or hereafter imposed by the United States, by any territory, dependency, or possession thereof, or by any State, county, municipality, or local taxing authority, except that any real property of the Corporation shall be subject to State, territorial, county, municipal, or local taxation to the same extent according to its value as other real property is taxed.

(2) FINANCIAL OBLIGATIONS.—Build America bonds or other obligations issued by the Corporation and the interest on or tax credits with respect to its bonds or other obligations shall not be subject to taxation by any State, county, municipality, or local taxing authority.

(g) ASSISTANCE FOR TRANSPORTATION PURPOSES.—

(1) IN GENERAL.—In order to carry out the corporate functions described in subsection (c), the Corporation shall be eligible to receive discretionary grants, contracts, gifts, contributions, or technical assistance from any Federal department or agency, to the extent permitted by law.

(2) AGREEMENT.—In order to receive any assistance described in this subsection, the Corporation shall enter into an agreement with the Federal department or agency providing such assistance, under which the Corporation agrees—

(A) to use such assistance to provide funding and technical assistance only for activities which the Board of Directors of the Corporation determines are consistent with the corporate functions described in subsection (c), and

(B) to review the activities of State transportation agencies and other entities receiving assistance from the Corporation to assure that the corporate functions described in subsection (c) are carried out.

(3) CONSTRUCTION.—Nothing in this section shall be construed to establish the Corporation as a department, agency, or instrumentality of the United States Government, or to establish the members of the Board of Directors of the Corporation, or the officers and employees of the Corporation, as officers or employees of the United States Government.

(h) MANAGEMENT OF CORPORATION.—

(1) BOARD OF DIRECTORS; MEMBERSHIP; DESIGNATION OF CHAIRPERSON AND VICE CHAIRPERSON; APPOINTMENT CONSIDERATIONS; TERM; VACANCIES.—

(A) BOARD OF DIRECTORS.—The management of the Corporation shall be vested in a board of directors composed of 15 members appointed by the President, by and with the advice and consent of the Senate.

(B) CHAIRPERSON AND VICE CHAIRPERSON.—The President shall designate 1 member of the Board to serve as Chairperson of the Board and 1 member to serve as Vice Chairperson of the Board.

(C) INDIVIDUALS FROM PRIVATE LIFE.—Eleven members of the Board shall be appointed from private life.

(D) FEDERAL OFFICERS AND EMPLOYEES.—Four members of the Board shall be appointed from among officers and employees of agencies of the United States concerned with infrastructure development.

(E) APPOINTMENT CONSIDERATIONS.—All members of the Board shall be appointed on the basis of their understanding of and sensitivity to infrastructure development processes. Members of the Board shall be appointed so that not more than 8 members of the Board are members of any 1 political party.

(F) TERMS.—Members of the Board shall be appointed for terms of 3 years, except that of the members first appointed, as designated by the President at the time of their appointment, 5 shall be appointed for terms of 1 year and 5 shall be appointed for terms of 2 years.

(G) VACANCIES.—A member of the Board appointed to fill a vacancy occurring before the expiration of the term for which that member's predecessor was appointed shall be appointed only for the remainder of that term. Upon the expiration of a member's term, the member shall continue to serve until a successor is appointed and is qualified.

(2) COMPENSATION, ACTUAL, NECESSARY, AND TRANSPORTATION EXPENSES.—Members of the Board shall serve without additional compensation, but may be reimbursed for actual and necessary expenses not exceeding $100 per day, and for transportation expenses, while engaged in their duties on behalf of the Corporation.

(3) QUORUM.—A majority of the Board shall constitute a quorum.

(4) PRESIDENT OF CORPORATION.—The Board of Directors shall appoint a president of the Corporation on such terms as the Board may determine.

SA 2554. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert:

''(a) STUDY.—The Secretary of Transportation shall, in consultation with State and local government officials, conduct a study of the impact of blocked highway-railroad grade crossings on the ability of emergency responders to perform public safety and security duties.

(b) REPORT ON THE IMPACT OF BLOCKED HIGHWAY-RAILROAD GRADE CROSSINGS ON EMERGENCY RESPONDERS.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit the results of the study and recommendations for reducing the impact of blocked crossings on emergency response to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure.''

SA 2555. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert:

''(a) NOTIFICATION PROCEDURES.—

(1) REGULATIONS.—The Secretary of Transportation shall prescribe regulations setting forth procedures for a railroad to immediately notify first responders in communities that lie in the path of a runaway train.

(2) TIME FOR ISSUANCE OF REGULATIONS.—The Secretary shall issue the final regulations under this section not later than 120 days after the date of enactment of this Act.

(3) DEFINITIONS.— In this section, the term 'runaway train' means a locomotive, train, rail car, or other item of railroad equipment that, at a particular moment in time, is rolling on tracks outside the operations limits of a railroad and is not under the control of the railroad.

(b) RESPONSE PROCEDURES.—Not later than 60 days after the Secretary prescribes the regulations under subsection (a), each railroad shall submit to the Department of Transportation for the Secretary's approval the procedures proposed by the railroad for providing the notice described in such subsection.

(c) REPORTING OF INCIDENTS REQUIRED.—The Secretary shall require railroads to report to the Department of Transportation each incident of a runaway train.''

SA 2556. Mr. KOHL submitted an amendment intended to be proposed to amendment SA 2302 submitted by Mr. BAYH (for himself, Mr. DURBIN, Mr. LUGAR, Mr. KOHL, and Mr. FITZGERALD) and intended to be proposed to the bill S. 1072, to authorize funds for Federal-

aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 55, strike line 25 and all that follows through page 57, line 23, and insert the following:

''(c) SPECIAL RULES.—

''(1) MINIMUM COMBINED ALLOCATION.—For each fiscal year, before making the allocations under subsection (a)(1), the Secretary shall allocate among the States amounts sufficient to ensure that no State receives a combined total of amounts allocated under subsection (a)(1), apportionments for the programs specified in subsection (a)(2), and amounts allocated under this subsection, that is less than 110 percent of the sum of—

''(A) the total apportionments of the State for the fiscal year for the programs specified in subsection (a)(2); exceeds

''(B) the sum of—

''(i) the percentage of the average, for the period of fiscal years 1998 through 2003, of the annual apportionments of the State for all programs specified in subsection (b)(2), as specified in paragraph (2); and

''(ii) an amount which is equivalent to—

''(I) the amount equal to the number of gallons of gasohol sold within the State during fiscal years 1996 through 2001 multiplied by the excess of the tax rate applicable for a gallon of gasoline over the tax rate applicable for a gallon of gasohol for such years; plus

''(II) an amount equal to the number of gallons of gasohol sold within the State during fiscal years 1996 through 2001 multiplied by the amount of the tax rate applicable to a gallon of gasohol which is not deposited into the Highway Trust Fund with respect to each such year.

''(2) PERCENTAGES.—The percentages referred to in paragraph (1)(B)(i) are—

''(A) for fiscal year 2004, 120 percent;

''(B) for fiscal year 2005, 130 percent;

''(C) for fiscal year 2006, 134 percent;

''(D) for fiscal year 2007, 137 percent;

''(E) for fiscal year 2008, 145 percent; and

''(F) for fiscal year 2009, 250 percent.''.

''(3) NO NEGATIVE ADJUSTMENT.—Notwithstanding subsection (d), no negative adjustment shall be made under subsection (a)(1) to the apportionment of any State.

''(4) MINIMUM SHARE OF TAX PAYMENTS.—Notwithstanding subsection (d), for each fiscal year, the Secretary shall allocate among the States amounts sufficient to ensure that no State receives a percentage of apportionments for the fiscal year for the programs specified in subsection (a)(2) that is less than 90.5 percent of the percentage share of the State of estimated tax payments attributable to highway users in the State paid into the Highway Trust Fund (other than the Mass Transit Account) in the most recent fiscal year for which data are available.

''(d) LIMITATION ON ADJUSTMENTS.—

''(1) IN GENERAL.—Except as provided in paragraphs (2) and (3) of subsection (c), no State shall receive, for any fiscal year, additional amounts under subsection (a)(1) if—

''(A) the total apportionments of the State for the fiscal year for the programs specified in subsection (a)(2); exceeds

''(B) the sum of—

''(i) the percentage of the average, for the period of fiscal years 1998 through 2003, of the annual apportionments of the State for all programs specified in subsection (b)(2), as specified in paragraph (2); and

''(ii) an amount which is equivalent to—

''(I) the amount equal to the number of gallons of gasohol sold within the State during fiscal years 1996 through 2001 multiplied by the excess of the tax rate applicable for a gallon of gasoline over the tax rate applicable for a gallon of gasohol for such years; plus

''(II) an amount equal to the number of gallons of gasohol sold within the State during fiscal years 1996 through 2001 multiplied by the amount of the tax rate applicable to a gallon of gasohol which is not deposited into the Highway Trust Fund with respect to each such year.

''(2) PERCENTAGES.—The percentages referred to in paragraph (1)(B)(i) are—

''(A) for fiscal year 2004, 120 percent;

''(B) for fiscal year 2005, 130 percent;

''(C) for fiscal year 2006, 134 percent;

''(D) for fiscal year 2007, 137 percent;

''(E) for fiscal year 2008, 145 percent; and

''(F) for fiscal year 2009, 250 percent.''.

SA 2557. Ms. STABENOW (for herself and Mr. LEVIN) submitted an amendment intended to be proposed to amendment SA 2441 submitted by Ms. STABENOW (for herself and Mr. LEVIN) and intended to be proposed to the amendment SA 2285 proposed by Mr. INHOFE to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

''(B)(i) $101,800,000 of the amounts made available under section 5338(b)(4) shall be allocated for the Bus Transit Equity Subaccount established under paragraph (7); and

''(ii) the remaining amounts made available under section 5338(b)(4) shall be allocated for capital projects for buses and bus-related equipment and facilities.

''(3) FIXED GUIDEWAY MODERNIZATION.—The amounts made available for fixed guideway modernization under section 5338(b)(2)(K) for fiscal year 2005 and each fiscal year thereafter shall be allocated in accordance with section 5337.

''(4) PRELIMINARY ENGINEERING.—Not more that 8 percent of the allocation described in paragraphs (1)(A) and (2)(A) may be expended on preliminary engineering.

''(5) FUNDING FOR FERRY BOATS.—Of the amounts described in paragraphs (1)(A) and (2)(A), $10,400,000 shall be available in each of the fiscal years 2004 through 2009 for capital projects in Alaska and Hawaii for new fixed guideway systems and extension projects utilizing ferry boats, ferry boat terminals, or approaches to ferry boat terminals.

''(6) BUS AND BUS FACILITY GRANTS.—

''(A) CONSIDERATIONS.—In making grants under paragraphs (1)(C) and (2)(B), the Secretary shall consider the age and condition of buses, bus fleets, related equipment, and bus-related facilities.

''(B) PROJECTS NOT IN URBANIZED AREAS.—Of the amounts made available under paragraphs (1)(C) and (2)(B), not less than 5.5 percent shall be available in each fiscal year for projects that are not in urbanized areas.

''(C) INTERMODAL TERMINALS.—Of the amounts made available under paragraphs (1)(C) and (2)(B), not less than $75,000,000 shall be available in each fiscal year for intermodal terminal projects, including the intercity bus portion of such projects.

''(7) BUS TRANSIT EQUITY SUBACCOUNT.—

''(A) ESTABLISHMENT.—There is established a Bus Transit Equity Subaccount within the Mass Transit Account of the Highway Trust Fund.

''(B) ELIGIBILITY.—Any of the 50 States shall be eligible for funding under the Bus Transit Equity Subaccount if the State—

''(i) is otherwise scheduled to receive under sections 5303, 5307, 5309, 5310, 5311, 5313(b), 5336, and 5340 for fiscal years 2004 through 2009, an amount that is less than 175 percent of the amount the State received under sections 5303, 5307, 5309, 5310, 5311, 5313(b), and 5336 for fiscal years 1998 through 2003; and

''(ii) received less than 1.25 percent of the total amount allocated to the 50 States in fiscal year 2002 for fixed guideways modernization and new starts.

''(C) ALLOCATION.—Each eligible State under subparagraph (B) shall be allocated from the Bus Transit Equity Subaccount, for each of the fiscal years 2005 through 2009, an amount that is equal to 20 percent of the difference between the amount the State is otherwise scheduled to receive under sections 5303, 5307, 5309, 5310, 5311, 5313(b), 5336, and 5340 for fiscal years 2004 through 2009, and the amount which is equal to 175 percent of the amount the State received under sections 5303, 5307, 5309, 5310, 5311, 5313(b), and 5336 for fiscal years 1998 through 2003.''.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. TALENT. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Wednesday, February 11, 2004, at 9:30 a.m. on Protecting Children From Violent and Indecent Programming.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. TALENT. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, on Wednesday, February 11 at 10:00 a.m. to consider pending calendar business.

Agenda Item 2: S. 213—A bill to clear title to certain real property in New Mexico associated with the Middle Rio Grande Project, and for other purposes with an amendment.

Agenda Item 3: S. 524—A bill to expand the boundaries of the Fort Donelson National Battlefield to authorize the acquisition and interpretation of lands associated with the campaign that resulted in the capture of the fort in 1862, and for other purposes.

Agenda Item 5: S. 943—A bill to authorize the Secretary of the Interior to enter into one or more contracts with the city of Cheyenne, Wyoming, for the storage of water in the Kendrick Project, Wyoming with an amendment.

Agenda Item 6: S. 960—To amend the Reclamation Wastewater and Groundwater Study and Facilities Act and the Hawaii Water Resources Act of 2000 with an amendment.

Agenda Item 9: S. 1107—A bill to enhance the Recreational Fee Demonstration Program for the National Park Service, and for other purposes.

Agenda Item 13: S. 1516—Salt Cedar Control Demonstration Act with an amendment in the nature of a substitute.

Agenda Item 14: S. 1576—A bill to revise the boundary of Harper's Ferry National Historical Park, and for other purposes.

Agenda Item 15: S. 1577—A bill to extend the deadline for commencement of construction of hydroelectric project in the State of Wyoming.

Agenda Item 16: S. 1582—A bill to amend the Valles Preservation Act to improve the preservation of the Valles Caldera, and for other purposes with an amendment.

Agenda Item 17: S. 1848—A bill to amend the Bend Pine Nursery Land Conveyance Act to direct the Secretary of Agriculture to sell the Bend Pine Nursery Administration Site in the State of Oregon with an amendment.

Agenda Item 18: H.R. 408—To provide for expansion of Sleeping Bear Dunes National Lakeshore.

Agenda Item 19: H.R. 417—To revoke a Public Land Order with respect to certain lands erroneously included in the Cibola National Wildlife Refuge, California with report language.

Agenda Item 20: H.R. 620—To authorize the Secretary of the Interior to provide supplemental funding and other services that are necessary to assist the State of California or local educational agencies in California in providing educational services for students attending schools located within the Park with an amendment.

Agenda Item 21: H.R. 708—To require the conveyance of certain National Forest System lands in Mendocino National Forest, California, to provide for the use of the proceeds from such conveyance for National Forest purposes, and for other purposes.

Agenda Item 23: H.R. 856—To authorize the Secretary of the Interior to revise a repayment contract with the Tom Green County Water Control and Improvement District No. 1, San Angelo project, Texas, and for other purposes.

Agenda Item 26: H.R. 1598—To amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in projects within the San Diego Creek Watershed, California, and for other purposes.

Agenda Item 27: S. 1167—A bill to resolve the boundary conflicts in Barry and Stone Counties in the State of Missouri.

In addition, the Committee may turn to any other measures that are ready for consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. TALENT. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, February 11, 2004 at 10 a.m. to hold a Business Meeting.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON INDIAN AFFAIRS

Mr. TALENT. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Wednesday, February 11, 2004 at 9:30 a.m. in Room 485 of the Russell Senate Office Building to conduct a hearing on the President's Fiscal Year 2005 Budget Request.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. TALENT. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on Wednesday, February 11, 2004 at 2 p.m. on ''Judicial Nominations,'' in the Dirksen Senate Office Building Room 226.

Panel I: Senators.

Panel II: Diane S. Sykes, to the Circuit Court of Appeals for the Seventh Circuit; James L. Robart, to the U.S. District Court for the Western District of Washington; Juan R. Sanchez, to the U.S. District Court for the Eastern District of Pennsylvania.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ANTITRUST, COMPETITION POLICY AND CONSUMER RIGHTS

Mr. TALENT. Mr. President, I ask unanimous consent that the Senate Committee on the Judiciary Subcommittee on Antitrust, Competition Policy and Consumer Rights be authorized to meet to conduct a hearing on ''Cable Competition—Increasing Price; Increasing Value?'' on Wednesday, February 11, 2004, at 10:30 a.m., in Room 226 of the Dirksen Senate Office Building.

Mr. Michael Willner, Vice-Chairman, President and CEO, Insight Communications Company, Inc.;

Mr. Rodger Johnson, CEO, Knology;

Mr. Robert Sachs, President and CEO, National Cable and Telecommunications Association;

Ms. Coralie Wilson, President, National Association of Telecommunications Officers and Advisors;

Mr. Scott Cleland, CEO, Precursor; and

Dr. Mark Cooper, Director of Research, Consumer Federation of America.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON INTERNATIONAL TRADE AND FINANCE

Mr. TALENT. Mr. President, I ask unanimous consent that the Subcommittee on International Trade and Finance of the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the Session of the Senate on Wednesday, February 11, 2004, at 1:00 p.m. to conduct a hearing on ''Economic and Financial Reconstruction in Iraq.''

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. REID. Madam President, I ask unanimous consent that William Boyd, a fellow on the Environment and Public Works Committee, be granted floor privileges during the pendency of the matter which is now before the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that privilege of the floor be granted to Adam Rosenberg, who is an AAAS fellow on the Committee on Energy and Natural Resources, during consideration of this legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEASURES PLACED ON THE CALENDAR—S. 2061 AND S. 2062

Mr. FRIST. Mr. President, I understand there are two bills at the desk and due for a second reading. I ask unanimous consent that the clerk read the titles of the bills for the second time en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will read the titles of the bills.

The legislative clerk read as follows:

A bill (S. 2061) to improve women's access to health care services and provide improved medical care by reducing the excessive burden the liability system places on the delivery of obstetrical and gynecological services.

A bill (S. 2062) to amend the procedures that apply to consideration of interstate class actions to assure fairer outcomes for class members and defendants, and for other purposes.

Mr. FRIST. Mr. President, I object to further proceeding en bloc.

The PRESIDING OFFICER. Under the rules, the bills will be placed on the calendar.

APPOINTMENTS

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore, pursuant to 10 U.S.C. 9355(a)(2), appoints the Senator from Arkansas, Mr. PRYOR, from the Armed Services Committee, to the Board of Visitors of the U.S. Air Force Academy.

The Chair, on behalf of the President pro tempore, pursuant to 10 U.S.C. 6968(a)(2), appoints the Senator from Maryland, Mr. SARBANES, from the Armed Services Committee, to the Board of Visitors of the U.S. Naval Academy.

ORDERS FOR THURSDAY, FEBRUARY 12, 2004

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 8:30 a.m., Thursday, February 12. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then resume consideration of S. 1072, the highway bill, provided that the time until 9 a.m. be equally divided between the chairman and ranking member of the Environment and Public Works Committee or their designees.

I further ask consent that the mandatory quorum be waived for both cloture motions and the cloture vote on

the substitute amendment occur at 9 a.m.; provided, further, that Senators have until 9 a.m. tomorrow to file second-degree amendments to the highway bill.

The PRESIDING OFFICER. Is there objection?

Mr. REID. No objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. FRIST. Tomorrow, the Senate will resume consideration of S. 1072, the highway bill. The vote on the motion to invoke cloture on the pending substitute to the highway bill will occur at 9 a.m. It is my hope that if cloture is invoked, we will be able to dispose of any additional germane amendments in a timely manner, thereby clearing the way to wrap up consideration of the substitute. Once the substitute amendment is disposed of, we still may require a cloture vote on the bill itself. Again, it is my hope that we will be able to speed the process along and be in a position to complete action on the bill tomorrow. It is my intention, however, to remain in session until we pass this bill.

Senators should expect rollcall votes throughout the day tomorrow, with the first vote occurring at approximately 9 a.m. In addition, I remind all Senators that all second-degree amendments must be filed at the desk no later than 9 a.m. tomorrow.

The PRESIDING OFFICER. The assistant Democratic leader.

Mr. REID. Mr. President, I know the hour is late. I want to acknowledge how difficult this has been for the majority leader. This has been extremely difficult. I know there is pressure from a lot of different sources to do things differently than we have done this week.

I say to the majority leader, whom I compliment for standing firm on what he believes to be the proper role of the Senate on this matter, everyone will have their day. When we complete this legislation—I believe we will be able to do it tomorrow—the House will do theirs and there will be some process to meld together the legislation from the two bodies. Then, of course, there will be input from the administration. At this stage we don't have to be concerned about vetoes. We are a long way from that.

I want the RECORD to reflect my personal appreciation for the courage of the majority leader during this most difficult 2 weeks.

Mr. FRIST. I thank the assistant Democratic leader. It has been a challenge for both sides the last 2 weeks as we have been on this bill. Again, we gave the time for discussion and debate, and we had regular order throughout using the Senate rules. With that, we will be able to complete our goal of giving very careful consideration to this bill. At the end of this 2-week period, during which people have had plenty of time, plenty of opportunity to understand what is in this very important bill, they will have the opportunity to vote. They will have that opportunity tomorrow.

ADJOURNMENT UNTIL 8:30 A.M. TOMORROW

Mr. FRIST. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:10 p.m., adjourned until Thursday, February 12, 2004, at 8:30 a.m.

NOMINATIONS

Executive nominations received by the Senate February 11, 2004:

POSTAL RATE COMMISSION

DAWN A. TISDALE, OF TEXAS, TO BE A COMMISSIONER OF THE POSTAL RATE COMMISSION FOR A TERM EXPIRING NOVEMBER 22, 2006, VICE WILLIAM H. LEBLANC III, TERM EXPIRED.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

CATHY M. MACFARLANE, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF HOUSING AND URBAN DEVELOPMENT, VICE DIANE LENEGHAN TOMB, RESIGNED.

DENNIS C. SHEA, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF HOUSING AND URBAN DEVELOPMENT, VICE ALBERTO FAUSTINO TREVINO, RESIGNED.

IN THE COAST GUARD

THE FOLLOWING INDIVIDUALS FOR APPOINTMENT AS PERMANENT COMMISSIONED REGULAR OFFICERS IN THE UNITED STATES COAST GUARD IN THE GRADE INDICATED UNDER TITLE 14, U.S.C., SECTION 211:

To be lieutenant commander

SUSAN J. BLOOD, 0000
GREGORY P. TOBER, 0000

To be lieutenant

HEATHER L. MORRISON, 0000

IN THE AIR FORCE

THE FOLLOWING NAMED AIR NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12212:

To be colonel

VIRGINIA A. SCHNEIDER, 0000

THE FOLLOWING NAMED AIR NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12212:

To be colonel

PERRY L. AMERINE, 0000
JAMES R. PATTERSON, 0000

THE FOLLOWING NAMED AIR NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12212:

To be colonel

STEWART J. HAZEL, 0000
JILL L. HENDRA, 0000
CHRISTOPHER J. KNAPP, 0000
CLEE E. LLOYD, 0000
WILLIAM W. POND, 0000

THE FOLLOWING NAMED AIR NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12212:

To be colonel

WILLIAM E. ENRIGHT JR., 0000
JOSEPH P. MOAN, 0000
VICTORIA A. REARDON, 0000
CASSIE A. STROM, 0000
MICHAEL F. VANHOOMISSEN, 0000

THE FOLLOWING NAMED AIR NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12212:

To be colonel

COLLEN B. HOUGH, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE AND FOR REGULAR APPOINTMENT (IDENTIFIED BY AN ASTERISK (*)) UNDER TITLE 10, U.S.C., SECTIONS 624 AND 531:

To be colonel

NORMA L. ALLGOOD, 0000
DAVID E. ANISMAN, 0000
GARY I. ARISHITA, 0000
STEVEN L. BARNES, 0000
SVEN T. BERG, 0000
MARTIN D. BOMALASKI, 0000
DEAN A. * BRICKER, 0000
ELIZABETH P. CLARK, 0000
RICHARD A. CLARK, 0000
ROBERT B. CONNOR, 0000
STEVEN C. DECOUD, 0000
VICTOR A. FOLARIN, 0000
MICHAEL C. * GORDON, 0000
THOMAS C. * GRAU, 0000
DAVID E. HOLCK, 0000
KENNETH K. KNIGHT, 0000
CHRISTOPHER LEWANDOWSKI, 0000
THOMAS D. FADELL LUNA, 0000
ROBERT E. MANAKER, 0000
KURT D. MCCARTNEY, 0000
LYNN S. MCCURDY, 0000
ROBERT S. MICHAELSON, 0000
PATRICK P. MILES, 0000
RICHARD J. MONTMINY, 0000
DAVID M. OBRIEN, 0000
LORETTA M. OBRIEN, 0000
HERNANDO J. * ORTEGA JR., 0000
JOSEPH V. * PACE, 0000
AUGUST C. PASQUALE III, 0000
TIMOTHY LEE PENDERGRASS, 0000
CHRISTOPHER SARTORI, 0000
JEFFREY A. * SCHIEVENIN, 0000
THOMAS M. SEAY, 0000
TIMOTHY W. SOWIN, 0000
WAYNE K. SUMPTER, 0000
CRESCENCIO TORRES, 0000
MATTHEW P. * WICKLUND, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE AND FOR REGULAR APPOINTMENT (IDENTIFIED BY AN ASTERISK (*)) UNDER TITLE 10, U.S.C., SECTIONS 624 AND 531:

To be colonel

RICHARD C. BATZER, 0000
TIMOTHY L. BRAY, 0000
WILLIAM R. BUHLER, 0000
PAUL N. CARDON, 0000
MICHAEL J. * CONLAN, 0000
MULLEN O. COOVER JR., 0000
DAVID P. DEWITT, 0000
WILLIAM E. DINSE, 0000
WILLIAM J. DUNN, 0000
BRYAN D. DYE, 0000
BLAKE J. EDINGER, 0000
DIANE J. FLINT, 0000
ROBERT F. GAMBLE, 0000
RIDGE M. GILLEY, 0000
LYNN C. HARRIS, 0000
CHARLES A. HUGGINS, 0000
RAY S. JETER, 0000
MICHAEL P. KLEPCZYK, 0000
MICHAEL A. KOCH, 0000
THOMAS S. MARSHALL, 0000
ALAN J. MORITZ, 0000
LARRY P. PARWORTH, 0000
JAMES L. PAUKERT, 0000
DOUGLAS L. RISK, 0000
JANET Y. ROBINSON, 0000
PAUL M. ROGERS, 0000
RIDLEY O. ROSS, 0000
KENT A. SABEY, 0000
PHILLIP R. SANDEFUR, 0000
JEFFREY A. STAPLES, 0000
DANIEL S. * STRECK, 0000
DALE C. THAMES JR., 0000
RICHARD I. VANCE, 0000

THE FOLLOWING NAMED AIR NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12212:

To be colonel

JOHN A. ALEXANDER, 0000
WILLIE ALLEN, 0000
WILLIAM E. ANDERSON JR., 0000
BRUCE D. BABCOCK, 0000
STEVEN T. BECK, 0000
DENNIS R. BLACK, 0000
MICHAEL L. BRICKNER II, 0000
JORGE R. CANTRES, 0000
CHRISTOPHER J. COCHRAN, 0000
STEVEN A. CRAY, 0000
JAMES L. CRUMPTON, 0000
RICHARD J. DENNEE, 0000
WILLIAM K. DUCKETT, 0000
DONALD P. DUNBAR, 0000
LOUIS M. DURKAC, 0000
TRULAN A. EYRE, 0000
MARK K. FOREMAN, 0000
GREGORY C. GRAF, 0000
BILLY T. GRAHAM JR., 0000
JOSEPH P. GRIFFIN, 0000
FLOYD H. HARBIN, 0000
JOSEPH G. HIGGINS, 0000
MICHAEL T. HINMAN, 0000
MARK W. HUGHES, 0000
BENJAMIN F. JABLECKI JR., 0000
JOSEPH A. JETT, 0000

MICHAEL L. KING, 0000
WILLIAM M. KREIGHBAUM, 0000
ENRIQUE LAMOUTTE, 0000
PATRICK L. MARTIN, 0000
JOHN E. MCCOY, 0000
CHARLES R. MELTON, 0000
BRIAN G. NEAL, 0000
PETER NEZAMIS, 0000
TIMOTHY R. OBRIEN, 0000
GRADY L. PATTERSON III, 0000
CHRISTOPHER A. POPE, 0000
RICHARD G. POPPELL, 0000
CARLOS A. QUINONESNIEVES, 0000
PHILIP D. QUINTENZ, 0000
WILLIAM N. REDDEL III, 0000
JOHN J. SAMUHEL, 0000
SIDNEY M. SCARBOROUGH, 0000
HENRY P. SERMONS JR., 0000
WAYNE M. SHANKS, 0000
ROY J. SHETKA, 0000
JOANNA O. SHUMAKER, 0000
ELIZABETH A. STANLEY, 0000
WILLIAM E. STANTON, 0000
ELSON E. STAUGAARD JR., 0000
FRANK J. SULLIVAN, 0000
DAVID A. TORRES, 0000
STEVEN J. VERHELST, 0000
FRANCIS J. WALKER, 0000
MICHAEL E. WELSH, 0000
JOHN A. WISNIEWSKI JR., 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE AND FOR REGULAR APPOINTMENT (IDENTIFIED BY AN ASTERISK (*)) UNDER TITLE 10, U.S.C., SECTIONS 624 AND 531:

To be lieutenant colonel

TODD B. * ABEL, 0000
BRADLEY S. ABELS, 0000
LAURA K. ABTS, 0000
PAUL J. AFFLECK, 0000
SAKET K. AMBASHT, 0000
KATHLEEN C. AMYOT, 0000
JEFFREY A. * BAILEY, 0000
ALBERT H. * BONNEMA, 0000
MICHELE L. BRENNERVINCENT, 0000
JOHN R. * BRENT, 0000
MARK J. * BROOKS, 0000
MARY T. * BRUEGGEMEYER, 0000
MICHAEL G. BRYAN, 0000
LOUISE M. BRYCE, 0000
JOHN R. BURROUGHS, 0000
BRET D. * BURTON, 0000
EDITH D. * CANBYHAGINO, 0000
CREG A. * CARPENTER, 0000
THOMAS N. * CHEATHAM, 0000
NICOLA A. * CHOATE, 0000
BRANDON D. * CLINT, 0000
CHARLES D. * CLINTON, 0000
MARK R. * COAKWELL, 0000
LUBOV M. COVERDELL, 0000
MARCUS M. * CRANSTON, 0000
RANDOLPH K. * CRIBBS, 0000
BRIAN K. CROWNOVER, 0000
JEANINE M. CZECH, 0000
DEVIN L. * DONNELLY, 0000
PAUL D. * DOUGHTEN, 0000
COLLEEN M. DUGAN, 0000
JAMES R. * ELLIOTT, 0000
HARRY L. ERVIN JR., 0000
RENEE D. ESPINOSA, 0000
SUSAN C. FARRISH, 0000
MERLIN B. FAUSETT, 0000
CAROL M. * FERRUA, 0000
ERIC W. FESTER, 0000
WILLIAM F. * FOODY JR., 0000
KRISTEN A. FULTSGANEY, 0000
JOEL E. * GOLDBERG, 0000
PHILIP L. * GOULD, 0000
STEPHEN U. * HANLON, 0000
ALEXANDER V. HERNANDEZ III, 0000
KAREN A. HEUPEL, 0000
TERRY G. * HOEHNE, 0000
ROBERT G. * HOLCOMB, 0000
CAROL J. * IDDINS, 0000
JAMES L. JABLONSKI II, 0000
KERRY G. JEPSEN, 0000
WILMER T. * JONES III, 0000
JAMES A. * KEENEY, 0000
DEREK A. * KNIGHT, 0000
KRISTOPHER E. KORDANA, 0000
TIMOTHY J. KOSMATKA, 0000
MICHAEL R. KOTELES, 0000
ROBYN A. LAKAMSANI, 0000
RICHARD G. * LANE II, 0000
PHILIP D. LANHAM, 0000
KARL M. LARSEN, 0000
RAYMOND J. LEGENZA, 0000
GEORGE W. * LEON, 0000
ERIC J. * LETONOFF, 0000
TERRY J. * LEWIS, 0000
DOUGLAS W. * LITTLE, 0000
JOHN P. * LYNCH, 0000
DEBRA L. * MALONE, 0000
AMY LYNN * MARLOW, 0000
DANIEL S. * MARTINEAU, 0000
RANDY O. * MAUFFRAY, 0000
RANDALL R. MCCAFFERTY, 0000
KENT D. MCDONALD, 0000
KIRK A. * MILHOAN, 0000
CHANDRA M. * MILLER, 0000
WILLIAM F. * MOORE, 0000
PAUL H. NELSON, 0000
MARRINER V. * OLDHAM, 0000
DONELL BAIRD * OLIVER, 0000
TODD A. * PARRISH, 0000
MICHAEL J. * PASTON, 0000
TIMOTHY R. * PAULDING, 0000
KAREN M. PETERSON, 0000
ELLIOT * PINERO, 0000
TODD W. * POINDEXTER, 0000
MICHELE A. PREVOST, 0000
ROBERT PRIETO, 0000
ALEJANDRO PRUITT, 0000
TODD E. * RASMUSSEN, 0000
ROCKY R. RESTON, 0000
JOANN Y. * RICHARDSON, 0000
ROBBY C. RIDDLE, 0000
EDGAR * RODRIGUEZ, 0000
WALTER C. * RUSTMANN, 0000
DONALD M. * SANDERCOCK, 0000
KEVIN L. * SCHEU, 0000
LOWELL G. * SENSINTAFFAR, 0000
WADE J. * SEXTON, 0000
GRETCHEN S. * SHAAR, 0000
STACY A. * SHACKELFORD, 0000
MICHAEL D. * SIMMONS, 0000
JOSEPH P. * SIMON, 0000
TERESA M. SKOJAC, 0000
BRENT D. STEPHENSON, 0000
BRIAN L. * STRAUSS, 0000
MAUREEN J. SWEZEY, 0000
MICHAEL S. * TANKERSLEY, 0000
GRANT P. TIBBETTS, 0000
GEORGE F. TORRES, 0000
GARY N. * TOUPS, 0000
DEREK K. * URBAN, 0000
ERIC J. * VANDEGRAAFF, 0000
SCOTT A. * VANDEHOEF, 0000
RICHARD N. * VANLEEUWEN, 0000
DANNY X. * VU, 0000
BRYAN M. * VYVERBERG, 0000
LESLIE A. * WILSON, 0000
JON B. WOODS, 0000
RICHARD A. * YOKELL, 0000
GIANNA R. ZEH, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE AND FOR REGULAR APPOINTMENT (IDENTIFIED BY AN ASTERISK (*)) UNDER TITLE 10, U.S.C., SECTIONS 624 AND 531:

To be lieutenant colonel

DOUGLAS P. * BETHONEY, 0000
KEVIN C. * BOYLE, 0000
SEAN W. * DIGMAN, 0000
LARRY J. * EVANS, 0000
LORI L. * EVERETT, 0000
TOMMY D. * FISHER, 0000
MICHAEL E. * FULTON, 0000
KIMBERLY M. * GILL, 0000
JAMES B. * GRAHAM, 0000
MARK R. HENDERSON, 0000
TODD A. * LINCOLN, 0000
DAVID W. * NUNEZ, 0000
JACOB E. * PALMA, 0000
HYEKYUNG HELENA PAE * PARK, 0000
PHILLIP C. * PORTERA, 0000
ROGER E. * PRADELLI, 0000
DOUGLAS E. * THOMAS, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

To be major

ADAM M. ANDERSON, 0000
BRETT C. ANDERSON, 0000
PAULA E. ANDERSON, 0000
BRETT M. ANDRES, 0000
ROBERT S. ANDREWS, 0000
MARIA M. ANGLES, 0000
WILLIAM A. ANKNEY, 0000
SHERYL L. ANTHOS, 0000
DANIEL W. ARNOLD, 0000
JORGE ARZOLA, 0000
DIANE M. ASLANIS, 0000
KARYN J. AYERS, 0000
KAREN M. AYOTTE, 0000
CARL W. BAKER II, 0000
SHAROLYN H. BALDWIN, 0000
ELLEN W. BALLERENE, 0000
KIMBERLY M. BALOGH, 0000
MICHAEL A. BARNETT, 0000
SAMUEL B. BARONE, 0000
JEFFREY W. BARR, 0000
JOSE E. BARRERA, 0000
CHRISTOPHER J. BASSETT, 0000
KRISTEN BAUER, 0000
CHAD C. BAUERLY, 0000
ETHAN A. BEAN, 0000
PETRAN J. BEARD, 0000
JEFFREY N. BEEN, 0000
AMY L. BELISLE, 0000
RICHARD W. BENTLEY, 0000
DONALD J. BERNARDINI, 0000
JOHN N. BERRY, 0000
HEIDI C. BERTRAM, 0000
JEFFREY J. BIDINGER, 0000
SCOTT R. BISHOP, 0000
JEFFREY F. BLEAKLEY, 0000
JAMES A. BLEDSOE, 0000
JESSICA J. BLOOM, 0000
ERIK A. BOATMAN, 0000
JAMES V. BODRIE JR., 0000
KEVIN J. BOHNSACK, 0000
DOUGLAS E. BOLER, 0000
WILLIAM S. BOLLING, 0000
DENNIS F. BOND II, 0000
CRAIG D. BOREMAN, 0000
STACEY L. BRANCH, 0000
BRETT D. BRIMHALL, 0000
WILLIAM R. BRODERICK, 0000
JODY L. BROWN, 0000
STEVEN S. BRUMFIELD, 0000
ERIC C. BRUNO, 0000
CHARLES L. BRYANT, 0000
JOHN T. BRYANT, 0000
CRAIG M. BURNWORTH, 0000
RAELYN M. CALENDINE, 0000
FERDINAND O. CALINAWAN, 0000
COLLEEN L. CALLAGHAN, 0000
ROBERT S. CALLAHAN, 0000
SCOT E. CAMPBELL, 0000
FRANCIS R. CARANDANG, 0000
GABRIELLA CARDOZAFAVARATO, 0000
JOSHUA P. CAREY, 0000
DAWN E. CARLSON, 0000
NATHAN D. CARLSON, 0000
DAVID H. CARNAHAN, 0000
MARK P. CARROLL JR., 0000
BRETT J. CASSIDY, 0000
DANIEL A. CHARLICK, 0000
RICHARD PAUL CHERN, 0000
BRYCHAN K. CLARK, 0000
DANIEL E. COLE, 0000
LEE M. COLEMAN, 0000
SEAN M. CONLEY, 0000
BARBARA A. COOPER, 0000
MERRILEE I. COX, 0000
LOUIS M. DAVIGNON, 0000
ERIC M. DEDEKE, 0000
CATHERINE J. B. DERBER, 0000
DONALD G. DETMERING, 0000
SCOTT V. DICKSON, 0000
KURT F. DITTRICH, 0000
MICHAEL R. DOBBS, 0000
GEORGE M. DOCKENDORF, 0000
AMANDA M. DRAPER, 0000
RORY C. DUNHAM, 0000
STEPHEN J. DURANT, 0000
BRYAN T. EDWARDS, 0000
MEREDITH GILSON ELGUESSAB, 0000
JEFFREY J. EMERY, 0000
QUENBY L. ERICKSON, 0000
BETH I. ESTERBROOK, 0000
MICHAEL E. FELDMAN, 0000
CHRISTOPHER F. FENNELL, 0000
ANN S. FENTON, 0000
ANDREW T. FIGURA, 0000
MICHAEL B. FISCHER, 0000
ANDREA D. FISK, 0000
COLLEEN FITZPATRICK WEISBROD, 0000
SHAWN A. FLANAGAN, 0000
WADE E. FLETCHER, 0000
WILLIAM P. FLINN, 0000
GERALD R. FORTUNA JR., 0000
SARAH O. FORTUNA, 0000
CURTIS M. FOY, 0000
CHRISTINA V. FRASER, 0000
JOHN F. FREILER, 0000
MICHAEL A. FREIMAN, 0000
DOUGLAS S. FRENIA, 0000
RODNEY A. FRIEND, 0000
JANETTE M. FROEHLICH, 0000
MARY CATHERINE GABRIEL, 0000
JOSHUA S. GADY, 0000
KELLY D. GAGE, 0000
JOSEPH P. GALLAGHER, 0000
ROBERT W. GARNER, 0000
ROBERT J. GARR, 0000
MICHAEL S. GARRETT, 0000
LAURA E. GIVENSMOYER, 0000
JAMIE D. GLOVER, 0000
BRADLEY J. GOEKE, 0000
VERONICA M. GONZALEZ, 0000
THERESA B. GOODMAN, 0000
DAVID D. GOVER, 0000
ANDRE D. GRAHAM, 0000
KIMBERLY A. GRANDINETTI, 0000
NOAH H. GREENE, 0000
CARRIE ASHBY GREGORY, 0000
BASIL M. GRIFFIN III, 0000
RICHARD C. GRIGGS, 0000
LOUIS Q. GUILLERMO, 0000
WILLIAM E. GUNN, 0000
ANN K. GWINNUP, 0000
MICHAEL J. HAFRAN, 0000
CAROL A. HALL, 0000
ERIC S. HALSEY, 0000
DERRICK A. HAMAOKA, 0000
HOPE S. HAMMETT, 0000
MATTHEW P. HANSON, 0000
CRAIG K. HARMS, 0000
PHILIP A. HARRIS, 0000
MICHAEL A. HASLER, 0000
KARIN N. HAWKINS, 0000
MEGHAN E. HAYES, 0000
JOHN R. HENNER, 0000
EMILY M. HENNING, 0000
JOHN E. HENRIKSEN, 0000
HEATHER R. HERBOLSHEIMER, 0000
ERIC J. HICK, 0000
JAMES M. HITCHCOCK, 0000
CRYSTAL L. HNATKO, 0000
JEANNE M. HOLLAND, 0000
JENNIFER E. HORN, 0000
PAULA R. HUBERT, 0000
KYLE B. HUDSON, 0000
TODD P. HUHN, 0000
KEANE K. Y. HUNG, 0000
SCOTT M. JENSEN, 0000
CHARLES D. JOHNSON, 0000
JAMES E. JOHNSON, 0000
KEVIN W. JOHNSON, 0000
DAVID S. JONES, 0000
HEATHER D. JONES, 0000
HEATHER M. JONES, 0000
LOREN M. JONES, 0000

ROGER E. JONES, 0000
PETER J. KAH, 0000
JOHN P. KALISZAK, 0000
TODD R. KELLEY, 0000
THOMAS E. KIBELSTIS, 0000
JEREMY A. KING, 0000
ROBERT M. KIRCHNER, 0000
MICHELLE L. KNIERIM, 0000
SANDRA J. KNUDSEN, 0000
GRETCHEN L. KOHLER, 0000
JANA S. KOKKONEN, 0000
JAMES B. KOPP, 0000
HENRY KORZENIOWSKI JR., 0000
GREGORY D. KOSTUR, 0000
KATHLEEN S. KREJCI, 0000
GEORGE BRADLEY D. KUEHN, 0000
ELLA B. KUNDU, 0000
NIRVANA KUNDU, 0000
JONATHON V. LAMMERS, 0000
SUSAN C. LAN, 0000
MICHAEL L. LANDRUM, 0000
ANDREW G. LAPADAT, 0000
APRIL L. LARKIN, 0000
THOMAS J. LAUDICO, 0000
JARRETT B. LEA, 0000
ALEX J. LEE, 0000
CHRISTINE Y. LEE, 0000
FRANK C. LEE, 0000
KENYA D. LEE, 0000
MARVIN LEE II, 0000
JAMES D. LEIBER, 0000
BRIAN E. LEININGER, 0000
JEFFREY D. LEWIS, 0000
RYAN L. LEWIS, 0000
PETER A. LIEHR, 0000
DOUGLAS LIM, 0000
PETER J. LODICO, 0000
JONATHAN C. LOHRBACH, 0000
MANUEL A. LOPEZ, 0000
BRIAN W. LOVERIDGE, 0000
KEEGAN M. LYONS, 0000
KIRIN L. MADDEN, 0000
MICHAEL A. MADRID, 0000
MEGAN E. MAHAFFEY, 0000
CHARLES G. MAHAKIAN, 0000
DAVID MALDONADO III, 0000
PATRICK MALLORY, 0000
GREGORY J. MALONE, 0000
KJERSTI A. MARIUS, 0000
PHILLIP E. MASON, 0000
RUSSELL E. MASSINE, 0000
DEREK A. MATHIS, 0000
ERICH C. MAUL, 0000
EDWARD L. MAZUCHOWSKI II, 0000
BRETT A. MCFADDEN, 0000
SOPHIA MCFADDEN, 0000
HOWARD J. MCGOWAN, 0000
MIA M. MCGREGOR, 0000
DAWN P. MCNAUGHTON, 0000
ALEKSANDR G. MELIKOV, 0000
CHRISTOPHER M. MEYER, 0000
EDWARD J. MEYERS, 0000
MICHAEL D. MICHENER, 0000
QUINTESSA MILLER, 0000
DOUGLAS D. MIN, 0000
ANTHONY L. MITCHELL, 0000
PAUL R. MONCLA, 0000
BRIAN A. MOORE, 0000
PAUL M. MORTON, 0000
CHER D. MOSEMAN, 0000
EVAN B. MOSER, 0000
DANIEL H. MURRAY, 0000
HAFEZ A. NASR, 0000
RICHARD E. NEUBERT, 0000
VISETH NGAUY, 0000
BRETT R. NISHIKAWA, 0000
ANTHONY B. OCHOA, 0000
BRIAN P. ODONNELL, 0000
DAVID D. ORTIZ, 0000
SARAH M. PAGE, 0000
BRIAN N. PALEN, 0000
WESLEY D. PALMER, 0000
MICHAEL T. PARKE, 0000
JEFFERY E. PARKER, 0000
AMIT I. PATEL, 0000
GILBERTO PATINO, 0000
JUDITH E. PECK, 0000
ALYSSA C. PERROY, 0000
RACHEL R. PETERSEN, 0000
LAURA J. PETERSON, 0000
JOEL M. PHARES, 0000
GRANT C. PHILLIPS, 0000
TIMOTHY M. PHILLIPS, 0000
BRIAN J. PICKARD, 0000
MICHAEL ALAN PROFFITT, 0000
CHRISTOPHER B. PUDOL, 0000
JAMES C. RACHAL, 0000
GREGORY N. RAMPEY, 0000
CHRISTIAN L. RANK, 0000
KRISTA WARE RANKIN, 0000
TONYA S. RANSNIGRO, 0000
DAVID A. RAPKO, 0000
TRACEE P. RAY, 0000
ALYSON D. READ, 0000
JERALD E. RECTOR, 0000
NATALIE L. RESTIVO, 0000
AMY M. REYNOLDS, 0000
NEAL PATRICK RIDGE, 0000
MARK G. RIEKER, 0000
JENNIFER M. RIZZOLI, 0000
CHARLES K. ROBERTS, 0000
KYLE M. ROCKERS, 0000
JEFFREY L. ROSE, 0000
CHRISTINE N. ROSSBACH, 0000
DONALD P. ROTEN, 0000
DAWN M. RUDD, 0000
GREGORY A. RUFF, 0000
NAYKALA A. RUSE, 0000
AMY M. SAGE, 0000
CHRISTOPHER P. SAMUELS, 0000
CORIE L. SANDALL, 0000
ANDRE G. SARMIENTO, 0000
BENJAMIN G. SARVER, 0000
GEOFFREY T. SASAKI, 0000
STEPHANIE A. SAVAGE, 0000
JENNIFER L. SCAGNELLI, 0000
MICHAEL J. SCHEEL, 0000
JACK D. SCHILLEN, 0000
DANIEL C. SCHUBERT, 0000
VINCENT SCIORTINO, 0000
STEPHEN E. SCRANTON, 0000
KATHRYN L. SELLEN, 0000
B. ADAM SHANES, 0000
DANIEL A. SHOEMAKER, 0000
REBECCA W. SHORT, 0000
JOEL M. SHULKIN, 0000
TERESA A. SIMPSON, 0000
JOHN HWA SLADKY, 0000
GREGORY S. SMITH, 0000
TODD R. SMITH, 0000
CHRISTOPHER R. SPINELLI, 0000
PRIYADARSHINI SRINIVASAN, 0000
GARY C. STARR, 0000
JAMES D. STEED JR., 0000
KEVIN E. STEEL, 0000
PHILLIP J. STEPHAN, 0000
ELIZABETH DOKFA P. STEWART, 0000
TIMOTHY J. SULLIVAN, 0000
JOSE V. SUMAQUIAL, 0000
DEENA E. SUTTER, 0000
LON J. TAFF, 0000
PAUL J. TAN, 0000
DAMON D. TANTON, 0000
TARA L. TAYLOR, 0000
BRIDGET A. THILL, 0000
WARREN W. THIO, 0000
JEFFREY B. THOMAS, 0000
MICHAEL R. THOMAS, 0000
PATRICK J. THOMPSON, 0000
ROBERT A. TIMMONS, 0000
MICHAEL K. TING, 0000
RAMONE A. TOLIVER, 0000
BRIAN J. TOLLEFSON, 0000
EMMANUEL A. TRIGENIS, 0000
COURTNEY T. TRIPP, 0000
ALECHIA M. TROUT, 0000
PAMELA TULI, 0000
RICHARD TYSON, 0000
JOSEPH D. VILLACIS, 0000
DANA T. VIRGO, 0000
KIRSTEN R. VITRIKAS, 0000
ERIK C. VON ROSENVINGE, 0000
KIMBERLY A. VORMBROCK, 0000
DANIEL R. WALKER, 0000
SPENCER D. WALKER, 0000
JAMES E. WALLACE, 0000
RAYMOND J. WALSH, 0000
DAVID T. WANG, 0000
NEIL P. WANG, 0000
RICHARD P. WARD JR., 0000
DARON A. WATTS, 0000
JENNIFER J. WEAVER, 0000
RYAN D. WELLS, 0000
JOHN C. WHEELER, 0000
PATRICK F. WHITNEY, 0000
CHRISTOPHER J. WIBBELSMAN, 0000
CAROLYN A. WILD, 0000
ERIC L. WILLIAMS, 0000
MAUREEN N. WILLIAMS, 0000
LYNN M. WILSON, 0000
BRICE P. WINDSOR, 0000
THOMAS C. WISLER JR., 0000
LEE T. WOLFE, 0000
ROGER A. WOOD, 0000
HENRY A. WOODS JR., 0000
KENNETH A. WOODWARD, 0000
JOSHUA L. WRIGHT, 0000
JOY C. WU, 0000
MANOJ S. WUNNAVA, 0000
CHRISTOPHER K. WYATT, 0000
MATTHEW C. YOUNG, 0000
SHAHID A. ZAIDI, 0000
MICHAEL A. ZANE, 0000
LANA A. ZERRER, 0000
REGGIE ZHAN, 0000
ZOFIA ZHIVANOVICH, 0000
DAVID J. ZOLLINGER, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

To be major

MARYA J. BARNES, 0000
ERIC R. BAUGH JR., 0000
GEORGE E. BOUGHAN, 0000
DORON BRESLER, 0000
STEPHEN H. CHARTIER, 0000
JILL A. CHERRY, 0000
KEITH L. CLARK, 0000
FREDERICK A. CONNER, 0000
GREGORY A. CONNER, 0000
MICHELLE D. DULLANTY, 0000
SARAH C. EAGER, 0000
JOSE F. EDUARDO, 0000
JONATHAN D. EVANS, 0000
ANDREW R. FENTON, 0000
TEGRAN O. FRAITES, 0000
DANIEL B. GABRIEL, 0000
MICHAEL T. GARDNER, 0000
CECILIA I. GARIN, 0000
SCOTT W. GEORGE, 0000
DAVID E. HALL, 0000
STEPHEN C. HOLMES, 0000
DENNIS M. HOLT, 0000
LANCE J. KIM, 0000
JAMES D. KISER JR., 0000
MIKELLE L. KUEHN, 0000
XAVIER LEOS, 0000
TRENT E. LOISEAU, 0000
ROBERT K. MCGHEE, 0000
ALI R. MIREMAMI, 0000
BARRY F. MORRIS, 0000
JESSE MURILLO, 0000
ANDREW M. NALIN, 0000
JEANLUC G. C. NIEL, 0000
KYLE W. ODOM, 0000
INAAM A. A. PEDALINO, 0000
MICHAEL J. SILVERMAN, 0000
YOUNG K. SUNG, 0000
SARAT THIKKURISSY, 0000
SARAH A. TRUSCINSKI, 0000
WILLIAM K. TUCKER, 0000
GEORGE S. TUNDER JR., 0000
TODD S. WELLER, 0000
KARYN E. YOUNGCARIGNAN, 0000

IN THE ARMY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

DAVID H. FORDEN, 0000
GERALD E. STONE, 0000

IN THE MARINE CORPS

THE FOLLOWING NAMED LIMITED DUTY OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

STEVE E. HOWELL, 0000

THE FOLLOWING NAMED LIMITED DUTY OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C, SECTION 624:

To be lieutenant colonel

RICHARD K. ROHR, 0000

THE FOLLOWING NAMED LIMITED DUTY OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

DAVID J. WILSON, 0000

THE FOLLOWING NAMED LIMITED DUTY OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

WILLIAM E. HIDLE, 0000

THE FOLLOWING NAMED LIMITED DUTY OFFICER FOR APPOINTMEHNT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

JOHN T. BROWER, 0000

THE FOLLOWING NAMED LIMITED DUTY OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

RONALD W. COCHRAN, 0000
JOHNATHAN D. LAWSON, 0000
ROBERT J. MAGERS, 0000
PAUL J. MINER, 0000

THE FOLLOWING NAMED LIMITED DUTY OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

TODD P. OHMAN, 0000

THE FOLLOWING NAMED LIMITED DUTY OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

MICHAEL E. BEAN, 0000
GREGORY G. FRICH, 0000
WALTON S. PITCHFORD, 0000

EXTENSIONS OF REMARKS

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, February 12, 2004 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

FEBRUARY 13

10 a.m.
Budget
To hold hearings to examine the President's fiscal year 2005 budget proposals.
SD–608

FEBRUARY 24

2 p.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to examine the legislative presentation of the Disabled American Veterans.
SH–216

FEBRUARY 25

9:30 a.m.
Appropriations
District of Columbia Subcommittee
To hold hearings to examine proposed budget estimates for fiscal year 2005 for the government of the District of Columbia.
SD–138

Indian Affairs
To hold hearings to examine the President's fiscal year 2005 budget request.
SR–485

10 a.m.
Banking, Housing, and Urban Affairs
To hold hearings to examine current investigations and regulatory actions regarding the mutual fund industry, focusing on understanding the fund industry from the investor's perspective.
SD–538

FEBRUARY 26

2 p.m.
Banking, Housing, and Urban Affairs
To continue hearings to examine current investigations and regulatory actions regarding the mutual fund industry, focusing on fund operations and governance.
SD–538

MARCH 2

9:30 a.m.
Armed Services
To hold hearings to examine the defense authorization request for fiscal year 2005 and the future years defense program.
SH–216

10 a.m.
Energy and Natural Resources
To hold hearings to examine the President's proposed fiscal year 2005 budget for the Forest Service.
SD–366

MARCH 4

9:30 a.m.
Armed Services
To hold open and closed hearings to examine the Defense Authorization Request for Fiscal Year 2005, focusing on military strategy and operational requirements (closed in SH–219).
SH–216

10 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to examine the legislative presentations of the Non-Commissioned Officers Association, the Military Order of the Purple Heart, the Paralyzed Veterans of America, the Jewish War Veterans, and the Blinded Veterans Association.
345 CHOB

MARCH 10

10 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to examine the legislative presentation of the Veterans of Foreign Wars.
SH–216

MARCH 18

10 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans Affairs to examine the legislative presentations of the Air Force Sergeants Association, the Retired Enlisted Association, Gold Star Wives of America, and the Fleet Reserve Association.
345 CHOB

MARCH 23

9:30 a.m.
Armed Services
To hold hearings to examine atomic energy defense activities of the Department of Energy relating to the Defense Authorization request for fiscal year 2005.
SD–106

MARCH 25

10 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to examine the legislative presentations of the National Association of State Directors of Veterans Affairs, AMVETS, American Ex-Prisoners of War, the Vietnam Veterans of America, and the Military Officers Association of America.
345 CHOB

SEPTEMBER 21

10 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to examine the legislative presentation of the American Legion.
345 CHOB

Daily Digest

Senate

Chamber Action

Routine Proceedings, pages S957–S1194

Measures Introduced: Four bills and four resolutions were introduced, as follows: S. 2064–2067, and S. Res. 298–301. **Page S1017**

SAFE Transportation Equity Act: Senate continued consideration of S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, taking action on the following amendments proposed thereto: **Pages S964–S1010**

Pending:

Inhofe Amendment No. 2285, in the nature of a substitute. **Page S964**

Clinton/Bingaman Amendment No. 2311 (to language proposed to be stricken by Amendment No. 2285), to express the sense of the Senate concerning the outsourcing of American jobs. **Pages S968–69, S1007–10**

Bond Amendment No. 2327 (to Amendment No. 2311), to limit liability with respect to the owners of rented or leased motor vehicles. **Page S971**

Rejected:

Warner Modified Amendment No. 2286 (to Amendment No. 2285), to provide a highway safety improvement program that includes incentives to States to enact primary safety belt laws. (By 57 yeas to 41 nays (Vote No. 9), Senate tabled the amendment.) **Pages S969–70**

A unanimous-consent agreement was reached providing for further consideration of the bill at 8:30 a.m., on Thursday, February 12, 2004; further, second degree amendments may be filed by 9 a.m. Also, Senate will vote on the motion to close further debate on Inhofe Amendment No. 2285 (listed above) at 9 a.m. **Pages S1191–92**

Appointments

Board of Visitors of the U.S. Air Force Academy: The Chair, on behalf of the President Pro Tempore, pursuant to 10 U.S.C. 9355(a)(2), appointed Senator Pryor, from the Armed Services Committee, to the Board of Visitors of the U.S. Air Force Academy. **Page S1191**

Board of Visitors of the U.S. Naval Academy: The Chair, on behalf of the President Pro Tempore, pursuant to 10 U.S.C. 6968(a)(2), appointed Senator Sarbanes, from the Armed Services Committee, to the Board of Visitors of the U.S. Naval Academy. **Page S1191**

Nominations Received: Senate received the following nominations:

Dawn A. Tisdale, of Texas, to be a Commissioner of the Postal Rate Commission for a term expiring November 22, 2006.

Cathy M. MacFarlane, of Virginia, to be an Assistant Secretary of Housing and Urban Development.

Dennis C. Shea, of Virginia, to be an Assistant Secretary of Housing and Urban Development.

Routine lists in the Air Force, Army, Coast Guard, Marine Corps. **Pages S1192–94**

Measures Placed on the Calendar **Pages S1014–16**

Messages From the House: **Page S1014**

Executive Communications: **Page S1014**

Additional Cosponsors: **Pages S1017–18**

Statements on Introduced Bills/Resolutions: **Pages S1018–21**

Additional Statements: **Pages S1012–14**

Amendments Submitted: **Pages S1021–S1190**

Authority for Committees To Meet: **Pages S1190–91**

Privilege of the Floor: **Page S1191**

Record Votes: One record vote was taken today. (Total—9) **Page S970**

Adjournment: Senate convened at 9:29 a.m., and adjourned at 7:10 p.m., until 8:30 a.m., on Thursday, February 12, 2004. (For Senate's program, see the remarks of the Majority Leader in today's Record on page S1192.)

Committee Meetings

(Committees not listed did not meet)

RECONSTRUCTION IN IRAQ

Committee on Banking, Housing, and Urban Affairs: Subcommittee on International Trade and Finance concluded a hearing to examine economic and financial reconstruction in Iraq, focusing on the development of Iraq's financial sector, after receiving testimony from John B. Taylor, Under Secretary of the Treasury for International Affairs; Earl Anthony Wayne, Assistant Secretary of State for Economic and Business Affairs; and Gordon West, Acting Assistant Administrator, Bureau for Asia and the Near East, United States Agency for International Development.

TELEVISION PROGRAMMING

Committee on Commerce, Science, and Transportation: Committee concluded a hearing to examine efforts to protect children from violent and indecent programming, focusing on FCC's enforcement actions, the rise of public concern, the television V-chip and program ratings legislation, and family-friendly television programming, after receiving testimony from Senator Graham (SC); Michael K. Powell, Chairman, and Kathleen Q. Abernathy, Michael J. Copps, Kevin J. Martin, Jonathan S. Adelstein, each a Commissioner, all of the Federal Communications Commission.

BUSINESS MEETING

Committee on Energy and Natural Resources: Committee ordered favorably reported the following business items:

S. 213, to clear title to certain real property in New Mexico associated with the Middle Rio Grande Project, with an amendment;

S. 524, to expand the boundaries of the Fort Donelson National Battlefield to authorize the acquisition and interpretation of lands associated with the campaign that resulted in the capture of the fort in 1862, with an amendment;

S. 943, to authorize the Secretary of the Interior to enter into 1 or more contracts with the city of Cheyenne, Wyoming, for the storage of water in the Kendrick Project, Wyoming, with an amendment in the nature of a substitute;

S. 960, to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize certain projects in the State of Hawaii and to amend the Hawaii Water Resources Act of 2000 to modify the water resources study, with an amendment;

S. 1107, to enhance the Recreational Fee Demonstration Program for the National Park Service, with an amendment;

S. 1516, to further the purposes of the Reclamation Projects Authorization and Adjustment Act of 1992 by directing the Secretary of the Interior, acting through the commissioner of Reclamation, to carry out an assessment and demonstration program to assess potential increases in water availability for Bureau of Reclamation projects and other uses through control of salt cedar and Russian olive, with an amendment in the nature of a substitute;

S. 1576, to revise the boundary of Harpers Ferry National Historical Park;

S. 1577, to extend the deadline for commencement of construction of a hydroelectric project in the State of Wyoming;

S. 1848, to amend the Bend Pine Nursery Land Conveyance Act to direct the Secretary of Agriculture to sell the, Bend Pine Nursery Administration Site in the State of Oregon, with an amendment;

H.R. 408, to provide for expansion of Sleeping Bear Dunes National Lakeshore;

H.R. 417, to revoke a Public Land Order with respect to certain lands erroneously included in the Cibola National Wildlife Refuge, California;

H.R. 708, to require the conveyance of certain National Forest System lands in Mendocino National Forest, California, to provide for the use of the proceeds from such conveyance for National Forest purposes;

H.R. 856, to authorize the Secretary of the Interior to revise a repayment contract with the Tom Green County Water Control and Improvement District No. 1, San Angelo project, Texas;

H.R. 1598, to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in projects within the San Diego Creek Watershed, California;

S. 1167, to resolve the boundary conflicts in Barry and Stone Counties in the State of Missouri, with an amendment in the nature of a substitute; and

An original bill with statutes related to National Parks.

INDIAN PROGRAMS BUDGET

Committee on Indian Affairs: Committee held a hearing to examine the President's proposed budget request for fiscal year 2005 for Indian Programs, receiving testimony from Tex G. Hall, National Congress of American Indians, H. Sally Smith, National Indian Health Board, Russell Sossamon, National

American Indian Housing, Council, and Gary L. Edwards, National Native Law Enforcement Association, all of Washington, D.C.; Don Kashevaroff, Alaska Native Tribal Health Consortium, Anchorage, Alaska; and Cindy La Marr, National Indian Education Association, Alexandria, Virginia.

Hearings continue on Wednesday, February 25.

CABLE COMPETITION

Committee on the Judiciary: Subcommittee on Antitrust, Competition Policy and Consumer Rights concluded a hearing to examine cable industry competition, focusing on the state of competition in a multichannel video market, after receiving testimony from Michael Willner, Insight Communications, New York, New York; Rodger Johnson, Knology, Inc., West Point, Georgia, on behalf of the Broadband Service Providers Association; Coralie Wilson, National Association of Telecommunications Officers and Advisors, Alexandria, Virginia; and Robert Sachs, National Cable and Telecommunications Association, Scott Cleland, Precursor Group, and Mark N. Cooper, Consumer Federation of America, all of Washington, D.C.

NOMINATIONS

Committee on the Judiciary: Committee concluded a hearing to examine the nominations of Diane S. Sykes, of Wisconsin, to be United States Circuit Judge for the Seventh Circuit, who was introduced by Senators Kohl and Feingold, and Representative Sensebrenner; James L. Robart, to be United States District Judge for the Western District of Washington, who was introduced by Senators Murray and Cantwell; and Juan R. Sanchez, to be United States District Judge for the Eastern District of Pennsylvania, who was introduced by Senators Specter and Santorum.

House of Representatives

Chamber Action

Measures Introduced: 22 public bills, H.R. 3795–3816; and; 8 resolutions, H. Con. Res. 362–363, and H. Res. 523–528 were introduced. **Pages H514–15**

Additional Cosponsors: **Pages H515–16**

Reports Filed: Reports were filed today as follows:

H.R. 912, to authorize the Administrator of the National Aeronautics and Space Administration to establish an awards program in honor of Charles "Pete" Conrad, astronaut and space scientist, for recognizing the discoveries made by amateur astronomers of asteroids with near-Earth orbit trajectories, amended (H. Rept. 108–418);

H.R. 3389, to amend the Stevenson-Wydler Technology Innovation Act of 1980 to permit Malcolm Baldrige National Quality Awards to be made to nonprofit organizations (H. Rept. 108–419);

H.R. 1997, to amend title 18, United States Code, and the Uniform Code of Military Justice to protect unborn children from assault and murder, amend (H. Rept. 108–420, Pt. 1); and

H.R. 3261, to prohibit the misappropriation of certain databases, amended, referred sequentially to the House Committee on Energy and Commerce for a period ending not later than March 12, 2004 for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(f), rule X. (H. Rept. 108–421, Pt. 1). **Page H513**

Speaker: Read a letter from the Speaker wherein he appointed Representative Simpson to act as Speaker Pro Tempore for today. **Page H437**

Recess: The House recessed at 10:03 a.m. and reconvened at 1:02 p.m. **Page H437**

Social Security Protection Act of 2003: The House agreed to the Senate amendment on H.R. 743, to amend the Social Security Act and the Internal Revenue Code of 1986 to provide additional safeguards for Social Security and Supplemental Security Income beneficiaries with representative payees, to enhance program protections, by a yea-and-nay vote of 402 yeas to 19 nays, Roll No. 23—clearing the measure for the President. **Pages H443–65, H477–78**

H. Res. 520, the rule providing for consideration of the motion to concur in the Senate amendment was agreed to by a voice vote, after agreeing to order the previous question by a yea-and-nay vote of 226 yeas to 197 nays, Roll No. 22. **Pages H438–43**

Late Report: The Committee on Science received permission to have until February 18, 2004 at 5 p.m. to file reports on H.R. 3551, Surface Transportation Research and Development Act of 2004; H.R. 3752, The Commercial Space Launch Amendments Act of 2004; H.R. 1292, Remote Sensing Applications Act of 2003; H. Con. Res. 189, Celebrating

the 50th Anniversary of the International Geophysical Year (IGY) and Supporting an International Geophysical Year-2 (IGY–2) in 2007–08. **Page H443**

Suspensions: The House agreed to suspend the rules and pass the following measures:

Surface Transportation Extension Act of 2004: H.R. 3783, to provide an extension of highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund pending enactment of a law reauthorizing the Transportation Equity Act for the 21st Century, by a ⅔ yea-and-nay vote of 421 yeas with none voting "nay", Roll No. 24; and **Pages H465–73, H478**

Native American Technical Corrections Act of 2003: S. 523, to make technical corrections to law relating to Native Americans—clearing the measure for the President. **Pages H473–77**

Congratulating the Louisiana State University Tigers and the Southern University Jaguars: The House agreed to H. Res. 496, commending the Louisiana State University Tigers football team for winning the 2003 Bowl Championship Series national championship game, and commending the Southern University Jaguars football team for winning the 2003 SBN Black College National Football Championship. **Pages H478–82**

The measure was considered under a unanimous consent agreement. **Page H478**

President's Day District Work Period: The House agreed to H. Con. Res 361, providing for a conditional adjournment of the House and a conditional recess or adjournment of the Senate. **Page H494**

Meeting Hour: Agreed that when the House adjourns today, it adjourn to meet at 4 p.m. on Saturday, February 14, unless it sooner has received a message from the Senate transmitting its concurrence in H. Con. Res. 361, in which case the House shall stand adjourned pursuant to that concurrent resolution. **Page H494**

Calendar Wednesday: Agreed to dispense with the Calendar Wednesday business of Wednesday, February 25, 2004. **Page H494**

Speaker Pro Tempore During District Work Period: Read a letter from the Speaker wherein he appointed Representative Gilchrest to sign enrolled bills and joint resolutions through February 24. **Page H494**

Senate Message: Message from the Senate appears today on page H437.

Quorum Calls—Votes: Three yea-and-nay votes developed during the proceedings today. There were no quorum calls. **Pages H442–43, H477–78, H478**

Adjournment: The House met at 10 a.m. and at 9:50 p.m. pursuant to the provisions of H. Con. Res. 361, the House stands adjourned until 4 p.m. on Saturday, February 14, 2004, unless it sooner has received a message or messages from the Senate transmitting its concurrence in H. Con. Res. 361, in which case the House shall stand adjourned until 2 p.m. on Tuesday, February 24, 2004, pursuant to H. Con. Res. 361.

Committee Meetings

DOD AVIATION SAFETY INITIATIVES

Committee on Armed Services: Held a hearing on the Department of Defense aviation safety initiatives. Testimony was heard from the following officials of the Department of Defense: Maj. Gen. Kenneth W. Hess, OSD/USAF, Air Force Chief of Safety and Commander, U.S. Air Force Safety Center; Brig. Gen. Joseph A. Smith, USA, Director, Army Safety and Commanding General, U.S. Army Safety Center; Rear Adm. Richard E. Brooks, USN, Commander, U.S. Naval Safety Center; and Brig. Gen. Samuel T. Helland, USMC, Assistant Deputy Commandant, Aviation, U.S. Marine Corps; and Christopher Bolkcom, Specialist in National Defense, Congressional Research Service, Library of Congress.

DOD INFORMATION SYSTEMS ARCHITECTURE

Committee on Armed Services: Subcommittee on Terrorism, Unconventional Threats and Capabilities held a hearing on the Department of Defense Information Systems Architecture: Are We on the Right Path to Achieving Net-Centricity and Ensuring Interoperability? Testimony was heard from the following officials of the Department of Defense: John P. Stenbit, Assistant Secretary, Networks and Information Integration and DOD Chief Information Officer; Lt. Gen. Steven W. Boutelle, USA, Chief Information Officer/G6, Department of the Army; Maj. Gen. Marilynn Quagliotti, USA, Vice Director, Defense Information Systems Agency; Rear Adm. Thomas E. Zelibor, USN, Deputy for C4 Integration and Policy/DoN Deputy CIO (Navy) (OPNAV N6F); David Tillotson III, Director, C41, Surveillance and Reconnaissance Architecture and Assessment, Office of the Deputy Chief of Staff, Warfighting Integration; and Brig. Gen. John R. Thomas, USMC, Director Command, Control, Communications and Computers (C4), DoN Deputy CIO for USMC.

DEPARTMENT OF EDUCATION BUDGET PRIORITIES FISCAL YEAR 2005

Committee on the Budget: Held a hearing on the Department of Education Budget Priorities Fiscal Year

2005. Testimony was heard from Representative George Miller of California; Roderick R. Paige, Secretary of Education; and a public witness.

PREVENTION UNDERAGE DRINKING

Committee on Education and the Workforce: Subcommittee on Education Reform held a hearing entitled ''Prevention Underage Drinking: What Works.'' Testimony was heard from public witnesses.

BROADCASTING DECENCY ENFORCEMENT ACT

Committee on Energy and Commerce: Subcommittee on Telecommunications and the Internet held a hearing on H.R. 3717, Broadcast Decency Enforcement Act of 2004. Testimony was heard from the following officials of the FCC: Michael K. Powell, Chairman; Kathleen Q. Abernathy; Michael J. Copps, Kevin J. Martin, and Jonathan S. Adelstein, all Commissioners; Paul Tagliabue, Commissioner, National Football League; and Mel Karmazin, President and Chief Operating Officer, Viacom Inc.

MONETARY POLICY AND THE STATE OF THE ECONOMY

Committee on Financial Services: Held a hearing on Monetary Policy and the State of the Economy. Testimony was heard from Alan Greenspan, Chairman, Board of Governors, Federal Reserve System.

POSTAL REFORM

Committee on Government Reform, Special Panel on Postal Reform and Oversight concluded hearings entitled ''Answering the Administration's Call for Postal Reform, Part III.'' Testimony was heard from public witnesses.

FEDERAL CIVIL SERVICE—RECRUITING AND RETAINING AMERICA'S BEST

Committee on Government Reform: Subcommittee on Civil Service and Agency Organization held a hearing entitled ''Espirit de Corps: Recruiting and Retaining America's Best for the Federal Civil Service (H.R. 3737; H.R. 1601; S. 129).'' Testimony was heard from Ronald P. Sanders, Associate Director, Strategic Human Resources Policy, OPM; and public witnesses.

PRESIDENT'S MANAGEMENT AGENDA

Committee on Government Reform: Subcommittee on Government Efficiency and Financial Management held an oversight hearing entitled ''The President's Management Agenda—Are Agencies Getting to Green?'' Testimony was heard from Clay Johnson, Deputy Director, Management, OMB; and Kyle McSlarrow, Deputy Secretary, Department of Energy.

PRESIDENT'S INTERNATIONAL AFFAIRS REQUEST FISCAL YEAR 2005

Committee on International Relations: Held a hearing on the President's International Affairs Budget Request for Fiscal Year 2005. Testimony was heard from Colin L. Powell, Secretary of State.

OVERVIEW FEDERAL R&D BUDGET FISCAL YEAR 2005

Committee on Science: Held a hearing on An Overview of the Federal R&D Budget for Fiscal Year 2005. Testimony was heard from John H. Marburger, Director, Office of Science and Technology Policy; Rita R. Colwell, Director, NSF; Charles E. McQueary, Under Secretary, Science and Technology, Department of Homeland Security; Phillip J. Bond, Under Secretary, Technology, Department of Commerce; and Raymond L. Orbach, Director, Office of Science, Department of Energy.

HOW DOES THE PRESIDENT'S FISCAL YEAR 2005 BUDGET REQUEST AFFECT SMALL BUSINESS?

Committee on Small Business: Held a hearing on How Does the President's Fiscal Year 2005 Budget Request Affect Small Business? Testimony was heard from Hector V. Barreto, Administrator, SBA; and public witnesses.

PRESIDENT'S FISCAL YEAR 2005 BUDGET TAX PROPOSALS

Committee on Ways and Means: Held a hearing on the President's Fiscal Year 2005 Budget Tax Proposals. Testimony was heard from Pamela F. Olson, Assistant Secretary, Tax Policy, Department of the Treasury.

PRESIDENT'S BUDGET FISCAL YEAR 2005

Committee on Ways and Means: Held a hearing on the President's Fiscal Year 2005 Budget. Testimony was heard from Joshua B. Bolten, Director, OMB.

IRAQI SURVEY GROUP DEVELOPMENT

Permanent Select Committee on Intelligence: Met in executive session to hold a hearing on Iraqi Survey Group Development. Testimony was heard from departmental witnesses.

COMMITTEE MEETINGS FOR THURSDAY, FEBRUARY 12, 2004

(Committee meetings are open unless otherwise indicated)

Senate

Committee on Banking, Housing, and Urban Affairs: to hold hearings to examine the first monetary policy report to Congress for 2004, 10 a.m., SD–538.

Committee on the Budget: to hold hearings to examine the President's fiscal year 2005 budget proposals, 10 a.m., SD–608.

Committee on Energy and Natural Resources: to hold hearings to examine the President's proposed fiscal year 2005 budget for the Department of the Interior, 10 a.m., SD–366.

Subcommittee on Public Lands and Forests, to hold hearings to examine S. 1466, to facilitate the transfer of land in the State of Alaska, S. 1421, to authorize the subdivision and dedication of restricted land owned by Alaska Natives, S. 1649, to designate the Ojito Wilderness Study Area as wilderness, to take certain land into trust for the Pueblo of Zia, and S. 1910, to direct the Secretary of Agriculture to carry out an inventory and management program for forests derived from public domain land, 2:30 p.m., SD–366.

Committee on Finance: to hold hearings to examine revenue proposals in the President's fiscal year 2005 budget, 2 p.m., SD–215.

Committee on Foreign Relations: to hold hearings to examine policy and programs relating to the State Department; and to hold a business meeting to consider United Nations Convention on the Law of the Sea, with Annexes, done at Montego Bay, December 10, 1982 (the ''Convention''), and the Agreement Relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982, with Annex, adopted at New York, July 28, 1994 (the ''Agreement''), and signed by the United States, subject to ratification, on July 29, 1994 (Treaty Doc. 103–39), 9:30 a.m., SR–325.

Subcommittee on East Asian and Pacific Affairs, to hold hearings to examine the future of U.S.-Vietnamese relations regarding trade and human rights, 2 p.m., SD–419.

Committee on Governmental Affairs: Permanent Subcommittee on Investigations, to hold hearings to examine Department of Defense contractors who are abusing the federal tax system by either failing to file tax returns or not paying their taxes, 9:30 a.m., SD–342.

Committee on the Judiciary: business meeting to consider the nominations of William James Haynes II, of Virginia, to be United States Circuit Judge for the Fourth Circuit, Raymond W. Gruender, of Missouri, to be United States Circuit Judge for the Eighth Circuit, Henry W. Saad, of Michigan, to be United States Circuit Judge for the Sixth Circuit, Judith C. Herrera, to be United States District Judge for the District of New Mexico, F. Dennis Saylor IV, 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, and Michele M. Leonhart, of California, to be Deputy Administrator of Drug Enforcement, and Domingo S. Herraiz, of Ohio, to be Director of the Bureau of Justice Assistance, both of the Department of Justice, 9:30 a.m., SD–226.

Subcommittee on Immigration, Border Security and Citizenship, to hold hearings to examine evaluating a temporary guest worker proposal, 2:30 p.m., SD–226.

Committee on Small Business and Entrepreneurship: to hold hearings to examine the President's fiscal year 2005 budget request for the Small Business Administration, 9:30 a.m., SR–428A.

Select Committee on Intelligence: closed business meeting to consider pending intelligence matters, 2:30 p.m., SH–219.

House

Committee on Appropriations, Subcommittee on Defense, on Secretary of Defense, 9:30 a.m., 2359 Rayburn.

Subcommittee on Labor, Health and Human Services, Education and Related Agencies, on Secretary of Labor, 10 a.m., 2358 Rayburn.

Subcommittee on Military Construction, on Base Realignment and Closure, 9:30 a.m., B–300 Rayburn.

Committee on Armed Services, hearing on the Fiscal year 2005 National Defense Authorization budget request for the Department of the Navy, 9 a.m., 2118 Rayburn.

Committee on the Budget, hearing on the Department of Veterans Affairs Budget Priorities Fiscal Year 2005, 1 p.m., 210 Cannon.

Committee on Education and the Workforce, Subcommittee on Education Reform, hearing entitled ''Encouraging Healthy Choices for Healthy Children,'' 10 a.m., 2175 Rayburn.

Committee on Energy and Commerce, Subcommittee on Telecommunications and the Internet, to mark up H.R. 3717, Broadcast Decency Enforcement Act of 2004, 9:30 a.m., 2123 Rayburn.

Committee on Government Reform, to consider the following: Release of Transcript of Interview of Frank Salemme; H.R. 3536, To designate the facility of the United States Postal Service located at 210 Main Street in Malden, Illinois, as the ''Army Staff Sgt. Lincoln Hollinsaid Malden Post Office;'' H.R. 3537, To designate the facility of the United States Postal Service located at 185 State Street in Manhattan, Illinois as the ''Army Pvt. Shawn Pahnke Manhattan Post Office;'' H.R. 3538, To designate the facility of the United States Postal Service located at 201 South Chicago Avenue in Saint Anne, Illinois, as the ''Marine Capt. Ryan Beaupre Saint Anne Post Office;'' H.R. 3690, To designate the facility of the United States Postal Service located at 2 West Main Street in Batavia, New York, as the ''Barber Conable Post Office Building;'' H.R. 3769, To designate the facility of the United States Postal Service located at 137 East Young High Pike in Knoxville, Tennessee, as the ''Ben Atchley Post Office Building;'' H. Res. 392, Congratulating the Detroit Shock for winning the 2003 Women's National Basketball Association championship; H. Res. 439, Honoring the life and career of Willie Shoemaker and expressing the condolences of the House of Representatives to his family and friends on his death; H. Con. Res. 287, Recognizing and honoring the life of the late Raul Julia, his dedication to ending world hunger, and his great contributions to the Latino community and the performing arts; and H. Res. 519, Expressing the

sense of the House of Representatives with respect to the earthquake that occurred in San Luis Obispo County, California, on December 22, 2003; followed by a hearing entitled ''A Review of This Year's Flu Season: Does Our Public Health System Need a Shot in the Arm?'' 10 a.m., 2154 Rayburn.

Committee on International Relations, hearing on Afghanistan: Drugs and Terrorism and U.S. Security Policy, 10 a.m., 2172 Rayburn.

Committee on the Judiciary, Subcommittee on Courts, the Internet, and Intellectual Property, hearing on H.R. 3632, Anti-counterfeiting Amendments of 2003, 10 a.m., 2141 Rayburn.

Committee on Resources, Subcommittee on Energy and Mineral Resources, oversight hearing entitled ''Energy Supply and the American Consumer,'' 10 a.m., 1324 Longworth.

Subcommittee on Forests and Forest Health, hearing on H.R.3505, to amend the Bend Pine Nursery Land Conveyance Act to specify the recipients and consideration for conveyance of the Bend Pine Nursery, 9 a.m., 1334 Longworth.

Committee on Science, hearing on the President's Vision for Space Exploration, 10 a.m., 2318 Rayburn.

Committee on Transportation and Infrastructure, Subcommittee on Aviation, oversight hearing on Aviation Security: Progress and Problems in Passenger and Baggage Screening, 10 a.m., 2167 Rayburn.

Committee on Ways and Means, Subcommittee on Oversight, hearing on IRS Efforts to Modernize its Computer Systems, 9 a.m., 1100 Longworth.

Permanent Select Committee on Intelligence, Subcommittee on Intelligence Policy and National Security, executive, briefing on Global Intelligence Update, 9 a.m., H–405 Capitol.

Select Committee on Homeland Security, hearing entitled ''The Department of Homeland Security's Proposed Fiscal Year 2005 Budget,'' 9:30 a.m., 2200 Rayburn.

Next Meeting of the **SENATE**

8:30 a.m., Thursday, February 12

Senate Chamber

Program for Thursday: Senate will continue consideration of S. 1072, SAFE Transportation Equity Act with a vote on the motion to close further debate on Inhofe Amendment No. 2285 to occur at 9 a.m. Also, Senate may vote on the motion to close further debate on the bill.

Next Meeting of the **HOUSE OF REPRESENTATIVES**

2 p.m., Tuesday, February 24

House Chamber

Program for Tuesday, February 24: To be announced.

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